



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 3 October 2023

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
28th Meeting 2023, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

*Ash Regan (Edinburgh Eastern) (SNP)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Kevin Gibson (Scottish Government)

Iain Gulland (Zero Waste Scotland)

Nick Halfhide (NatureScot)

David Harley (Scottish Environment Protection Agency)

Fiona Hyslop (Minister for Transport)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 3 October 2023

[The Convener opened the meeting at 09:19]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning and welcome to the 28th meeting in 2023 of the Net Zero, Energy and Transport Committee. The first item on the agenda is consideration of whether to take in private items 8 and 9, which are consideration of the evidence that we will hear under items 4 and 5. Do we agree to take those items in private?

Members indicated agreement.

Subordinate Legislation

Transport (Scotland) Act 2019 Amendment Regulations 2023 [Draft]

09:20

The Convener: Our second item is the consideration of a draft statutory instrument. I welcome Fiona Hyslop, the Minister for Transport; Bridget Bryden, the bus regulatory policy team leader in Transport Scotland; and Kevin Gibson, solicitor in the Scottish Government. Thank you for joining us.

The instrument is laid under the affirmative procedure, which means that it cannot come into force unless the Parliament approves it. Under the agenda item following the evidence session, the committee will be invited to consider a motion to recommend the approval of the instrument. I remind everyone that officials can speak under the current item but not under the next.

I ask the minister to make a brief opening statement.

The Minister for Transport (Fiona Hyslop): Good morning, convener and committee. The Transport (Scotland) Act 2019 was designed to make Scotland's transport network cleaner, smarter and more accessible than ever before. During stages 2 and 3 of the parliamentary passage of the bill that became the 2019 act, a significant number of amendments were made. For context, the convener may recall that the Rural Economy and Connectivity Committee considered more than 400 amendments at stage 2 and that the consideration of amendments at stage 3 lasted for around seven hours. That included amendments to provisions that amended existing primary legislation and the introduction of new provisions to which cross-references were made.

As a consequence, the bill as passed contained a significant number of provisions that required to be renumbered and cross-references that had to be corrected before its publication. When that exercise was undertaken, a substantial number of cross-references and other numbering errors were corrected in a short timescale, prior to the publication of the act. However, in a few cases, unfortunately, cross-references were not updated.

The primary purpose of the regulations, therefore, is to correct those erroneous cross-references and the incorrect numbering in the act's provisions on bus services and smart ticketing. The regulations also remove duplicate provision on the parliamentary procedure that attaches to regulations under the act.

We are also using the opportunity to correct one minor drafting error in section 55 of the act—on parking prohibitions—to ensure that the effect of that provision is clear.

The regulations make relatively minor technical amendments to the act, to ensure that full effect is given to the Parliament's intention in passing it. I am happy to answer any questions that members may have.

The Convener: Thank you, minister. I do indeed remember the bill as it went through stages 1 and 2 in the committee that I then convened—and probably all the amendments. I do not think that I have ever seen quite so many amendments at different stages. Thank you for coming back. Monica Lennon has a question.

Monica Lennon (Central Scotland) (Lab): Good morning to the minister and her officials. Thank you, minister, for clarifying the minor and technical nature of the regulations. When did the errors first come to the Government's attention, and could their nature—you talked about incorrect numbering and erroneous cross-referencing—have led to anyone inadvertently not complying with the law?

Fiona Hyslop: That would best be answered by officials, if they have the information, because, as you will know, I was not the minister at the time at which those errors happened. I am happy to take responsibility for tidying up the legislation in a technical way. I ask Kevin Gibson to come in.

Kevin Gibson (Scottish Government): The errors have been identified over time—some quite early, some not too long after the act was published, and some fairly recently. It has been a process.

On the specific point of whether anyone may inadvertently have failed to comply with the law due to those errors, the answer is no. The provisions in question are not yet in force. They will be brought into force in the next few months and we are tidying up those errors before the law comes into effect.

Monica Lennon: It is reassuring to hear that those provisions are not yet in force. That is quite a long period of time and not everyone who is now on the committee would have been involved in the legislation, so, for the record, what was the first date on which this came to the Government's attention?

Fiona Hyslop: Perhaps I can answer that, because I asked quite a similar question. There are many important provisions within the 2019 act, so we must ensure that they can come into force.

The act became legislation around the end of 2019. Not long after that, we headed into the pandemic and people working right across

Government were diverted from legislative and other policy work into managing the pandemic. Understandably, the provisions, including any corrections, were delayed. A number of provisions are now in process and instruments have already been laid that will help us to implement the powers that are within the 2019 act.

Monica Lennon: I have no further questions.

The Convener: Thank you. You made a good point, which has been cleared up well. It was useful to hear that. Do any other members have questions?

I see no questions, so we will move straight to the next item on our agenda, which is formal consideration of motion S6M-10469, calling on the committee to recommend the approval of the Transport (Scotland) Act 2019 Amendment Regulations 2023.

