



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 27 June 2017

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
20th Meeting 2017, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

Maurice Golden (West Scotland) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Alexander Burnett (Aberdeenshire West) (Con)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Emma Harper (South Scotland) (SNP)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Peter Chapman (North East Scotland) (Con) (Committee Substitute)
Keith Connal (Scottish Government)
Roseanna Cunningham (Cabinet Secretary for Environment, Climate Change and Land Reform))
Angela Lawson (Scottish Government)
Mike Palmer (Marine Scotland)
Chris Stark (Scottish Government)
Andrew Voas (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
Environment, Climate Change
and Land Reform Committee

Tuesday 27 June 2017

[The Convener opened the meeting at 09:54]

Decision on Taking Business in
Private

The Convener (Graeme Dey): Good morning and welcome to the 20th meeting in 2017 of the Environment, Climate Change and Land Reform Committee. We have received apologies from Maurice Golden. Peter Chapman is here as his substitute. I remind everyone present to switch off mobile phones and electronic devices, as they may affect the broadcasting system.

Agenda item 1 is consideration of whether to take agenda item 4 in private. Do members agree to take that item in private?

Members *indicated agreement.*

Wild Animals in Travelling
Circuses (Scotland) Bill: Stage 1

09:55

The Convener: Under agenda item 2, we will take evidence on the Wild Animals in Travelling Circuses (Scotland) Bill from the Cabinet Secretary for Environment, Climate Change and Land Reform and from Scottish Government officials.

I welcome all our witnesses. We are joined by Roseanna Cunningham, the cabinet secretary, and by Grant Campbell, who is a bill officer, Angela Lawson and Andrew Voas—who it seems is a regular visitor to the committee at the moment, on this issue—all from the Scottish Government.

Cabinet secretary, unless you have anything specific to say at this point, we will move straight to questions.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): Good morning, cabinet secretary. It has been about three years since the consultation was held on whether wild animals should be banned in travelling circuses. In that time, has there been any new scientific evidence or have public views developed further?

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): There has been some opinion polling in that period. In 2016, a YouGov poll asked 1,000 adults for their views on different animal welfare issues. The bill is being introduced under an ethical heading rather than an animal welfare one, but the survey gives some indication of public opinion. Some 76 per cent of respondents were in favour of the ban. I am aware that there is currently an online petition that has received over 2,000 signatures in support of the proposed prohibition. I am not sure that we could call that scientific, but, as a measure of where public opinion is, it is probably fairly indicative.

Because we are introducing the bill on ethical rather than welfare grounds, it is not so much the science and the evidence around welfare issues that become important here; it is a different question.

There has been a gap between the consultation and the introduction of the bill. Some of that just reflects the time it takes to draft bills and to decide on the process by which they will go into a programme for government. That is where we are.

Kate Forbes: So there have not been any significant changes in that three-year period.

Roseanna Cunningham: Not really. We could argue that the YouGov poll is probably quite a

strong indicator that what we consulted on and understood to be the position among the Scottish public is in fact the position.

Kate Forbes: The volume of correspondence on the issue has often been referred to as a factor in justifying the legislation. How do levels of correspondence from the public on the issue compare with those received on other issues, and how has the volume been quantified?

Roseanna Cunningham: We have only counted it between January 2014 and May 2016. In that period there were more than 150 pieces of correspondence on the matter and five parliamentary questions. Since then, we have had more on the issue than we have had on animal sanctuaries, rescue centres, rehoming activities and breeding of and dealing in animals. The issue exercises people's imagination in a different way, and therefore they are more inclined to communicate their views on it.

10:00

Richard Lyle (Uddingston and Bellshill) (SNP): I remind members that I am the convener of the cross-party group in the Scottish Parliament on the Scottish Showmen's Guild and an honorary member of the Showmen's Guild Scottish section. I support the intentions of the bill but have reservations about how it can be implemented.

Good morning, cabinet secretary. When I asked two council officials whether they had concerns about the bill, Andrew Mitchell from the City of Edinburgh Council said:

"It strikes me, having read the bill and listened to the evidence so far, that it will perhaps not be as easy to enforce as has been suggested."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 6 June 2017; c 17.]

David Kerr from Argyll and Bute Council said that he shared many of the concerns.

Last week, I had a work experience pupil, Angus Holms. He contacted every council in Scotland regarding its position on wild animals in travelling circuses. Most councils in Scotland have a ban on circuses with wild animals or will refuse them licences on their land. Why do we need the bill if most councils oppose wild animals in circuses?

Roseanna Cunningham: First, you have used the word "most" not "all". If we simply leave the matter up to local authorities, we get differences between one local authority and others and the exact position becomes confusing. Local authorities might also choose to apply things slightly differently, which also introduces variation.

We have worked with local authorities on the matter—I think that we have worked with the Convention of Scottish Local Authorities—so it is

not that we have taken no account of the local authority position. The bill is the right thing to do at a national level to provide clarity to everyone who is involved in the business that Scotland will be a no-go area for wild animals in circuses.

Richard Lyle: Who is the bill intended to cover? In evidence to the committee, Anthony Beckwith stated that he believed his show was not a circus. He said:

"It is called 'An Evening with Lions and Tigers'".—[*Official Report, Environment, Climate Change and Land Reform Committee*, 6 June 2017; c 27.]

He also said that he had asked a Government official to clarify whether his show would be covered by the definition, and the official had responded, "I don't know." That was his evidence; I do not know whether that meeting took place.

Do you intend to tighten up the bill to cover shows without the word "circus" in their title?

Roseanna Cunningham: On the use of the word "circus", as someone whose background is in law, I know that overly defining something does not help because we then presume a list of things that are not in the definition. Should there be any challenge, the commonly used definition of "circus" would be for the courts to consider. On the notion that we would have a commonly used word to describe a performance, the court would decide whether or not the performance was a circus. It would not have to be called a circus to be one. Arguably, not everything that is called a circus would be of the nature described in some of the conversations that we have had. For example, I am conscious of the Cirque du Soleil, which calls itself a circus but is not one in the traditional sense of the word. That is the right way to approach the matter.

I will ask Andrew Voas to come in because of the discussion with which you opened your comments.

The Convener: Before you do that, cabinet secretary, I want to be clear on the matter. The dictionary definition of a circus is along the lines of: "a company of acrobats, clowns and other entertainers that gives performances, typically in a large tent". Therefore, a travelling circus would be easily understood. However, in the example that Mr Lyle gave—before we consider whether the conversation that he mentioned took place—there are no acrobats or clowns but former circus animals. The organisation has applied for a circus licence in England and is run by circus proprietors. We have a wide definition of "circus" but it might not capture that performance. Do you accept that?

Roseanna Cunningham: It is about what people commonly understand. I defer to the lawyers who are present, so we can hear from Andrew Voas and then them. However, if

someone puts on the kind of performance that Mr Lyle is discussing—this business of “An Evening with Lions and Tigers”—I am pretty sure that a court would call that a circus or define it as one.

It is not so much a dictionary definition as a commonly understood definition, and that is a normal thing to do in law. We are not proposing to do anything unusual by not defining it too closely, because the minute you start listing things in a definition, it gives rise to exactly the sort of question that you are asking. If there are no acrobats, is it a circus? Is the Cirque du Soleil properly calling itself a circus if it does not have animals in it?

Angela Lawson (Scottish Government): The cabinet secretary is right. A definition that lists a specific thing—a circus is a “performance including acrobats and clowns”, for example—means that organisations that put on a circus-like performance will merely omit the clowns and acrobats and keep everything else in order to avoid meeting the definition of a circus. We need to ensure that things that look like a circus, walk like a circus, and talk like a circus are considered to be a circus.

Courts are well versed in taking the ordinary interpretation of a word; they do it all the time. For example, the equivalent English regulations that license animals for use in circuses do not define the term “circus”. It is left to ordinary interpretation because a court knows what a circus is. The ordinary man on the street knows what a circus is. We want to ensure that circus proprietors do not omit one specific aspect of performance to avoid having to meet the rigid definition of a circus.

Andrew Voas might have comments about the specific point but it would turn on the facts and circumstances of the case. If there was a performance that was more akin to something that could be found at Edinburgh Zoo, such as a display of wild birds within an educational forum and with zookeepers, it would be very different from something that is performed in a ring with dressed-up entertainers and with jokes and laughing. It is the nature of the performance rather than the name that matters. It really depends on what “An Evening with Lions and Tigers” actually is. Anthony Beckwith has said what he thinks it is but it would really be for a court to decide whether the performance is a circus.

Mark Ruskell (Mid Scotland and Fife) (Green): I understand that. I gather that, in earlier evidence, you said that the definition of a circus would be the “Oxford English Dictionary” definition, and that is quite specific. It mentions travelling companies, acrobats, clowns and so on. Can you make a distinction between your general definition and what you have said on the record?

Roseanna Cunningham: It is the commonly understood definition of “circus”. The courts will look at what is reasonable to describe as a circus and what is commonly understood to be a circus.

One of the reasons why that is done is that common understanding can change over time. We do not want to trap legislation in a specific period if the common understanding begins to change. That is why the phrase “reasonable person” is always used. It stays flexible and reasonableness can be defined in a particular time and place, so you do not have to keep changing it. That is why we do not overly define in legislation.

The Convener: That probably opens the door for us to move to Andrew Voas to talk about this particular example and whether, in your interpretation, it would be covered.

Andrew Voas (Scottish Government): First, I would like to clear up the issue of what was said at the meeting that we had with the circus industry. We agreed that we would hold the meeting under the Chatham house rules, so we would not attribute personal comments and what had been said. However, as it has been raised, I would like to clear it up. I have discussed this with colleagues and they have confirmed that at no time did I just say, “I don’t know” with regard to whether—

Richard Lyle: I did not name anyone. I thought that it would be unfair.

Andrew Voas: I think that my name appears on the record. You did not say that but I know that Anthony Beckwith did.

I might well have said that, if I was being given examples of various types of show or enterprise, I do not know what “An Evening with Lions and Tigers” entails but I would have probably gone on to say that, if it entails things that would commonly be understood to be a circus, it would be caught by the bill.