Minister, do you want to speak to the motion or are you happy that you have spoken enough?

Fiona Hyslop: If you are happy for me to do so, I am happy just to move the motion.

The Convener: I am happy that you have spoken enough, minister. Thank you.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the Transport (Scotland) Act 2019 Amendment Regulations 2023 [draft] be approved.—[*Fiona Hyslop*]

The Convener: No members wish to contribute. Minister, do you wish to sum up or are you happy to forgo that?

Fiona Hyslop: I am happy to forgo summing up.

Motion agreed to.

The Convener: The committee will report on the outcome of our consideration of the instrument in due course. Are members content to delegate authority to me, as convener, to finalise a report for publication?

Members indicated agreement.

The Convener: I thank the minister and her officials for coming along.

09:27

Meeting suspended.

09:30

On resuming—

Environmental Regulators

The Convener: Welcome back. Our next item of business is an evidence session with two of Scotland's statutory environmental regulators, NatureScot and the Scottish Environment Protection Agency. The committee aims to have a session each year with the environmental regulators, to discuss their annual reports, finances and main priorities for the year ahead. This session will be wide-ranging and will touch on many aspects of the regulators' roles. It may also contribute to the committee's pre-budget recommendations to the Scottish Government in the coming weeks and to our work in other areas in future months.

I am pleased to welcome Nick Halfhide, the director for nature and climate change at NatureScot, and David Harley, the chief officer for the circular economy at the Scottish Environment Protection Agency. Thank you for joining us. I believe that you each want to make a brief opening statement; I have been told that Nick will go first, then David.

Nick Halfhide (NatureScot): Good morning and thank you very much for inviting me. I have a couple of quick comments. As you know, NatureScot is Scotland's public nature agency. We bring 30 years of experience, expertise and passion to our nation's most vital endeavour: tackling the nature and climate crisis. As a reminder of the scale of that crisis, the "State of Nature Scotland 2023" report said last week that one in nine Scottish species is threatened with national extinction and that since 1994, there has been an average 15 per cent decline in species abundance across our closely monitored wildlife.

In response to the crisis, we are seeing significant policy development in the Scottish Government and there will be a number of bills in the Parliament this session. From NatureScot's perspective, that policy development, which builds on what has gone before, is a major opportunity to reverse nature decline and hit net zero targets, and we are energised by the direction of travel. We know that that work will increase demand on our services and advice, and that that will no doubt be true for a range of other public bodies, including local authorities. We think that we can rise to that increased expectation on us, but it puts pressure on our capacity and resource.

In response, as well as driving efficiency, we are getting creative, which means that we are changing our approaches to delivery, especially in relation to digital solutions; we are identifying new, appropriate revenue streams; and we are fully

engaged in public sector reform. We recognise the value of the Scottish Government's commitment to invest £500 million in nature through to 2026, which is very welcome and necessary. We are also seeing increased interest in nature finance from private sources, with our role being to promote responsible investment in natural capital.

As promising as all that wide investment is, much of our support for the transformation that we need to see comes from our core resource, which is funded by grant in aid from the Scottish Government and topped up by funds that are ring fenced for things such as nature restoration and peatland action. Although the ring-fenced funds continue to increase, our core grant in aid is under considerable pressure, from both challenging public finances and high inflation.

To close on a positive note, the public sector is rising to the nature and climate challenge. Where that challenge might previously have been the sole purview of organisations such as my own, NatureScot, we now see everyone stepping up and that will be a cornerstone of a whole-society response to the crisis.

David Harley (Scottish Environment Protection Agency): It is good to be here. This is SEPA's 27th year as Scotland's environmental regulator. We have a huge range of functions and regulatory duties that cover all aspects of Scotland's environment, including water, resources and air. We work with operators and people across all scales, from the very local, such as at septic-tank level, up to national infrastructures, such as Grangemouth oil refinery, and everything in between.

We are protecting and improving the environment. That protection job is worth thinking about in the context of on-going development over the past 30 years and with the impact of climate change. Our staff respond to events daily and their work involves permitting activities, auditing, inspecting, monitoring and so on. Another key role is that of Scotland's flood authority. We are involved in flood warning, advising planning authorities on new developments and in national strategic flood risk planning.

As Nick Halfhide said, the climate emergency and biodiversity crisis present an extraordinary challenge and opportunity for environmental regulators. There is increased expectation from the public, which is quite right, and there is more for us to do across a wide front.

As we work on our new corporate plan for the next three years up to 2027, the need to focus has come to the fore. We need to be able to make an impact in the most efficient and effective way possible. The focus in our emerging corporate plan will be on climate resilience, net zero, the

water environment, resource use and, as always, will be underpinned by compliance across the board.

I will speak a little about finances. Fifty per cent of our finance is made up of grant in aid and roughly 50 per cent comes from the charges that we take from those that we regulate. In 2020, we had a cyberattack and we are using that as an opportunity to modernise the organisation, particularly in relation to digital services. We are working on our annual report. In the new year, our chief executive and chief financial officer would be very pleased to talk to the committee about the financial report for 2022-23.