Regarding the particulars of “An Evening with Lions and Tigers”, which I understand is now called “Big Cats Live”, that uses former circus animals and is run by circus proprietors and people who have been involved with circuses all their lives. I do not know exactly whether the show is performed in a tent or a circular arena, but it is a travelling show of some sort. I believe that lions and tigers perform the sort of tricks or display behaviours that arise from the training given for circus performances. I believe that the show is licensed as a circus in England and is operated by somebody who calls himself the last lion tamer in England. I think that most people would agree that it is more than just one clown short of a circus; it is actually a circus.

Richard Lyle: Thank you.

Some members of the public believe that animals should not be used in zoos, fêtes or galas. Martin Burton, the chairman of the Association of Circus Proprietors of Great Britain, said:

“I am an animal welfarist, too. However, once we start banning things, particularly on ethical grounds, it will clearly spread. If it is not ethically right to have a wild animal in a circus, it is not ethically right to have a wild animal appear at a gala ... in a shopping centre or in a zoo.”—[*Official Report, Environment, Climate Change and Land Reform Committee*, 6 June 2017; c 43.]

Is the bill the rocky road to banning reindeer at Christmas shows and to banning zoos and wildlife parks and all other such shows that the public attend?

Roseanna Cunningham: No.

Richard Lyle: Thank you.

The Convener: That was short and sharp.

Emma Harper (South Scotland) (SNP): I am interested in ethics and the welfare of animals, whether they are performing or being exhibited or displayed. At our meeting a couple of weeks ago, I tried to tease out the difference between ethics and welfare, because it is difficult to separate them. I would like to hear your thoughts on whether the ban is being pursued on ethical grounds or on welfare grounds.

Roseanna Cunningham: On ethical grounds, we are looking at the concept of people taking animals that are not domesticated—wild animals—and taming them. “Taming” is the word that is used but, in effect, it means finding a way to coerce them into behaviours that are not natural. That is an ethical issue. The animals might be well fed and looked after, and there might not be some of the individual welfare issues that have been discussed, but there is a sense in which that is not the right way to manage wild animals.

Domesticated animals are used in all sorts of circumstances for all sorts of reasons, but they are accustomed to behaving in certain ways and they are not usually distressed. If they were distressed, there would be a welfare issue. People can see that dogs like to please their masters—they like to work and run about. There are lots of animals in that category, which are accustomed to working and being with human beings, and that sets them apart. The ethical issues are about wild animals that are not domesticated and so not accustomed to living and working with human beings and the use of a management method by which such animals are coerced almost to act against all of their better instincts.

There are a lot of specific welfare issues. It could have been difficult to approach the matter on that basis because, as I said, the lions and tigers might be well looked after and healthy, and they might not exhibit distress. It is the ethics of the

situation that lead us to the view that people should not use animals in that way in those circumstances. To deal with the issue on welfare grounds, we would need to have a lot of detailed information about the actual circumstances, and the investigation of that would be difficult because some of the animals would be very well looked after and others would not necessarily be as well looked after.

10:15

Emma Harper: Thank you for that clarification. My approach is that it is easier to define ethics than it is to define welfare. Is it just time that we stopped having wild animals, such as tigers and lions, in circuses for performance, exhibition, display and entertainment purposes?

Roseanna Cunningham: We would not have had a manifesto commitment to introduce the bill if we did not think that it was time to look seriously at the issue, and that is what we have chosen to do. However, a lot of animals are domesticated and accustomed to working with us—indeed, right around the world, they do jobs for us enthusiastically—and those animals are in a different category.

Finlay Carson (Galloway and West Dumfries) (Con): Given that the impact of travelling is one of the three ethical concerns that have been cited to justify why wild animals should not be transported by circuses as long as they are not being used in performance, should the legislation not go further and ban all travelling circuses, whether or not the animals are performing?

Roseanna Cunningham: Sorry, but I do not quite understand that question. Why would a travelling circus have animals if they were not performing?

Finlay Carson: The bill is based on three ethical grounds, one of which is the impact of travelling. Why does the bill not prevent wild animals from travelling as long as they are not performing? The example that we were given was of circus animals wintering in the north of Scotland. The bill will not cover those animals. Why would that be?

Roseanna Cunningham: I suppose that we were trying to ensure that, first, we could manage the legislation and get it passed without overly complicating matters.

There are a number of issues in that regard. There is no general ban on the keeping of or the transportation of wild animals by members of the public or by charitable or commercial organisations. You need to remember that the bill is about the ethics of performing animals and not,

at this point, about the travelling of those animals. We want to keep those two issues separate.

There are other reasons to move wild animals around. For example, they go from safari park to safari park. We considered that, if we began to go into that level of detail, the bill would become incredibly complicated and some of the issues that the committee is raising about the definitions in the bill would become even greater. We consider that some of the ethical arguments on the issues that you raise could be weaker. Because we have chosen to go down the ethics route, it was better to stick with the much stronger lines and deal with those.

We are confident that what we have done in the bill is the right thing to do now. That does not preclude our coming back and looking at some of the other ethical issues about the use of wild animals. At present, we are looking at performing wild animals and their use in travelling circuses. Once we begin to explore some of the other issues, it becomes infinitely more complex.

The Convener: Is your rationale that circus animals that wintered here would be in a static situation and that, as long as the animals were not performing, their welfare considerations would be covered by organisations such as the Scottish SPCA?

Roseanna Cunningham: Yes. The ethical considerations would not apply. In such situations, those would be covered by the welfare side of things. For welfare issues, we would have to be much more careful about what we were looking at.

Within the United Kingdom, people move animals from one safari park to another. The animals do not perform after having been moved; they are static in a safari park, but their behaviour and lifestyle are much more akin to their normal wild existence than they would be if they were in a circus.

Finlay Carson: The Scottish National Party manifesto committed to banning the use of wild animals in circuses, and it did not refer exclusively to travelling circuses. Why does the bill not cover static circuses, particularly given that you have said that a number of ethical justifications for banning the use of wild animals would apply to animals in static circuses? We are looking at wild animals performing. That is one of the things that you said you are looking at in the bill, so why are wild animals in static circuses not covered?

Roseanna Cunningham: There is a slightly weaker ethical argument around that situation. For example, if there was well-designed permanent accommodation in a fixed location and good environmental surroundings were provided, the ethical argument would be weaker than the argument regarding travelling circuses. I think that

you took some evidence that the situation is worse in travelling circuses than it is in static circuses.

Finlay Carson: It appears that you are in between. In response to my first question, the justification that you gave for the bill not applying to animals that are involved in circuses and are being housed in Scotland was that, if they were not performing, that was not quite so bad ethically. Your answer to this question is that it is all about the travelling, because the animals are in nice cages or whatever.

Roseanna Cunningham: It is about both, really. It is about the travelling and where the animals are kept. We could get into arguments about the definition of "static", but overwintering animals is manifestly not running a circus. The animals are being housed and looked after, but that is manifestly not a circus. If we were to get into discussions about static circuses we would have to look at a much wider range of ethical issues around how animals are managed in a static environment. The bill is about travelling circuses and the use of wild animals in those circuses.

Peter Chapman (North East Scotland) (Con): The answers that you have given do not stack up, as far as I am concerned. You say that, in a static situation, the accommodation and all that will be better. That is all about welfare; it is nothing to do with ethics. The ethics of forcing wild animals to perform are exactly the same in static circuses as in travelling circuses. The bill is built on ethical issues rather than welfare issues, but your answer to the question on static circuses was all about welfare.

Roseanna Cunningham: Some of the evidence that you have received veers into welfare issues, and the evidence that I have quoted tends to talk about welfare, too. We have stuck to travelling circuses because we think that the ethical arguments are strongest there. When you move away from travelling circuses, the ethical arguments become much more mixed with welfare arguments and it becomes harder to tease out the two things. The further you move from travelling circuses, the less clear is the balance between ethics and welfare.

Mark Ruskell: A lot of those ethical arguments are based on public opinion and surveys about circuses that have been done over a number of years. What about public opinion on other forms of performance in which wild animals are used? What is the basis for that?

Roseanna Cunningham: I am sorry—what do you mean?

Mark Ruskell: What is public opinion on other forms of performance that use wild animals?

Roseanna Cunningham: The YouGov poll that I quoted talked about circuses, not other forms of performance. I am not conscious of there having been any particularly major opinion surveys on other uses of wild animals. You would have to give me some examples. Are you talking about things such as falconry displays?

Mark Ruskell: Cabinet secretary, you have indicated the Government's intention to legislate on a wide range of other forms of animal performance when the time is right. However, the focus of the bill is wild animals in circuses as loosely defined in common law—as we understand it, a round tent with or without acrobats or whatever. I am trying to understand why you are taking that piecemeal approach rather than the broader approach that is being taken in Wales, which is looking at other forms of animal performance. I understand that the basis for your focusing on circuses is the fact that there is overwhelming public concern about them. What are the public concerns about other forms of animal performance, whether raptor shows, reindeer displays or anything else? Why focus on this form?

Roseanna Cunningham: To be honest, I am not conscious that there is concern about other forms of animal performance. I am not aware of any equivalent to the opinion polling exercise—*[Interruption.]* My officials have just reminded me that there is no opinion survey work along the same lines. Clear questions were asked about circuses but not about anything else. The letters that I referred to earlier were about circuses.

We want to think about encompassing some of the other welfare issues in secondary legislation under the Animal Health and Welfare (Scotland) Act 2006. That would deal with some zoo licensing issues and bring the area up to speed. Those issues are being considered for a statutory instrument under the 2006 act, which brings us back to the difference between welfare and ethical grounds for legislation.

Public opinion on the use of wild animals in circuses is clear, but we do not see obvious public concern about some of the other issues that might be looked at. I am not aware of any concerns about some of the other sorts of display that there might be.

Mark Ruskell: Would it not have been easier to ask the public their views on a range of ways in which wild animals are used in performance? You would then have had an indication of whether circuses or something else was the top ethical consideration.

Roseanna Cunningham: I do not think that the YouGov poll was ours. We held a consultation on circuses, so all the information that we have is

directed towards circuses. The YouGov poll was interesting because it asked about a range of other animal welfare issues and the specific question about wild animals in circuses was within that area. We have not gone out and surveyed opinion.

When it comes to the statutory instrument, further work will be done to see what people's views and concerns are on some of those ancillary issues, but keeping in mind that it is a statutory instrument in the context of welfare law rather than ethics.

I am sure that we could have asked the question, but the further you go out there, the more confusion there is between welfare and ethics. We think that the issue of the use of wild animals in travelling circuses is an easier one to deal with simply through ethics.

Mark Ruskell: If YouGov had asked a different question, that might have given a different basis for legislation—

Roseanna Cunningham: But it did not—it asked a question about wild animals in circuses.

The Convener: To get a feel for this, what sort of timeline will you be working to, roughly, to bring forward the secondary legislation?

Roseanna Cunningham: I have absolutely no idea, because we have no idea what the impact of Brexit will be on our legislation. I cannot give you anything on that. All I can say is that we will look to think about doing that, but I cannot tell you when it will become possible to do it.

The Convener: I want to explore the issue of the definition of "wild animal". Are you content that, as the legislation is drafted, it captures all the categories that you want to capture? I am thinking particularly of the argument that has been advanced that a third or fourth-generation circus animal might not display behaviours that they ought to or might. Are you content that you have this drawn tightly enough?

10:30

Roseanna Cunningham: It is drawn as tightly as one possibly can draw it. There is, again, a fairly clear understanding that no matter how many generations of lions you have, a lion is not a domesticated animal. You might be able to tame an individual lion, but I am not sure how much anyone would implicitly trust that taming process. I have seen some remarkable footage that suggests that you might be able to in some cases, but I do not think anyone is any doubt that lions, tigers, leopards or whatever are actually wild animals.

All animals, whether wild or domesticated, are capable of baring their ancestral teeth—

sometimes literally—but we are aware of the difference between domesticated and wild. We know a domesticated animal when we see and interact with it, as opposed to straightforward wild animals.

The Convener: Is there perhaps a need for guidance to make clear what is not covered by this proposed legislation? I am thinking of, for example, birds of prey, camel racing and llamas, all of which have been raised with us.

Roseanna Cunningham: The minute you list what is not covered by definition, you open the door with regard to what is not on that list—that is the problem with defining things. Again, you would expect the courts to apply a common understanding in such circumstances; after all, that is what the courts do every day on all bits of legislation that are passed. If you start listing animals that are definitely excluded and—oops—you miss one, you build in a loophole. That is the problem with definition.

Claudia Beamish (South Scotland) (Lab): Good morning, cabinet secretary and officials. Can you say something about the discretionary nature of the obligation on local authorities to enforce the bill and whether a more statutory arrangement would make it more robust? Local government officials also highlighted to us a lack of provision enabling local authorities to prevent a circus from operating while they investigate and report matters to the procurator fiscal or obtain records from the operator. They were concerned that, by the time that a case had been assessed on whether it should go to court, the circus might well have moved on and possibly have gone abroad. Do you have any comments on those issues?

Roseanna Cunningham: First of all, Andrew Voas has just reminded me that as part of this we will be producing guidance to local authorities, so they will not be entirely left adrift. We have also been talking to COSLA about all of this. The bill is pretty much based on the model in the Animal Health and Welfare (Scotland) Act 2006 for creating an offence and giving powers of enforcement; in that sense, it is no different to what is already in existence. Basically, we do not want to overburden local authorities. We expect them to be able to ascertain whether a wild animal was being used, and local authority inspectors would then have powers under the bill that they could use.

As I have indicated, the bill mirrors the powers in the 2006 act. It was felt that the duty of enforcement with regard to wild animals in circuses should not be greater than the general welfare requirements under that act, and we are therefore taking the two pieces of legislation as commensurate instead of one gazumping the other. The bill also allows Scottish ministers some

flexibility to appoint inspectors, so it will not be up to local authorities alone to do that. There is a power in the bill for ministers to appoint an alternative inspector if we think that certain local authorities are not enforcing this legislation.

As for reporting to the procurator fiscal or obtaining records, we believe that the current enforcement powers are proportionate and will provide a clear and effective deterrent. It seems from your evidence that, as a result of this proposed legislation, none of the big licensed circuses in the UK or the bigger European circuses are ever likely to tour with wild animals in Scotland, so we believe that the current powers are sufficient for those purposes.

I am sorry—does that cover everything?

Claudia Beamish: The local government officers also highlighted to us that because of the circuses' travelling nature, it might be appropriate to consider setting out in secondary legislation or guidance the power to prevent a circus from operating while an investigation was taking place.

Roseanna Cunningham: I think that our view is that that would tip the balance towards a much more onerous set of circumstances. Do you want to come in here, Angela?

Angela Lawson: There is a policy aspect and a legal aspect to take into account. Obviously, there are different types of enforcement regimes you can put in place, but what we have opted for is a significant offence provision without some sort of fixed penalty or compliance notice letter regime, because what we need here is a significant deterrent. At the moment, there are no travelling circuses in Scotland that have wild animals, and we need to ensure that we do not have just some system of easily administrated letters that go out to circuses. After all, this offence is not going to happen regularly, and in order to deter people from coming, we have opted to take the significant penalty and prosecution for criminal offence route instead of having a mere compliance notice asking the circus to desist, or a fixed penalty notice, which could lead to issues of decriminalisation. We want the deterrent value of the big-ticket offence.

Claudia Beamish: Do you have a comment on the concern expressed by David Kerr from Argyll and Bute that giving the legislation an “ethical basis” could make it easier for a defendant to defend themselves?

Angela Lawson: Every case will be argued on its individual merits. It is a fairly clear and straightforward matter for a court to consider: if it knows that the legislation is designed on ethical grounds, that is how it will look at it. We do not believe that that will make it any more difficult to enforce; indeed, one might possibly view the

welfare offence as being more difficult to prove, as that would rely on expert evidence on the suffering of individual animals instead of the broader ethical arguments that will be made in court.

Claudia Beamish: I was also going to ask you about the lack of clarity in the definition of “circus” with regard to enforcement, but I think that you covered that point earlier.

The Convener: As members have no more questions, I thank the cabinet secretary and her officials for their time and their evidence. Obviously, the committee will come to a view on the bill’s strengths and weaknesses in due course.

I suspend the meeting for five minutes to allow for a changeover in officials and a comfort break.

10:38

Meeting suspended.

10:44

On resuming—

Environment, Climate Change and Land Reform (General Update)

The Convener: The committee will now hear from the Cabinet Secretary for Environment, Climate Change and Land Reform and her officials on a general update on her portfolio. I welcome back to the meeting the cabinet secretary; the deputy director of natural resources, Keith Connal; the director of energy and climate change, Chris Stark; and the deputy director of Marine Scotland, Mike Palmer.

Unless you have a general statement, cabinet secretary, we will move straight to questions.

Roseanna Cunningham: I am happy to go straight to questions.

The Convener: David Stewart will kick off on the impact of Brexit.

David Stewart (Highlands and Islands) (Lab): Brexit is currently in all the headlines, but what work is the Scottish Government carrying out to prepare and plan for Brexit?

Roseanna Cunningham: As members might imagine, a great deal of work is being undertaken. As one would expect, we are continuing to press the Westminster Government on its plans and—more importantly—for better engagement.

I have written to the convener four times on the issue, most recently on 14 June. [*Roseanna Cunningham has corrected this contribution. See end of report.*] We have also held a debate in the chamber and I had a brief meeting with the new Secretary of State for Environment, Food and Rural Affairs, Michael Gove, on 22 June, at which I impressed on him our desire to have a proper schedule of meetings that are not unilaterally cancelled.

The Scottish Government has set out detailed proposals, which are on the record, so I will not go into them in a great deal of detail. There is an enormous amount of work being done by civil service officials to map the potential impact. Environment, climate change and land reform and the rural economy are the two portfolios that are most likely to be impacted by what is happening and the outflow from the great repeal bill. Estimating the impact of that on our work is a huge job and now takes up the time of many officials. We are working across the two portfolios to do a proper assessment of both the policy and financial impacts.

At the moment, we are assessing the impact of Brexit on the Government's future work. We are still slightly in the dark about how it is going to progress. That is why I am a little cautious when I am asked about future proposals and timescales for statutory instruments—we are not quite certain how things are going to roll through the remainder of the session.

David Stewart: I appreciate that it is very difficult to answer some of the questions, because one would need the predictive powers of a grand seer to work out what is happening even day to day.

Have you looked at having a risk register? On the structural funds, for example, Scottish Natural Heritage has rightly used high amounts of rural development funding under pillar 2, and we could face a scenario in which we will not have fully funded structural funds post-2020. Do you have an effective register to say that, if that happens, such and such would be the effect on our budget and our activities? Are you looking at that level of detail, or is the work more at the department macro level?

Roseanna Cunningham: We are having to look at that level of detail. In some cases, we are making decisions about some of the things that we may have to prioritise. That is why I said that we have to look at both the policy impact and the financial impact. A lot of vital support comes from European Union funding and if there is no certainty as to what the consequences of Brexit will be, it makes it extremely difficult to manage over this period, when some things are open to applications but we do not know what the longer-term impact will be. We think that that is having an impact on people's decisions on what to apply for.

I will give a small example. An agri-environment climate scheme was not taken up last year in the way that we expected it to be. We think that that was because people were not confident that it would roll through over the longer period. We are now able to make that commitment and the new scheme will open in January, but I have given six months' advance warning of that. We have to look at each and every scheme bit by bit and work out where we will be post-2019 at the outset, depending on how things go.

David Stewart: My final question is about the effect on staffing, which you touched on earlier. Just as we cannot spend a pound twice, we cannot spend staff twice. If staff are utilised to do Brexit work, they will not do the day job. What effect is that having on your officials? Chris Stark and others may wish to comment on that.