The Convener: Before we go any further, I remind the committee of my entry in the register of members' interest, or would you like to sum up. I am part of a family farming partnership in Speyside. As such, we have regular interactions with both NatureScot and SEPA. SEPA is also a tenant on a small part of my farm, where it has a gauging station and a monitoring station to monitor water quality, which I encourage it to do. I have regular interactions with both agencies.

Since the committee's last meeting, there has been a change in SEPA's leadership. That change was quite abrupt, and for a small period of time, there was no designated chief executive—although I am sure that there has been effective leadership. Will that result in wider changes of governance and culture in your organisation, or were those aspects sufficient when the leadership changed?

David Harley: The first thing that we did following the departure of the previous chief executive was to have a listening exercise with our staff in order to learn the lessons from the culture that was linked to that leadership. Ten per cent of staff participated in the exercise and we have a series of recommendations that we are embedding into the way that we manage ourselves going forward, so we are very much on that.

Jo Green did a fantastic job as an interim chief executive for 10 months and Nicole Paterson joined us around November last year. We are moving on and looking forward. Nicole has made some adjustments to how we work, with those changes being largely administrative. There is a big focus on delivery and getting the job done. The changes are very much about empowering our staff and devolving decision making to the organisation, which is the way that it should be. We have moved on.

The Convener: I have met your chief executive. One of the issues that I constantly hear about is the cyberattack and that you are still running to try to get back to where you were before it happened. Is that the case, or have you fully caught up?

David Harley: We have not fully caught up. The cyberattack was devastating and stopped us in our tracks. For three months, most of our staff could not communicate with each other—it was that devastating. A lot of data was taken from us and most of our systems were completely destroyed.

I can talk a bit more about the phases that we are going through in relation to that. We are focusing on building bespoke systems. Our organisation is up and running from a technical point of view and from an information services point of view. We have created the IS infrastructure for a much more modern organisation and we are working on bespoke systems associated with things such as licence administration, laboratory data handling and planning casework.

At the moment, we have workaround systems that enable us to do those functions, but they are a little clunky and they are not as efficient as they could be. We are working on getting those systems in place.

The Convener: The committee seeks reassurance that your resilience to such attacks in the future has been greatly enhanced, and that you have a reserve system in place to ensure that it is not destroyed, which is what happened when no one could speak to each other. I would like confirmation of that.

David Harley: Absolutely. Three independent assessments of our status were made and we are working on all the recommendations. We have delivered on all the security and resilience recommendations, so I am very confident in that now.

The Convener: How much will the new system cost, computer-wise?

David Harley: I do not have the exact cost. We are getting help from the Scottish Government for our three-year capital budget and we are moving into our third year of that. I do not have the exact costs, but I can—

The Convener: Could you write to the committee and say what the new system will cost, so that we are aware?

David Harley: Absolutely.

The Convener: If possible, we can then follow it through into the Scottish budget.

The next questions come from Douglas Lumsden.

Douglas Lumsden (North East Scotland) (Con): I will stick to the budget lines. There has been a decline in the year-on-year funding over the past eight years until this year's budget, when there was then an increase in funding from the Scottish Government. What impact has that had

on your organisations and the work that you are trying to do?

The Convener: David Harley just had a bit of a session there, so Nick Halfhide can start off on that one.

Nick Halfhide: First, just to be clear, the additional money that we got in the current year was because the Scottish Government brought forward money that we would usually get in the autumn budget change, but it was given at the start of the year.

Overall, our grant in aid has remained pretty much static over the past four years once you strip those things out. What that means at the crude level is that we have less money to spend on services once we take account of inflation and increased staff costs, so we are having to prioritise very hard and innovate where we can in service delivery. For example, we are thinking about how we can move our licensing online, because we think that that will be far more efficient. We can drive efficiencies through that, but it means that we have to work around the key priorities that the Government set and that we agreed through our corporate plan for 2022 to 2026.

Douglas Lumsden: That seems strange to me. You spoke about policy development, the Government trying to hit net zero targets and an increase in demand, but at the same time your core funding is being reduced, which does not quite make sense to me.

Nick Halfhide: Our overall budget has increased because of the ring-fenced moneys that I mentioned: the nature restoration fund, the better places fund and the peatland action fund. Those come with the resources to deliver them, but our core grant in aid pays for everything else. For example, our on-going monitoring of nature sites and on-going gathering of data has stayed level and therefore, in real terms, decreased, which is very challenging.

For monitoring, we have to look at whether we can get citizens to do the monitoring on our behalf. In some instances, that is successful, but there is still a core amount of activity that we have to sustain.

Douglas Lumsden: David Harley, your core budget is similar to NatureScot's, in that it is reducing in real terms.

David Harley: In real terms, it has reduced; it has stayed broadly the same. I remind the committee that that is 50 per cent of our operating costs. We have some control over the other 50 per cent. We must cost recover. We set permitting charges and subsistence charges for those that we regulate, and we have some control over that.

At the moment, grant in aid stands at 49 per cent of our total budget. To give a similar response to the one that Nick Halfhide gave, we need to prioritise and be much more ruthless about that prioritisation, and we need to work with the Government on that. There is a lot of expectation from the Government, so we need to focus on where we make the greatest impact.

09:45

Douglas Lumsden: Can you make up that shortfall from licensing, for example, or chargeable things?

David Harley: No. We have just conducted a review of our charging scheme with that in mind. We can recover our costs only in relation to those particular roles. Marginally, we can make some tweaks and get a little extra but, broadly, that does not make a huge difference in the big scheme of things.

Douglas Lumsden: NatureScot has been trying to move to a full recovery model for licensing. Can you give us an update on that, Nick? Have you been talking to SEPA about its approach to see whether there is anything to learn there?

Nick Halfhide: Yes. SEPA is one of the organisations that we look to, because it has experience in the area. It is not exactly the same, because a lot of the licences that we deal with are not for businesses—they might be for individuals who do bird ringing, for example. We are looking to trial our cost recovery in areas where we deal with businesses that we think can afford that or that will not be adversely affected by paying, but without putting a burden on individuals who we need to license but who are often doing activities almost on a voluntary basis.

We absolutely are learning from SEPA, because there is a model there that can be useful. That will, we hope, cover the additional costs of the additional licences that we are about to take on through the muirburn legislation, but I am not sure that that will be a good cost recovery model for a whole load of the other licences that we already deal with.

Douglas Lumsden: Over the summer, I talked to wind farm developers and heard that there may be changes to the planning process to try to speed it up. One complaint that I hear is that, probably because of a lack of resource, it takes quite a while for organisations to give approval or make comments on applications. Is that problem due to a lack of resource, and could it be changed by changing the way in which the licensing or the fees work?

Nick Halfhide: When we deal with planning applications, we do not charge for them. They are

not chargeable for us, which is different from licensing. We give comments or advice to the decision maker. It is quite difficult to predict the volume that will come through—we do not control the volume and it varies hugely. We try to be as flexible as we can to ensure that we have the staff available when we have a surge of applications. We have been quite effective in saying that we will look only at the most impactful applications, whether they are for onshore or offshore developments.

However, we are really challenged—it is a nice challenge to have, in a way—by the increased volume of applications for wind farms, and particularly offshore. That is new territory, and the amount of data, the quality of the data and the specificity of applications can be really challenging. We are as efficient as we possibly can be because, particularly with wind farms and other renewables developments, we want them to happen if at all possible, but we have to ensure that, particularly offshore, we are not driving one industry's success at a huge cost to nature and biodiversity. Getting that balance right can take quite a bit of time.

Douglas Lumsden: Could developers pay more to try to increase your capacity so that the process could be quicker?

Nick Halfhide: Potentially, yes, if that were paid into a central pot for all the advisers. We would find it very difficult to do that unilaterally, because that would appear to be favouring one applicant over another, which we would not do. Theoretically, there could be a greater contribution to give greater resources and improved data. Having said that, some of this stuff is just really difficult. If we are dealing with seabirds, for example, we may need two years' data to understand what is happening—one year is not enough to allow us to compare. Some of these things just take time to get right.

Douglas Lumsden: I was not trying to single you out; I hear the same about Crown Estate Scotland and Marine Scotland. It takes a lot of time for those organisations to give a view on new developments.

David Harley: One area where I think that we can be more efficient, in the wider sense, is in pre-application discussions with any developer and, potentially, with other regulators; those are very important. Doing that early on requires the developer to be ready, which can result in big benefits in the formal application process. That is something that we are trialling with aquaculture with the relevant local authority and NatureScot. We are looking at a way of doing a streamlined parallel process, which should result in efficiencies.

The Convener: Douglas, before you go on to your next lot of questions, there are some other questions that members want to ask on budget. Is now the right time to bring them in?

Douglas Lumsden: Yes.

The Convener: Okay. Our deputy convener Ben Macpherson wants to come in.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Thank you, convener. I was also going to ask about the consenting process. The answers in response to Mr Lumsden were helpful and give us some food for thought about what to inquire of other organisations.

On organisational priorities and therefore budgets, I have one other question for SEPA. I noted that you list the response to waste crime as a priority. Are there any parts of that that you want to emphasise as a priority? I am thinking about the challenge of dealing with the influence of both organised and small operational criminals in the sector and the challenge that that presents to all of us.

David Harley: I absolutely share your concern, both because of the environmental impact and because of the need for fair play across all the legitimate operators in that sector. We put a lot of effort into that. About 10 years ago, we set up a dedicated enforcement and investigation unit. That really lifted our game in terms of investigations, using intelligence and working with the police. As you will appreciate, there is a lot of criminality in the sector, so we need a different and very specific type of regulation and enforcement and a specific type of skills. I can go on at some length about the different types of investigations that have been on-going over the past years.