I will give another little example. I heard earlier from the Scottish Parliament information centre that the Department for Environment, Food and

Rural Affairs has just advertised 40 new posts to deal with Brexit. Are you looking to do the same?

Roseanna Cunningham: I am not the right person to ask that question: it is not for me to decide the numbers to be recruited into the civil service. I am sure that all the officials here would be very grateful if we were to hand over the equivalent number to them. However, if DEFRA is taking on 40 people, we would be looking at taking on around four here, so it is probably not quite as dramatic as it sounds.

Staff are working incredibly hard, and a fair amount of their time has to be taken up with these considerations. They have all performed incredibly well on the non-Brexit part of the portfolio so far, and I am confident that they will be able to maintain that performance. I do not want to constrain them too much if there are difficulties in some areas. For example, Chris Stark has to think about whether there will be an EU emissions trading scheme. We do not have any guidance whatsoever on that from anywhere at the Westminster level, so there has to be a bit of juggling. However, in a sense, juggling is also part of the day job for Chris Stark. I do not know whether he wants to say anything about that.

Chris Stark (Scottish Government): There are several parts to the issue. Ms Cunningham is entirely right: I would love to have 40 new posts if anyone would like to give them to me, although I am not sure that I would use them all for Brexit.

David Stewart: Are there Barnett consequential?

Chris Stark: There probably are.

There are a number of issues. We are currently in a planning phase, so quite a lot of intellectual capacity in the civil service is being used up on that, but I suspect that that will change as it becomes clearer how Brexit will pan out. I suppose that the interesting issue for the committee is that there are parts of the portfolio and, indeed, parts of the whole of the Government's agenda in general that will have different roles as Brexit unfolds. We are waiting to see the extent to which, for example, new devolved powers come to Scotland and therefore what requirement there is to put in place administration and policy posts.

Currently, there is mainly planning. Within the Scottish Government civil service as a whole, we have been restructuring slightly to prepare, but I expect more work later. That is the easiest way to describe what is happening.

David Stewart: If you take staff off their day job to deal with Brexit, will you have to ditch other activities that you are doing? Staff cannot do the job twice.

Roseanna Cunningham: At the end of the day, I will make decisions about what are and what are not priorities. I cannot fix that now for the whole of the remainder of the parliamentary session. We are constantly making such decisions.

I have a process. I tend to have short meetings with all the policy teams about twice a year. One purpose of that is for me to see what those teams are working on and what their priorities are. If I want them to do something else or they have to do something else, a decision has to be made about what the priority is. It would not be for officials to take that decision; it would be my decision to push something further down the list because of what was required.

That work is being done, so that is not the case at present. I can see on the horizon that we might be in that place, which is why I said under the previous agenda item that I could not say how or when the statutory instrument that we discussed will be brought forward. Clearly, all sorts of things will potentially have to take priority if we have to deal with other things that are more important.

As I said, a team has been set up and it is looking right across environment, and agriculture, marine and forestry. Beyond those two portfolios, there are a lot of civil servants in a wide range of different roles who are supporting ministers on this particular bit of our day job—because, actually, this is also our day job—to try to manage the process.

David Stewart: Thank you.

The Convener: Looking ahead, and perhaps looking at where there is conflict in the workload for you and Chris Stark, I note that there is the small matter of putting together the forthcoming climate change bill and finalising the draft climate change plan. We move to some questions on that.

Alexander Burnett (Aberdeenshire West) (Con): In our report on the draft climate change plan, the committee made a number of recommendations. I would like to ask three brief questions. First, we recommended that

“the Scottish Government revise the carbon envelopes for transport and agriculture to show greater ambition.”

Do you intend to do that?

Roseanna Cunningham: We are working through the various parliamentary recommendations and I have noted the questions that are raised in that regard. The principal priority has to be to produce a plan that works towards an abatement of emissions across all sectors and a reduction of 80 per cent by 2050. We can achieve that in a variety of ways, but we have taken on board the questions that have been raised about those two sectors, and they will be taken into account.

Alexander Burnett: My second question is about the TIMES model. It might be a question for Chris Stark, as I know that he has been very helpful with regard to the transparency of the model. Is there any more information or news about future model runs? How is the model going to be made accessible to others?

Roseanna Cunningham: It is being updated, as I understand it. David Stewart asked a question following the statement that I did not immediately know the answer to, but I gave him a note afterwards. The question was about whether the model has been run to take the EU emissions trading scheme out of the system, and the answer is that it has been. In a sense, this crosses over into the subject of Brexit preparation as well as being about the TIMES modelling. We are looking at it constantly.

Chris Stark: Yes, and we will continue to use it. Our current challenge is to update the model with the revised data, and we plan to use it again throughout the year.

Alexander Burnett: Is there a timescale for that?

Chris Stark: The main timescale—of course, Ms Cunningham is the lead on this—is the publication of the final plan.

The Convener: Two other areas that the committee suggested might be looked at with reruns of the modelling were carbon capture and storage and the assumptions around modal shift in transport. Has any work been done on those?

Roseanna Cunningham: With regard to the TIMES model?

The Convener: Yes.

Roseanna Cunningham: I ask Chris Stark to respond to that.

Chris Stark: No specific work has been done on those things, but both issues are in play when it comes to future modelling runs.

Claudia Beamish: I am sorry, but I did not hear that.

Chris Stark: No specific analytical work has been done to refine the analyses in those sectors, but we will look at both issues in future modelling runs using TIMES.

Roseanna Cunningham: It is not the case that we feed things in and press a button and all the information chunters out of the other end in 20 minutes. Running the model is more complex than that. A run has been done without the ETS to see how that impacts, and other such runs will be done. I do not know the extent to which the committee wants to be kept up to date on all of them.

The Convener: I am picking up that some colleagues are a bit confused. Will that work inform the final plan?

Chris Stark: Yes.

The Convener: Does that clarify things?

Claudia Beamish: Not really, no. It does to a degree but, in view of the concerns that were expressed by the committee, I would like to understand whether there is to be an alternative run without CCS, which the convener asked about, and one on active travel, which was a concern for the committee.

I am not naive about the process; I know that the TIMES model does not take 20 minutes to run, which is why we did not make suggestions about having many alternative runs, but I would like to know more about the two that I mentioned.

11:00

Chris Stark: The model considers a set of policy assumptions. The final policy assumptions that go into the model will inform the final modelling that is run. I am not being obtuse about it; both of those issues are completely built into the modelling that we plan for the rest of the year.

Alexander Burnett: One of the recommendations was to establish a monitoring and reporting framework, with an anticipated 12-month gap between the publication of a draft plan and the publication of the final plan. Can you clarify what the implications of that might be, why that is happening and whether there will be a reporting framework?

Roseanna Cunningham: We had a conversation about the balance between publishing in autumn and publishing in 2018. Publishing in 2018 allowed us to dovetail it with the energy strategy, and we thought that that made more sense than publishing a few months earlier, because being adrift from the energy strategy would be quite impactful in terms of the conversation.

We are still constantly getting feedback from stakeholders—that section of activity has not stopped. We are also building on the work that is set out in the plan in respect of the monitoring framework. We are engaging with the UK Committee on Climate Change on what it thinks would work and the kind of thing that it wants to see. We will be back in touch with you to discuss how best to engage Parliament and parliamentary committees in that monitoring process.

We are thinking not just about the plan itself but about how we can make progress on it, and about how Parliament can contribute to it as well.

Alexander Burnett: Can I take that as a yes in response to the question whether you are going to establish a monitoring and reporting framework?

Roseanna Cunningham: I think that I said that at the outset. The point is that we are continuing to work on this issue. We are working with the UK Committee on Climate Change on the issue and are thinking about how best Parliament can contribute to the process.

Alexander Burnett: What do you think that the timeframe for establishing that framework will be?

Roseanna Cunningham: Chris, do you have a specific timescale for that?

Chris Stark: I do. It is essential that we have something that accompanies the final plan that sets out how that plan will be monitored. That is what the minister and I have had in mind.

The Convener: One of the other recommendations that came from all the committees was that the Government should consider the scrutiny period for future iterations of the report on policies and proposals. I suspect that you would have to tackle that in the forthcoming climate change bill. You have previously indicated that you are sympathetic to that argument, so will there be something on that in the climate change bill, and can you say what it might look like?

Roseanna Cunningham: I am sympathetic to the idea, and I think that the various scrutiny reports have been helpful. It is our intention to increase the scrutiny period for future draft climate change plans, but I do not have in mind a fixed period. It would be helpful if committees could provide feedback on that, having thought about how they work.

I think that the current timescales are too tight, so allowing extra time would be helpful for everybody. However, we obviously do not want the period to drift and become very long. As I said, feedback on that from committees would be useful. Essentially, however, it is my intention to increase the period and to include that in the bill.

The Convener: I am sure that we will take up that invitation.

Claudia Beamish: I am pleased to see that there will be a stronger role for blue carbon in the final version of the plan. Could you give the committee any more detail about that and clarify what the research implications might be for the next RPP?

Roseanna Cunningham: The timing of publication of the draft climate change plan meant that it came out before the work that was being done on blue carbon. In February, Scottish Natural Heritage published a report on the issue, and Marine Scotland is currently developing a research

programme in conjunction with SNH and a number of academic institutes to build on the findings of the SNH report and the other research, so the final plan will focus on our understanding of blue carbon and its potential. That will be one of the big differences between the original draft and the final plan. Mike Palmer may want to comment on that.

Mike Palmer (Marine Scotland): We have great aspirations for the potential of that promising partnership with SNH, and we are looking forward to continuing that work.

Mark Ruskell: I turn to the forthcoming climate change bill. There is increasing understanding in states around the world of the need to meet the aims of the Paris agreement by setting zero-carbon targets at state level. Can you explain the work that the Scottish Government is doing, in the context of that proposed bill, to consider a zero-carbon target for Scotland?

Roseanna Cunningham: The UK Committee on Climate Change did not propose a zero-carbon target either for the UK or for Scotland. As is normal, we abide by its advice. I have indicated that zero carbon would be an ambition, but it is not intended that the bill will design it into future climate change targets.