The Convener: I do not want to pre-empt the questioning on that issue. I think that you will get a chance to cover it in the next part of the meeting, when we look at the Circular Economy (Scotland) Bill. I am sorry, Ben.

Ben Macpherson: I am happy to wait until later. If there is any follow-up that might be helpful for the committee—

David Harley: We can provide that.

Ben Macpherson: We would appreciate that, as appropriate; I know that it is a sensitive area.

The Convener: Nick Halfhide, if understand it rightly, the hunting with dogs licensing scheme has just landed on your plate—well, it landed before, but it becomes effective today, doesn't it?—and you are about to get the grouse moor licensing scheme. Last time I visited NatureScot, or Scottish Natural Heritage, if I remember rightly Donald Fraser was your licensing officer in a very small team, and he said that he could do

everything. Does he need more resources with this extra legislation, and are you in a position to give them to him?

Nick Halfhide: You are right that it was Donald Fraser, and that our licensing functions are expanding rapidly. The hunting with dogs scheme is relatively modest in terms of the number of applications that we expect to receive. That said, we expect it to be contentious, so, although I am sure that our licensing function to deal with that can be done in house within our existing team, if we get taken to a legal challenge on any of our decisions, that will be hugely resource intensive. However, we are anticipating that.

Far more significant in terms of resources will be the licensing that is envisaged for grouse moors and muirburn. As you will know from the financial memorandum that was published with the Wildlife Management and Muirburn (Scotland) Bill, we are looking at start-up costs of about £400,000 or £450,000 and on-going running costs of about £350,000. They are detailed in the financial memorandum. We are looking at how we are going to fund that. We would wish to get that through some sort of cost recovery in due course, but that will not be immediate. That is part of our on-going discussions with the Scottish Government about funding those additional responsibilities.

Clearly, we are also looking beyond that legislation to the other legislation that is likely to come before the Parliament, particularly the natural environment bill. We will work hard on the financial memorandum to ensure that it is clear what the additional costs to us will be, as well as on the discussions about how we are going to fund that.

The Convener: I picked up on you saying that you are ready for a legal challenge. Does that mean that you are anticipating that?

Nick Halfhide: We will be looking at the risk of legal challenge to all our functions. That is a new area and our intelligence is that a legal challenge is not unlikely—which sounds like weasel words—and that we might well get one, given the nature of the function and the applicant's appetite.

The Convener: That could take considerable time and resources. I am trying to work out in my mind if there are enough people in that department to do what you are being asked to do. From what you are saying, it sounds as if there ain't and that you need more money.

Nick Halfhide: That is true at the moment, but we anticipate having discussions about how we are going to cope with the additional responsibilities as a result of legislation.

The Convener: That is interesting, because when Parliament discussed that we were told that no additional resource would be required. We will leave that there and move to a question from Douglas Lumsden.

Mark Ruskell (Mid Scotland and Fife) (Green): Hold on.

The Convener: Mark Ruskell, do you want to come in on this subject?

Mark Ruskell: Yes.

The Convener: Go for it.

Mark Ruskell: You piqued my interest, convener, by talking about the licensing of hunting and I would like to get NatureScot's view on that. Do you think that there is any circumstance in which a mounted hunt could credibly claim to meet the criteria for the issuing of a licence?

Nick Halfhide: That is not my area of expertise, but I understand from colleagues that the bar is set incredibly high. The idea is not that it would be a general licence that is given to everyone who applies unless they do something terrible; it is more the other way around: an incredibly high bar will have to be met for a licence to be issued. It is because there is a high bar that we think that there may well be legal challenges, particularly because it is quite new.

Mark Ruskell: That is useful to know.

Nick Halfhide: Convener, can I come back to something that you said previously?

The Convener: Yes.

Nick Halfhide: The financial memorandum, which I looked at again this morning, makes clear what the additional costs to our organisation and others for muirburn and grouse moor licensing will be. That is in the public domain.

The Convener: I accept that. I was talking about the licensing of hunting with dogs, because I am not aware that any additional funds have been made available for that. If I am wrong, I will correct the record.

Back to you, Douglas.

Douglas Lumsden: I am moving on to peatland restoration. Three years ago, the Scottish Government committed to spending £250 million over a 10-year period. How much of that has been spent to date? Can you give us that figure?

Nick Halfhide: I do not have that figure in front of me, but I am happy to supply it subsequent to the meeting.

That is a new industry, and the challenge is not the availability of money but the availability of contractors to undertake peatland restoration work

and the unwillingness of many land managers to come forward. Those managers do not know how peatland restoration would relate to agricultural support mechanisms and to the carbon market. There has been a great deal of understandable reticence from a number of landowners to come forward with big applications until some of those areas have been sorted out.

We have been working hard with the contracting sector to help them increase volume. Peatland restoration is a very seasonal piece of work and we are helping them to develop that alongside other activities. They need skills and machinery, because it is a very skilful job.

Douglas Lumsden: Do you expect spending to ramp up over the 10-year period?

Nick Halfhide: Absolutely, as we would with any new industry. We are in the foothills, but we expect spending to increase. The feedback from contractors is that they get it and that they are tooling up; the feedback that we get from land managers is that more and more of them are willing to come forward as it becomes clearer how that relates to other elements of policy—which is not yet 100 per cent clear—and how it will become a source of income for them through carbon credits.

Douglas Lumsden: It still sounds as though a lot of work needs to be done before it would ramp up.

Nick Halfhide: It is taking time, but we are beginning to see it ramp up. It will take a number of years. It is a bit like the North Sea oil and gas industry in its early days. We are finding our way through that.

10:00

Douglas Lumsden: Back in 2020-21, £20 million was committed. If that money was not spent, I presume that it does not come to you, as much as you would like it to; it would probably just drift back into the Government's coffers for it to spend on anything that it likes.

Nick Halfhide: To date, the peatland restoration money has been ring fenced. If we have not spent it, we will declare to the Scottish Government that we are not on course to spend it and then we will return it to the Government.

Douglas Lumsden: You cannot spend it on anything else.

Nick Halfhide: Not to date.

Douglas Lumsden: Right; okay. That is all from me for now, convener.

The Convener: The next questions come from Mark Ruskell.

Mark Ruskell: I come back to natural capital finance. There is quite a debate about how those markets can be regulated in a way that builds in the right values and ensures that they have integrity. I am interested to hear your thoughts on that. I want you to comment specifically on the finance pilot and the memorandum of understanding that has been signed on that. The headline figure is that there is £2 billion-worth of funding. Will additional public finance come in on the back of that £2 billion? What is the mix of private and public funding? In addition, it would be useful to get your general thoughts on natural capital finance.

Nick Halfhide: I will kick off. I will make a couple of general points to start with.

The size of the funding gap, if we are to halt the loss of biodiversity and restore nature, not just for its own sake but principally as a way of adapting to the far more chaotic climate that we have, is estimated to be around £20 billion. It could be higher or lower, but it is of that order. Our initial thinking is that that is way beyond the means of public finance, regardless of how optimistic we are about growing the economy. Therefore, for a number of years, we have been looking at bringing more private finance into the sector.

On the example that you mentioned, we are working with Hampden & Co and a number of other people. That is just one pilot area in which we are seeking to explore where we can get in private finance and blend it with public finance and land management businesses, and whether there is a model that will give a return to the private interests and achieve the public objectives that we are trying to achieve. We are also looking at a number of other routes through which we might do that.

That is where the ambition is—which, as I have said, is driven by the fact that there is a huge amount of work to be done. At the moment, we see no route other than through engaging responsibly, as we are doing. We know that colleagues in the Scottish Government are working on a framework so that we can do that responsibly.

Mark Ruskell: Okay. Can you go back to my question about how much public finance will come in? Will you explain a bit more about the model? How will it be monitored, what are the opportunities and risks with it, and at what stage of development is the pilot with Hampden & Co?

Nick Halfhide: That pilot is still at a fairly early stage, and elements of it are commercially sensitive because we are still in discussion with private businesses. It is perhaps too early to be specific about the public finance and private finance elements.

On monitoring, we are absolutely clear that the pilot will need to be very closely monitored because we will want to make sure that we are getting public benefits from the public sector investment. Equally, the private investors will want to be able to show that they are gaining the credits—the biodiversity credits or climate change credits—that they want from what is an incredibly early-stage emerging market.

I am happy to provide more detail in a letter if you like, but at the moment I am not sure that I can offer much, given the stage at which the negotiations are.

Mark Ruskell: That is clearly an area of interest for the committee. I am sure that we would, as details emerge, like to see exactly how projects are emerging on the ground. It might be too early to see that at this point.

The Convener: Just before we leave the matter, I will push a little bit. Do not get me wrong—I do not think that there is enough money in the public sector to fund all the things that need to be done, but I do not understand where that £20 billion figure comes from, and I do not understand the methodology for getting it. If you would be happier writing in, I would be happy to receive a response in writing.

Nick Halfhide: I will write, but I will say that the amount is a mid-point estimate. This is not an exact science, and various studies have tried to estimate it, but £20 billion is the headline mid-point figure. It is not exact, but it is, I think, of the right scale. However, I am happy to provide the provenance, as it were, of the estimates.

The Convener: I know where the figure came from: I am just not sure that I understand how they got there. Anything to stop it being a guesstimate would be helpful.

I have another question. If £2 billion comes from the private sector to invest, it will be selling on or trading the carbon credits for that. Therefore, it would be helpful for me to understand whether, if it is a public-private partnership, the carbon credits would be jeopardised because the terms of the agreement lock up those carbon credits and remedial work needs to be done to protect them. Who carries the risk? Is it the person who sold them, the person who invested them and oversaw the scheme, or is there a joint risk? What risk is there to the public purse? It slightly concerns me that once the money has been paid, those carbon credits will probably be traded for 80 years. Who will be carrying the can in 60 years' time, if there is any infringement? Would it be NatureScot?