Mark Ruskell: I appreciate what you say about the UK Climate Change Committee, but when it came to the climate change plan you considered the recommendations of the UK CCC, found them to be useful contributions, but then rejected them. Given the international precedent that is being set on zero-carbon targets, I am interested to know how seriously you are investigating that option.

Roseanna Cunningham: We intend to increase the target to 90 per cent. That has been described by the Committee on Climate Change as extremely stretching but just at the limit of what is doable. I am not sure whether, at this point, it is advisable to put into legislation something that is widely perceived as not being doable. That does not preclude our opting for that target if circumstances change. It will be the second climate change bill between now and 2050; I assume that there will be other climate change bills, so at some point zero carbon may become achievable. However, we have taken the view that the 90 per cent target is, right now, about as much as we can reasonably commit to.

Mark Ruskell: Why is that the case? What would be the impact of adopting a zero-carbon target?

Roseanna Cunningham: That would roll back into some of the decisions that would have to be made between now and 2050, in terms of what we think is manageable and doable. We believe that 90 per cent will be tough enough without pushing for 100 per cent.

Peter Chapman: I want to ask about the Land Reform (Scotland) Act 2016, and specifically about the Scottish Land Commission, which is now in place and is required within six months to develop a strategic plan and programme of work for its first three years. What discussions have you had with the Land Commission on that, and how is the programme of work coming along? Will it be ready before September and, if so, when are you likely to approve it?

Roseanna Cunningham: I have had informal discussions with the Scottish Land Commission, but I have not yet had a formal conversation with it about the three-year strategic plan or its programme of work. One of the reasons why we set up the commission as we have was to ensure that it had freedom to go about its business without a constant ministerial eye looking over its shoulder. It is currently developing its programme, and those who have been following the matter will know that it is conducting engagements around the country. It has been getting out and about, and it has a long list of places that it will visit.

The commission is, under the terms of the Land Reform (Scotland) Act 2016, required to submit its plan and programme of work to me before the end of September. I will obviously need a little time to look at them, although I will also see them in draft form, so I will get a slightly early view. It is planning a land reform conference for the end of September. I expect that it will want ministerial approval for what it wants to do, so that is what I will be trying to give, at that point. Of course, if the plan comes to me the night before the conference, we might be struggling a bit, but I assume that that is unlikely, so we aim to stick with the target date of September. Everyone is gearing up for and working towards that conference. I suspect that it would be a disappointment for everyone, including the commission, if it were unable to stand up at the conference and include the plan and programme of work as part of its big presentation.

Peter Chapman: We can take it, in that case, that the commission is on track—or we hope so.

What about the sums of money that are involved? For example, how was the grant-in-aid allocation of £1.4 million calculated? I also believe that the commission is looking to employ up to 20 staff. How many are in place just now, and how many have still to be put in place? Is it still planning to employ 20? Indeed, is there a need for it to do so?

Roseanna Cunningham: The commission has seven members of staff at the moment. Understandably, the commissioners are being cautious about staffing until they have completed the work on the strategic plan, which I suppose will give them a clear understanding of the staff level that they might need in the future. I point out that

not all the money is for staff; some of it will be used for consultation and external advice. The commissioners will take a sensible and cautious look at staffing. As I have said, there are seven staff at the moment; I know that there will be a new start next Monday, but I am not sure whether that most recent appointment is included in the seven or whether that will make the total eight. That is where we are.

Peter Chapman: Can you update us on the work to create the register of controlling interests on land and the creation of a right to buy land in order to further sustainable development? How is all that coming together?

Roseanna Cunningham: I wrote to the committee—I think last week—about the register of controlling interests. That work is on-going. We consulted on outline proposals last September; a factual analysis of the responses will be published tomorrow and the committee will be notified when that takes place. To put it simply, I say that the work is progressing.

We have to liaise with the UK Government too, and we must be careful not to impose on companies and other legal entities requirements that could result in double reporting. As I have said, the work is on-going and things are working to plan. Our intention has been to lay the regulations in November this year. Again, however, there is the question of the UK Government's legislative programme and what it will mean for us, so I will write to the committee with an update when we have taken that into account.

11:15

The introduction of the right to buy in order to further sustainable development has been deferred to allow the right to buy abandoned, neglected and detrimental land to settle in. We will be carrying out some stakeholder engagement on the latter right to buy over the summer, and the regulations in that respect are likely to be laid some time in the autumn, so we are quite some way away from looking at the right to buy that Mr Chapman asked about. At that point, we will look at what might be the appropriate time for introducing that right to buy, but I am conscious of the caution that I have highlighted with regard to the time that will be available.

Peter Chapman: Is the work that is being done on Brexit impacting on that work?

Roseanna Cunningham: I do not know whether it will; it is not having an impact at the moment. My point is that we made a policy decision to proceed first with the right to buy derelict and neglected land, with the idea of putting that right in place towards the end of this

year. It takes time to get such things sorted out, and I cannot say whether some of what flows from Brexit will impact on the timetable not just for this issue but for other things right across the board. I cannot make a proper statement on that.

The Convener: On the land register, I think—if memory serves—that public bodies are supposed to complete it by 2019. However, it has been suggested to the committee that local authorities are not in any way compelled to do that and that some are not progressing that work at the rate that we might all want. Have you had any sight of that work, and have there been any moves by the Scottish Government to encourage authorities to participate in the process?

Roseanna Cunningham: I am neither aware of nor sighted on any of that. If the committee has received evidence on the record of that being the case, it would help if you could direct us to it.

The Convener: As it is our intention to write to you on a number of subjects that we will not cover this morning, we might well do that in that letter.

Roseanna Cunningham: Okay.

Kate Forbes: I want to ask about part 4 of the Community Empowerment (Scotland) Act 2015, which was consulted on in March 2016 and which, just for the record, introduces a new provision for community bodies to purchase land that is abandoned, neglected or causing

"harm to the environmental wellbeing of a ... community".

Do you have any details about the next phase of consultation? Who will be consulted? Will the draft regulations be made public, and when might secondary legislation come before committee?

Roseanna Cunningham: We are on the verge of consulting; I think that the plan is to consult on that over the summer. That will include stakeholder engagement, so we will be bringing people together.

At the moment, the plan is to make and lay the regulations in late autumn, perhaps in November. All things staying stable, that is the plan, but I do not have more details about engagement.

Kate Forbes: Will engagement be with the same stakeholders that were consulted in March 2016?

Roseanna Cunningham: It does not necessarily have to be the same stakeholders. For obvious reasons, they would be the core group that we would go back to, but I see no harm in increasing that group, if there are others to whom members feel we should reach out.

Claudia Beamish: I turn to the Forestry and Land Management (Scotland) Bill, on which the committee has asked me to be the reporter at the

Rural Economy and Connectivity Committee. Would you clarify for this committee, which has an interest in plant health, land reform and climate change—although we have stressed the need to mainstream the climate change aspects—what involvement you have had in the development of the consultation for that bill?

Roseanna Cunningham: It is not my bill; it is not a portfolio bill. The policy and consultation process is generally supported by Cabinet, but it is clearly being taken forward by a different portfolio—by Fergus Ewing, the Cabinet Secretary for the Rural Economy and Connectivity. My involvement, therefore, is more peripheral and not as detailed as it might be were it one of the bills that I was taking forward.

I am conscious that there is a bit of an issue around some of the bill sections. I think it is fair to say that when I met the National Farmers Union Scotland on Thursday, it did not raise any issue related to the bill, so I am not clear as to the extent of the concern.

The bill is about land management, not land ownership, so it is a slightly different area of legislation. It is supposed to complement the land reform and community empowerment agendas. As I indicated, no stakeholders have flagged up to me that they have issues with this bill or alerted me to any concerns. I am not sure whether members of the committee have a different view.

Claudia Beamish: I attended the Rural Economy and Connectivity Committee session last week, which is when I was asked to become a reporter on the bill for this committee.

Section 13 of the bill states that

“The Scottish Ministers must manage land mentioned in”

one of the subsections

“for the purpose of furthering the achievement of sustainable development.”

However, that definition appears to be somewhat different from the ones that are used in the Land Reform (Scotland) Act 2016 and the Community Empowerment (Scotland) Act 2015. Given that and the point that was made in the Rural Economy and Connectivity Committee last week that there is the possibility of compulsory purchase of land—not only forestry land but “other” land—this committee can ask, through me, whether you would have a look at that.

Roseanna Cunningham: As I indicated, the bill is about land management, not land ownership—

Claudia Beamish: But there is a compulsory purchase aspect—

Roseanna Cunningham: If you let me continue, I am just trying to work through the

issues. The definition of “community body” that is used in the bill is the one that is currently in law and is already updated in the Community Empowerment (Scotland) Act 2015. The bill uses the same definitions.

The use of compulsory purchase is available as a backstop power. A lot of checks and balances are provided through the legal procedure and the various policy guidelines that are in place.

As I understand it, the approach is to enable Scottish ministers, via the new agency that the bill will set up, to manage more than forestry land in the future. The bill provides the potential to use the skills and experience of professional land management to manage other publicly owned land in the national interest.

As I indicated, when I met with NFUS last week, that issue was not raised. It would be helpful if I knew of more tangible concern being expressed. If there really is a concern, it is not coming through to me.

Claudia Beamish: It might be that it is not coming through to you in the way that it did not come through to this committee until I went to the Rural Economy and Connectivity Committee.

Also, from my reading of the bill, the definition of “community body” is slightly different. I have a concern as well about the compatibility of the two acts and this bill going through.

Roseanna Cunningham: From my advice, the definition of “community body” that is used in the bill is the one currently used in law, as updated two years ago via the Community Empowerment (Scotland) Act 2015. If there is a factual difference between my advice and the reality, we can explore that.

Keith Connal (Scottish Government): I can confirm that there is certainly no intention in the Forestry and Land Management (Scotland) Bill to have any difference in definition or meaning from the definitions in the existing legislation.

Claudia Beamish: Perhaps I could write about that, rather than taking up more time with the committee at the moment.