Nick Halfhide: I will have to get back to you on that.

The Convener: Okay; perfect. I will leave it there. As Mark Ruskell said, it is quite a niche subject, but it is an interesting one.

Monica Lennon: Good morning. My questions are all for David Harley of SEPA. First, I will pick up on enforcement. Recently, criticism by some environmental groups and communities has played out in the media, that there has been a trend of decreasing enforcement action. Will you respond to those concerns and say whether you believe that there is the right balance within SEPA between supporting business and communities, and enforcing compliance with environmental regulations?

David Harley: I am aware of those concerns. To look firmly at prosecutions and the number of them is quite a reductive way to look at SEPA's performance, which is really about the impact of our working with operators and pulling levers further upstream in the process to ensure that we do not have non-compliant activities in the first place. That can be more effective in the long run, in relation to environmental outcomes.

That said, we have plenty of prosecutions and lots of enforcement work under way, a lot of which is not visible until it actually happens. It is still very much our ethos that we will wield a big stick when that is needed, but we need to be strategic about that and to pull all the levers that we can pull to ensure that we do not get non-compliance in the first place.

Monica Lennon: I think that many people would agree that prevention of non-compliance is the really crucial work.

The people who have been quite vocal are, I would say, friends of SEPA, including two former chief executives, who have expressed sympathy. They have made comments, including about SEPA being starved of funding. We have heard that your funding has been slashed by more than a quarter in real terms since 2010. One talked about a

"starving of funds"

and another said that people are

"distracted to cost-saving exercises"

that take officers away from front-line environmental regulation. It sounds like those people are critical friends. Are they saying the kind of things out loud that people in SEPA today would perhaps like to say to committees such as ours?

David Harley: I do not think that they are. We talk about the challenging times that we are in and the need to focus what we do. Prioritisation of activity where it will have the greatest impact is really important. As the public quite rightly get more concerned about environmental issues, they

can distract us from the work that can be truly impactful.

The comment about cost-saving exercises is interesting. I do not see a situation in which front-line staff are distracted by work on cost-saving exercises. I think that we can be more efficient, so we are building our systems to enable us to do that. I think that we need to prioritise further.

Monica Lennon: On the original question about striking the right balance between supporting and enforcing compliance by businesses, are you saying that, right now, you think that the balance is good?

David Harley: Yes.

Monica Lennon: I will move away from enforcement to ask about information that is available in the public domain. That was touched on by the convener, when he asked about your recovery from the cyberattack. I think that you said that not all of your systems are back up and running, and that not all of your data is available. That has caused a lot of concern. I think that the Environmental Rights Centre for Scotland has made an official complaint to Environmental Standards Scotland about SEPA. I am not sure of the status of that complaint; my comment is based on media reports from a couple of weeks ago. There is a great concern that SEPA is failing to maintain the public register, which means that pollution permits for about 175,000 sites are not available, and that information is not in the public domain. What is going on there?

David Harley: As an evidence-based regulatory organisation, it is in our DNA to be transparent and accountable. It pains us greatly that that information is not publicly available. We have a public register, but it is in paper format in boxes and is not easily accessible. That is the main problem.

The data that was available electronically was significantly impacted by the event. Data is unavailable electronically, and the ability of SEPA and the public to interrogate the data is significantly compromised. We are rebuilding our public register in phases, with a short-term focus on making more information publicly available. The aim is to make it much more accessible.

The other area that we are struggling with is access to information inquiries. Again, we had a huge backlog that was difficult for us to manage. We have had to make some fairly draconian decisions around that so that we can, essentially, start again. Our inability to be as transparent and accountable as we want to be is one of the most difficult predicaments that we have had to face.

Monica Lennon: I appreciate that the situation must be difficult for staff, who are working hard to get everything back up and running.

What does the situation that you are outlining look like in practice? If I, as a Central Scotland MSP, want to get information about a site in Lanarkshire, I cannot get that information from the public register online, so how do I go about getting it? Is it available? Do I have to physically go to an office?

David Harley: You should contact us directly. There might be ways of getting that information to you based on information that we hold internally, although the data is not easily accessible and is not complete.

There is a bit of a double-edged sword, in that we are finding that, as a result of the deficiencies in our ability to provide that information proactively, people are increasingly coming to us with access to information inquiries and freedom of information requests, which creates another area of difficulty, because that is hard to resource. That is a challenge, but we are working hard on it and are investing in those systems.

Essentially, if you want that information, you should get in touch with us.

Monica Lennon: Does that apply to any member of the public in Scotland? Can they get in touch?

David Harley: Absolutely—even just by lifting the phone to our contact centre.

10:15

Monica Lennon: Thank you for being so open; I am really interested in what you have said. If more people are having to resort to freedom of information requests, does that mean that SEPA is getting bogged down with such requests?

David Harley: We have been, but over the past year, we have made good inroads into that.