Roseanna Cunningham: Okay.

Keith Connal: Yes, of course.

Claudia Beamish: That might be very helpful for the committee. Thank you.

Finlay Carson: This question concerns marine protected areas. Why was Loch Carron, for example, not protected in the original round of MPA designation? In light of that being highlighted, what other locations might be vulnerable to dredging? How are you going about identifying those areas that may be designated as

MPAs in the future if damage is done by dredging and so on?

Roseanna Cunningham: As regards the MPA network, MPAs are meant to show a number of different features. The idea of an MPA is not generally about simply one feature. Flame shell beds are well represented in the existing MPA network. Five MPAs were previously designated for flame shell beds. I will not list them, but all of them have a dredging ban already in place.

The MPA network was designed to be representative, and not necessarily to protect every example of every single thing. The five sites that were originally designated were considered to provide sufficient representation for flame shell beds. At the time they were chosen, it was considered that they were better overall value for the MPA network, and that is why Loch Carron was not in the original selection. The existence of that network does not mean that all other examples should be forgotten about.

The other designation is the priority marine features. As we have said, we intend to review that network to ensure adequate protection beyond the MPA network, and that we are not dropping the ball as concerns any particular one. That will be a two-year project, and there is a lot of work involved in it. There will be a lot of environmental economic assessment of potential solutions.

The emergency work in Loch Carron was intended to stop in its tracks any further attempt to do what was done there. Members will remember that that must come back again within two years—it is not a permanent designation. That means quite a lot of stakeholder involvement. There will be a public consultation process. I am talking here about the priority marine feature review. Marine Scotland intends to make information about the project available once we have worked through all the detail. That is the proposal. That is how we are going to take things forward.

The experience of what happened at Loch Carron has made us take a step back and look beyond the MPA network to consider what is actually needed at some sites. The member will be aware that there is some pressure for a blanket ban right around the coast. Clearly, however, that has enormous economic implications too. We are trying to find the right balance between those two things. That is why we want to do the detailed work we have set out.

Finlay Carson: I think you have already answered my next question.

Roseanna Cunningham: Sorry.

Finlay Carson: Basically, it is: what further work will you do to manage the existing sites? I know

that Marine Scotland has said that it will work with stakeholders. Will those stakeholders include inshore fishery bodies—which could lead to the MPAs including fishery management tools to work towards a more sustainable inshore fishery, which in turn also has regard to MPAs?

11:30

Roseanna Cunningham: Yes. It is worth remembering and putting on the record that there are a lot of different fishing industries and fishing interests—the dredgers are only one of those; the creelers are another, and the Scottish White Fish Producers Association is a third—and they do not necessarily all agree with each other on every single aspect. There is a tendency to assume that the fisheries sector speaks with only one voice, but it does not. A balance will have to be managed, and that will be quite an interesting and possibly difficult exercise to carry out because speaking to those people about fisheries management can often create tension.

Finlay Carson: My example is Luce bay, where there is a ban on mobile dredging gear. Some environmentalists and fishermen argue that the lack of dredging in some places has reduced the potential for habitats for fish and that a far more joined-up approach between the fishing industry and the environmentalists is needed to achieve a more sustainable fishery.

Roseanna Cunningham: Ideally, we would be able to get everybody round the table and talk things through. I hope that we can get that. That would be extremely helpful.

Mike Palmer: As an illustration, the marine protected areas strategy, which we published in the past few days, looks at how to do joint monitoring of marine protected areas with fishermen. We propose to contract inshore fishermen to help us with that monitoring job using a funding source from the European maritime and fisheries fund. I think that, by doing that in partnership with the fishermen, we will get very good engagement with them and a better mutual understanding between us, the environmental community and the fishing community about what the right, proportionate balance is in the monitoring and management measures that need to be put in place for the designated MPA. We really welcome that approach, through which we can use fishermen's assets to help us to do the monitoring.

The Convener: Angus MacDonald has a specific point about Loch Carron.

Angus MacDonald (Falkirk East) (SNP): My question is specifically about the Loch Carron Urgent Marine Conservation Order 2017. As you know, cabinet secretary, there are issues relating

to the detail of the boundary. We were told that the map is correct, but there is an anomaly with regard to the stated written geographic boundary of the marine conservation order. I am concerned that the local fishermen might be confused about the boundary and the knock-on effect of that on enforcement. Are Marine Scotland officers helping to provide clarity to the fishermen over the summer period, given that the issue will not come back to the committee until after the recess?

Roseanna Cunningham: We will need to come back to the committee on that. That is a very detailed question, and I do not want to waffle an answer if a far more specific answer can be provided. We undertake to come back to the committee on that.

Angus MacDonald: Will you take on board the concern that there is an anomaly that could cause confusion?

Roseanna Cunningham: I am not aware of an anomaly. Let us go back and have a look at that.

Angus MacDonald: Okay. Thanks.

Mark Ruskell: Cabinet secretary, when your officials were with us earlier this month, they said that the Scottish Government had got “lucky” with recreational divers being on the scene at Loch Carron to monitor the damage. It is clear that there is an issue with the on-going management and monitoring of MPAs. Your official also said that the Government might consider a distance ban. I know that you have referred to that.

Roseanna Cunningham: A what ban?

Mark Ruskell: A distance-based ban on dredging out to a particular limit. You might consider that. I know that you have already alluded to the fact that that is a tool in the box, although not necessarily one you will use. Will you expand on what consideration you are giving to that?

Roseanna Cunningham: The principal consideration would be that if we impose a blanket ban it would effectively decimate the industry. That cannot be excluded from consideration. In order to take that step, one would have to be in the position that there really was no alternative.

Loch Carron had not been dredged for something like 10 years, so there had not been constant, consistent, irresponsible dredging going on in the area. We would want to be very careful about reaching that level of response, given the implications. We are trying to work through what sort of proper management can be agreed with all sectors of the fishing industry.

MPAs do not exclude all fishing—they are managed areas. The question is, how do we manage the inshore as best as possible? I have

already put on record my thanks to those recreational divers who uncovered the issue. Members will accept that it is impossible to have a monitoring regime that monitors every single feature around the clock over many years. We rely on a variety of different reporting mechanisms and recreational divers are a very important part of that network.

Mark Ruskell: You used the word “decimate”, cabinet secretary, which suggests that you have come to a conclusion on the principle of a ban out to a certain limit.

Roseanna Cunningham: I have seen the numbers and I know what the impact on our industry would be if we were to impose a ban out to a certain limit. No Government will ever say “never”, but if you are going to reach such a decision, you must be very conscious of the implications for a huge part of our coastal economy and our coastal communities.

Kate Forbes: You talked earlier about bringing everyone round the table. Do you have any updates on the small isles MPA?

Roseanna Cunningham: We are consulting. The remaining inshore MPA fisheries measures will be consulted on at the end of 2017. That will involve more work on an effective management proposal for the small isles. The updated proposal will become part of the wider consultation that is planned. We are working very hard to get people to an agreement on that. That will feed into the wider consultation, which will involve 21 sites. It is a big programme of work, of which the small isles is one part.

The Convener: As if to perfectly illustrate the width of your remit, cabinet secretary, we will move from MPAs to waste.

Richard Lyle: You have stolen my first words, convener—I was going to say how impressed I am with your wide remit, cabinet secretary.

“A Plan for Scotland: The Government’s Programme for Scotland 2016-17” included commitments to introduce the circular economy and zero waste bill in the second half of the parliamentary session. What issues does the Scottish Government plan to include in that bill and when does it plan to consult on it? Will you meet the timescales that were previously agreed? What work are you doing to ensure that the target to ban the disposal of biodegradable waste in landfill by 2021 and to recycle 70 per cent of all Scotland’s waste by 2025 can be achieved?

Roseanna Cunningham: The circular economy and zero waste bill is scheduled towards the end of the session, so it is not imminent.

The priorities have already been set out in our strategy, “Making Things Last: A Circular

Economy Strategy for Scotland”, and people will be able to see from that document that they are likely to cover not only design, reuse, repair, recycling and so on but food and the bioeconomy, construction and energy infrastructure and remanufacture. It is quite a substantial piece of work and, to be fair, colleagues in other portfolios will also be included. We also have a lot of work to do on raising awareness of the economic opportunities, and we are engaging with businesses in that respect. It is a priority for early engagement during the year as we work towards the ultimate goal of the circular economy bill.

As for working towards targets, our recycling targets provide a clear direction of travel for business and local authorities. For the moment, we are trying to transition through the 2020 milestone as smoothly as possible to ensure that we do not end up with excess energy-from-waste infrastructure that undermines high-quality recycling. Quite often, there is a balance inherent in all of this, and we are trying to keep things manageable.

Of course, local authorities will have to put in place arrangements to meet their statutory duties, and I think that the Scottish Environment Protection Agency is working on technical guidance for its post-2020 requirements. On recycling performance, 25 out of 32 local authorities are signed up to the recycling charter, so we are making progress on that. However, the local authorities that sign up do not suddenly comply overnight; instead, they sign up to begin the work towards compliance, and Zero Waste Scotland is working with them on implementing their transition plans.

I have an open mind on what we can do to accelerate this issue. I intend to visit Wales this summer, because it performs incredibly well in this respect, and I want to go down there and find out whether anything about the Welsh experience can be translated back to Scotland. After all, this is also about learning from others instead of always presuming that we can come up with the solutions ourselves.

Richard Lyle: Is the Scottish Government planning to decide whether to move forward with proposals to introduce a deposit return scheme in Scotland, bearing in mind the concerns recently voiced by the Scottish Grocers Federation, which represents more than 1,000 retailers and which wrote to some committee members this week? I should declare at this point that I was a grocer for 14 years. Given that there are others stacking up against this change in recycling, why would we want to do this?

Roseanna Cunningham: There is a big debate about this, and we have undertaken to do as much work as possible on the matter and look at

different ideas. In fact, the final stakeholder workshop on this phase of discussion on deposit return is happening today. If we were to go down that road and choose to do something in that regard, it would be included in the circular economy bill, so we are not under immediate pressure as far as legislation is concerned.

I know that the committee had a sub-group working on this issue. From what I have seen, its work was very useful, but it pretty much highlighted how complex the issue is and how right we have been not to jump to some immediate answer without thinking through the implications, including for the small corner-shop grocers, who do not have the space, staff or infrastructure to deal with some of this. Richard Lyle is indeed correct to flag up the potential contradiction between imposing higher recycling targets and taking away a big stream of potential recyclate from the markets. There are a lot of complex issues to consider, and I think we have done the right thing in speaking to as wide a group of people as possible and really thinking through the implications of such a move.

Some of the bigger companies have indicated a change of mind on the matter; others are still adamantly opposed. There is no unanimity out there among the commercial stakeholders. Among the environmental stakeholders, there is perhaps more of a sense that we should have some kind of system. However, there is the contradiction that arises if we take recyclate away from other potential markets.

The issue is not as simple and straightforward as it first looks.

11:45

Richard Lyle: Thank you for your honesty, cabinet secretary, and for your decision—I hope that you will come down against the scheme, but we will wait and see.

Roseanna Cunningham: Well, the work is ongoing, as I indicated. The final stakeholder event is today. We want to explore every option.

Claudia Beamish: Will information from the stakeholder event be published? If so, when will that happen, so that the committee can consider it?

Roseanna Cunningham: That is a good question, to which I do not have an answer. Can we get back to you on that?

Claudia Beamish: Thank you.

Emma Harper: I am interested in air quality. The Scottish Government’s strategy, “Cleaner Air for Scotland—The Road to a Healthier Future” aims for Scotland to have the best air quality in

Europe. On 2 May, the committee took evidence from stakeholders and academics on air quality in Scotland, and recently we had a debate on air quality, in which many committee members quoted statistics and talked about the importance of tackling the issue.

The issue is obviously creeping up the agenda—and I acknowledge that you have an extremely wide portfolio, cabinet secretary, as other members said. I am interested in hearing your comments on the evidence that low-emission zones are effective in reducing local pollution levels and improving public health.

I am also interested in the costs of creating and running LEZs, which seem to stack up. I am thinking about the cost of retrofitting buses or purchasing new buses and so on. It is a major logistical challenge. What are your thoughts on the costs, too?

Roseanna Cunningham: I understand that there is evidence to be found either way. I suppose that ultimately it comes down to how the LEZ is defined and designed. There were LEZs in Dutch cities that did not make any difference, whereas the Berlin LEZ made a fairly significant difference—although the difference tends to be a reduction of up to 10 per cent in emissions levels.

A literature review was published by academics this year, as part of the airuse project. The committee might want to look at it. It confirms that the outcomes are hugely dependent on local factors, such as the zone's size and operational scope, traffic data robustness, and local meteorology. Whether there is a better or worse outcome depends on what people do.

The best LEZs appear to manage to reduce emissions. In the Berlin LEZ there was a 7 to 10 per cent reduction in NOx. One localised study in London achieved a 3 to 7 per cent reduction—that is the ballpark we are in, by the look of it.

I think that two local authorities in Scotland—Glasgow and Edinburgh—want to discuss having a low-emission zone. It is heartening that two authorities are actively interested in the approach. I suppose that the costs and benefits will depend entirely on what people choose to do, as the evidence shows.

Emma Harper offered some examples, but the reality is that an LEZ might not be set up in that way. The way that we do it might have a different impact. Therefore, it is a balance. I think that the local authorities that will be interested will be those with the biggest areas of harmful emissions. The debate that Emma Harper mentioned was taken by public health colleagues, which was an appropriate thing to happen because it is a public health issue. However, we need some indication

of what the most effective way of reducing emissions will be.

Emma Harper: You mentioned that two councils are interested in a low-emission zone. Last week, Friends of the Earth was in my office asking whether it was possible to have more than one pilot. Do we do that or do we stick with one pilot? What is the best way forward?

Roseanna Cunningham: Low-emission zones are not cost free so we have to try to be sensible about it. The idea of a pilot is to tease out some of the issues that I indicated from the evidence and see whether there is a particular model that would work effectively. In an ideal world, I would like there to be many pilots doing many different things but there will not be the capacity to do that, so the idea is that we will try to find one local authority to do the initial pilot, which will help us to inform roll-out if other local authorities wish to go ahead. No decision has yet been taken about where that might be.

David Stewart: I will ask a quick technical question. By all means, please write if you do not have the answer in front of you. I got a briefing about the London LEZ and was told about the fantastic vehicle-recognition software that was available so that the authorities were able to detect every vehicle entrance into, and exit from, London and charge it appropriately. For example, a Euro 6 diesel vehicle would be exempt due to its very low emissions, but a vehicle that is not exempt would be automatically charged.

The reason that I am asking my question is that I am enthusiastic about LEZs and, as with Emma Harper's point, I would like as many cities as possible to go for them. However, that will be very much down to what they are applying for. If the technology is there or is paid for, that is a Rolls-Royce approach, which is very effective. However, if it is not there, I can understand why local authorities might be reluctant to apply. Glasgow City Council wrote to me and said that the London example cost more than £100 million. That is very expensive, but all of London is covered. Subject to contradiction, I do not think that any Scottish city has the complete 360° approach that London has, although some technology is available for vehicle recognition. Is that something the Government is thinking about, or is that level of LEZ not being planned?

Roseanna Cunningham: At the moment, there is no specific detail in the planning, so some of the conversations we are having are about what local authorities would like to see and where. There is no requirement for a big-bang approach, and LEZs can start off in a localised area and expand, depending on the experience. Different cities might have different ideas about how best to manage the process. It is expensive and money

has to be invested, so I am cautious about being able to have a big-bang approach as a £100 million job is unlikely to be manageable in the current financial situation. Therefore, with local authorities, we are exploring how it can be dealt with.

Emma Harper talked about buses having to be converted but, at the start, you might designate a small area into which buses or taxis do not go. You can come up with all sorts of potential ways around it that do not immediately trigger massive investment and that give a kind of signal for the future. To be perfectly fair, fleet owners and others are already moving their vehicles and themselves over as much as they possibly can.

One city might have a different idea of what its LEZ would look like compared with another city. Our concern is to avoid a situation in which we cannot afford to do everything at the same time, so the ideal scenario is to find a pilot that shows a way forward that will work across as many cities as possible.

The Convener: We will move on.

Mark Ruskell: I will stick with air quality. Cabinet secretary, you will be aware of the High Court judgment from last year that the UK's air quality plans, particularly on nitrous oxide, are not compliant with EU law. We are breaking the law and contributing to a major public health crisis as a result. The Scottish Government's plans are part of the overall UK plan. What action have you taken since that High Court ruling to ensure that the Scottish Government's approach is compliant with the EU directives?

Roseanna Cunningham: I immediately flagged up that judgment to my officials and said that, although it may have related to Westminster, I did not think that we could ignore the potential implications for Scotland. We are working hard to try to evidence that what we are doing will keep us compliant.

The cleaner air for Scotland strategy set out a programme of work. We have kept that under review, and we believe that it remains fit for purpose in delivering against EU obligations. Our 2020 target was identified as having a practical timeline, and it was part of the consultation process that led to the strategy. I have ensured that officials do not ignore the court case south of the border, but we feel confident that the work we are doing is getting us into the right place.

Mark Ruskell: It is not clear to me what that work is and what the change of approach is. You said that we need to ensure that we stay compliant. The High Court ruling was that we were not compliant, so something has to change as a result.

I am particularly thinking about whether the cleaner air for Scotland strategy will be reviewed. I have asked the First Minister that question and I asked it of your colleague Aileen Campbell in the debate a couple of weeks ago, and I have not had a clear answer yet. I think that the First Minister talked about the cleaner air for Scotland strategy being a chapter in the UK plan, but there was a pretty serious judgment from the High Court, and I do not get a sense of how the approach in Scotland is being reviewed or whether the committee or other stakeholders can input into the plan to ensure that it is compliant. Is the plan being reviewed?

Roseanna Cunningham: It is kept under regular review. The first progress report was published on 15 June, which was just a few days ago. We are adding to the air quality budget to support actions in the cleaner air for Scotland strategy. The strategy is under constant review; it does not require to be torn up and started again. If committee members want to have a look at the first progress report, it was published just two weeks ago.

The Convener: We will do that.

Mark Ruskell: Will there be an opportunity for external stakeholders and the committee to formally feed into a review of the strategy?

Roseanna Cunningham: The report is now a public report and, as I indicated, we will keep the strategy under regular review. It is perfectly open to any stakeholder to look at the first review and come back to us having done so.

Alexander Burnett: I want to talk about flooding and, more important, flood prevention. Flooding is a continuing cause of concern for my constituents in Kemnay and Ballater, but the same will apply in any of the areas that were affected by the floods last year.

As you will be aware, the national flood risk assessment and the identification of potentially vulnerable areas are reviewed and republished on a six-year planning cycle, the next date for that being 2022. When I wrote to you last month, you kindly replied saying that although you have

"a power under the Flood Risk Management (Scotland) Act 2009 ... to review and, where appropriate, update the document ... at ... times outwith this six year cycle, there are no plans to use this power."

Why is that?

12:00

Roseanna Cunningham: Work is on-going on the second cycle and we have no current plans to upset that timetable. That can always change if the situation changes, but the work is already being done and will provide the basis for

identification of the potentially vulnerable areas and for local flood risk management plans. SEPA is actively involved in that, and I assume that one of the things that it will be looking at is the situation in Aberdeenshire. The work will build on the first cycle, review the methodology in that cycle and take on board new data and information, including on the Ballater situation and in particular information relating to climate change, community functionality, cohesion, isolation et cetera.

It is worth remembering that the approach represents a huge step change in the way in which we manage flood protection in Scotland. It provides a transparent system of identification; a committed budget, which is ensuring that the infrastructure projects are put in place; and identification of the areas that are most in need. The new cycle will include a lot of updated information and will come forward with the second national flood risk assessment. That moves us away from a scatter-gun approach, which is how it was done previously.

Although it is not impossible to imagine a scenario in which we would move outside the cycle, we want to minimise the likelihood of that happening. The process provides us with the most robust way of managing flood protection across the whole of the country. SEPA reviews that approach constantly, looking at new research and thinking about new information that would change that.

Alexander Burnett: Is that not exactly the point? The 2009 act provides scope to review the plan outside the six-year cycle. What event are you waiting for to use that power if it was not the large-scale floods that happened last year?

Roseanna Cunningham: That is one of the things that SEPA is looking at very carefully. At present, it is confident that doing the work on the basis of the cycle that was laid down by the 2009 act continues to be the right way to proceed. Many of the PVAs will probably remain the same, but the review and revision process will involve authorities and other stakeholders and there is potential to update the list.

I guess that what I am trying to say is that we already have a better, more consistent and more strategic approach to the situation in Scotland, and we believe that it is better to stick with that than to upset it in the middle of the process. Flood protection works are in place or are committed to over an incredibly long period of time. Some of the things that have now opened or are being built are things that I signed off between 2009 and 2011. We have to think into that longer term.

The Convener: Finlay Carson has a question. I ask him to be brief.

Finlay Carson: I appreciate what the cabinet secretary has said about a longer-term approach to flooding, but that gives no reassurance to communities such as Carsphairn and Newton Stewart, in my constituency, which were hit by three major floods. Because they were not in a vulnerable zone, the Government and local authorities were reluctant to take action that would have resulted in fewer homes being flooded in subsequent years. Do we not need the flexibility that Alexander Burnett talked about, so that it does not take six years for flood prevention work to be done in communities where it is pretty obvious that there is a flood risk?

Roseanna Cunningham: Not all the money that is committed to flood protection is committed just to PVAs. A proportion of the annual budget that we have committed is protected. Flood protection is unusual in that we have committed to an annual budget figure over a very long period of time, a proportion of which is protected from simply being part of the PVA money.

The process will always be difficult and we are subject to the randomness of nature and climate change, but SEPA is still confident that what has been proposed is the best way for us to manage things. There can be a conversation about how the balance of the money is used by local authorities. We would need to have that conversation with COSLA, as well, because it is also part of the conversation.

The Convener: We have done well to cover what we have covered so far. We still have a number of subjects to cover, so I hope that the lines of questioning will be short and sharp.

Emma Harper: As the cabinet secretary knows, I am interested in animal welfare. On 10 May, you wrote to us with an update on animal welfare issues, including on regulations on the licensing of animal sanctuaries, rescue centres and rehoming activities, and on the review of legislation on the breeding and dealing of animals. Are there any further updates on any of those issues or the proposed timetable for action?

Roseanna Cunningham: Work on all of those things is on-going. The team that is involved in the Wild Animals in Travelling Circuses (Scotland) Bill is involved with them, and I have to give it space to be able to drop things and make other things priorities.

We do not have specific timescales for every issue. Obviously, a bill is going through, and that takes a bit of priority. Work is being done on other things, some of which will involve consultation or further consultation and some of which will not. At this stage, although everything is being progressed, it is not all being progressed at the same speed, and I am sure that the committee

does not want everything to arrive on its lap at the same time, as that would be difficult. I also mentioned a review of offences in the Animal Health and Welfare (Scotland) Act 2006. All of that is subject to Brexit impacts. I have to think about what are notionally perhaps the more important issues and what can be held if there is a big impact and we have to look at other things first.

Work is on-going, but the legislation is the priority for the team. It will then return to some of the other issues and pick them up. However, I have no specific timescales for any of the sets of SIs that would emanate from that work.

The Convener: I want to ask about the report on scoping an upland vision that SNH is producing. When is that due? How do you intend to take that work forward?

Roseanna Cunningham: SNH's report will scope the potential for an upland vision—I have to remember that it is not trying to scope a vision. The report will be published soon and will make recommendations on the way forward. We will consider those and will come back and make our plans known. My recollection is that the report is due quite soon; we will flag it up to the committee when it comes out.

The Convener: That will be useful, because we have a particular interest in taking forward work in that area.

Claudia Beamish: Cabinet secretary, the committee has looked at deer management in some detail. When will a clear plan on deer management be published?

Roseanna Cunningham: Imminently.

Claudia Beamish: Thank you.

The Convener: We look forward to that and to our continued involvement in the issue.

On a similar theme, where are we on the secondary legislation on beavers? I am conscious that there is concern out there about the practical implementation of whatever approach is brought forward.

Roseanna Cunningham: We are progressing work on the strategic environmental assessment and habitats regulation assessment. When that work is done, we will move on to a statutory instrument that will add beavers to schedule 2 to the Conservation (Natural Habitats etc) Regulations 1994. We hope and expect to be able to do that later this summer.

SNH is working on a couple of aspects that relate to the issue. I asked SNH to do a mapping exercise that will show us what natural expansion will look like, so that if a beaver suddenly pops up a very long way away we can ascertain the likelihood of its having been deliberately

transported as opposed to getting there through what we might consider to be natural expansion. SNH is also working on a management tool so that, when the statutory instrument is brought in, the organisation is ready to work with and alongside landowners and land managers on the issue.

The Convener: Is SNH currently engaging with land managers on how management might work in practice? I see that Keith Connal is nodding his head in agreement.

Keith Connal: Yes.

Roseanna Cunningham: As far as I am aware, yes. Beavers were one of the issues that NFUS raised with me last Thursday.

The Convener: That is understandable.

Mark Ruskell: Cabinet secretary, I want to ask about your leadership on aquaculture. Clearly, compliance rates are an issue at the moment. The committee has figures that show that compliance has gone down. Indeed, aquaculture is one of the few sectors in which compliance is slipping below 90 per cent.

Is SEPA's current regulatory approach to the aquaculture sector working, particularly in light of the ambitious expansion plans of Government and the industry?

Roseanna Cunningham: It is a huge industry, which contributes enormously to the success of Scotland's food and drink sector and provides employment for a huge number of people. However, I am conscious that there is a big environmental question about its management.

SEPA is the regulatory body, and it has just published—only yesterday, I think—a new framework for a sustainable future for finfish aquaculture in Scotland, which is going to be controversial. There will be a lively conversation between producers, SEPA and the environmental sector about the way forward. That is very current—members might not be aware of the proposals that were published yesterday. There has been some industry response today to SEPA's proposals, which suggests that there will be a lively debate, as I would expect. There are also interesting developments in other countries, about which I have asked.

We need to get people round the table. The truth of the matter is that it is in the best interests of people in the industry for there to be change that leads to healthier stock, reduces stock losses and all the rest of it, because that is money in the bank for them. However, I suppose that from the perspective of people in the industry, it is about what is manageable. We must obviously take on board a number of environmental considerations, too.

That is active and current work. If members are not aware of the proposals that SEPA published yesterday, I urge you to go and have a wee look.

12:15

The Convener: That will feed into a piece of work that the committee is planning for when we come back after the summer recess. Thank you.

Finlay Carson: My question follows on from Mark Ruskell's question. I am interested in learning what work will be done to establish whether there is a link between salmon fisheries and the state of wild salmon. The document, "Draft provisions for a Wild Fisheries (Scotland) Bill/Draft Wild Fisheries Strategy: a consultation" was published on 8 February 2016. Have the measures that have been introduced met their aim of improving the conservation status of wild salmon? May we have an update on where we are with implementing the Aquaculture and Fisheries (Scotland) Act 2013? When is a wild fisheries bill likely to be introduced?

Roseanna Cunningham: The 2018 season will be the third fishing season in which we have made conservation assessments. In our view, it is a bit too early to assess whether the measures that have been introduced have met their aim; we think that they need a little longer. We will bring forward regulations for the 2018 season later this year—I know that the member has an active interest in the matter and will look out for them.

On the implementation of the 2013 act, we are working with the sector to deliver improvements and reform in advance of legislation, where possible. A wild fisheries bill remains in the programme, and under current plans we might introduce it in year 3, but—again—much depends on whether we find ourselves bounced about by things outwith our control. That is the current intention.

The Convener: It is the B-word again.

Roseanna Cunningham: I am trying to be careful not to give an explicit commitment to a particular time, when I am not 100 per cent certain that I can make it. However, that is where the bill is pencilled in at the moment. We are talking about the 2018-19 parliamentary year, but probably later and not earlier in that year.

The Convener: Thank you for your candour.

We have got through our questions but, before I conclude this part of the meeting, I will bring in Angus MacDonald to make a point of clarification, for the record.

Angus MacDonald: Thank you, convener, I appreciate the opportunity to do so. During the evidence session, Richard Lyle might have given

the impression—albeit inadvertently—that the committee has formed an opinion on deposit return schemes, which is clearly not the case. I want to put on record that the majority of members of this committee are keeping an open mind on DRS and look forward to further consideration of the issue in the not-too-distant future.

The Convener: It is accurate to say that the committee has not come to a conclusion.

Richard Lyle: I apologise if I gave that impression. That was not the intention.

The Convener: I am sure that it was not. Thank you, Mr Lyle.

Cabinet secretary, thank you for your time. We have covered an incredible amount of ground, which I think illustrates the incredible remit that you have. You indicated that you will come back to us on a number of issues.

Roseanna Cunningham: Yes. There are a number of issues on which I have committed to come back to you. Equally, I make the offer that you can come back to us on anything that you feel that time precluded us from getting to.

The Convener: We will do. I thank you and your officials, and I wish you all a restful summer recess, if that is possible.

Roseanna Cunningham: Thank you. I might see some of you on my travels.

The Convener: The committee expects to meet next after the summer recess, on 5 September 2017. As agreed, we now move into private session. I ask that the public gallery be cleared, as the public part of the meeting is closed.

12:20

Meeting continued in private until 13:01.

Correction

Roseanna Cunningham has identified an error in her contribution and provided the following correction.

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):

At col 16, paragraph 2—

Original text—

I have written to the convener four times on the issue, most recently on 14 June.

Corrected text—

I have written to the convener on the issue, most recently on 21 April.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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