A year or so ago, 10 per cent of requests were being dealt with in the time allowed for the process. In July this year, that figure was up to 80 per cent, so we are moving. We are putting more resources in, but it is, and will continue to be, a challenging area.

Monica Lennon: For my final question, I will pivot back slightly to funding and resource. There has been some pretty harsh criticism; I am sure that you will have read it, just as we have. Kim Pratt of Friends of the Earth Scotland said—this was in *The Ferret*, which did a big investigation—that,

“Three years on, the excuse that Sepa is still recovering from a cyber attack is wearing thin”.

That might be quite hard to hear. I go back to the comments from SEPA's two former CEOs, who are very concerned about your funding situation. The question has been asked: is SEPA a priority for the Scottish Government? Perhaps I can put that question to you, Mr Harley. Do you feel that SEPA is enough of a priority for the Scottish Government?

David Harley: We are very focused on moving forward from the cyberattack; it pains me to have to refer to it in this meeting, actually. We are moving forward, and we will build back better.

I think that we are being supported. The critical thing is prioritisation. We are working closely with Government officials, under the banner of public sector reform, to get a joint understanding of prioritisation of what we are going to focus on, as we move forward. That is what we are concentrating on. If we do that, we can manage with the finances that are available to us, but this remains a challenging time.

There are also efficiencies to be made in how we run our estate; for example, through sharing our buildings with others. We can do a lot of other things to be more efficient.

Monica Lennon: Thank you, Mr Harley. I wish you and your colleagues well.

I will hand back to the convener.

The Convener: I am afraid that there are still some questions to come. One is from Jackie Baillie. I am sorry—I mean Jackie Dunbar. I do not know why I called you Jackie Baillie—I apologise. I know that I will pay for that later.

Jackie Dunbar (Aberdeen Donside) (SNP): I have a supplementary to Monica Lennon's first question about enforcement. David Harley said that nobody notices unless enforcement happens. That made me think, so perhaps David could expand on that a bit. Does SEPA go straight to enforcement for non-compliance, or is it the last resort? If you could talk us through that a little, it would be helpful.

David Harley: Enforcement is the last resort. It might be worth sending the committee our enforcement policy, because that makes it clear that we will work with those who are non-compliant to achieve compliance, so we are very much a helping hand.

However, it depends on the circumstances. If people are trying to do the right thing, we will help them to do that. We wield the stick only when we need to do so, at the end of that process, which does happen. However, if somebody is a chancer or a criminal and is acting wilfully, we will come in hard with the big stick. We have various tools to do that, including writing reports to the procurator fiscal.

There is a range of approaches, and action very much depends on the circumstance.

Jackie Dunbar: Thank you.

The Convener: Mark Ruskell wants to ask a question.

Mark Ruskell: Staying with David Harley, the question is about the Environmental Standards Scotland "Air Quality Investigation Improvement Report", which made a number of recommendations on how SEPA should progress its enforcement on air quality issues. What changes are planned on the back of that report? How has it affected your enforcement action on the ground?

David Harley: Air quality management is shared among various agencies. We directly regulate large industrial emissions to air, and we support local authorities through the data that we provide and through modelling and advisory expertise on how they manage air quality in their localities.

We also have the ability to take action against local authorities if we feel that they have not done enough. We have not yet used that ability—we are working in partnership with local authorities—but we could consider doing so if we felt that local authorities were not doing enough to address local air pollution.

We are very aware of the investigation, but we think that we are doing okay.

Mark Ruskell: Are no other changes planned on the back of ESS's review?

David Harley: There are no significant changes planned that I am aware of. I could follow up with more detail on specific recommendations, if that would help.

Mark Ruskell: That might be useful. One thing that was highlighted to us when we did a mini-inquiry into air quality and ESS's review was the positive role that SEPA plays in the development of air quality management plans—in particular, in working with local communities, enhancing data and assisting with public understanding of what an air quality problem is in a particular locality and what the solutions might be.

Given that one of ESS's recommendations was that local authorities need to develop more of those plans, and to develop them within 12 months, are you able to resource that side of things? If a new group was set up in Perth or elsewhere to help to develop an air quality action plan for the area, would you be able to resource that demand?

David Harley: We would probably struggle to provide a significant uplift in resources for that if it happened across the country in the way that it has

happened in Glasgow, for example. We are very proud of the work that we have done locally with communities—it has gone very well. If there was a big uptick in that sort of work, that would be a challenge. That is grant-in-aid work; we cannot directly recover that cost.

Mark Ruskell: That is useful to know.

I will move on to a bigger-picture question about the climate change plan and the biodiversity strategy. I would like to hear your views on how your organisations input into those. Is there a way in which we can create synergy in tackling the climate emergency and the biodiversity emergency, or are there tensions involved? Mention has been made of wind farm development. Are there ways in which we can maximise biodiversity gains while, at the same time, developing more ambition and more common ground on the climate?

The Convener: Who would you like to ask first, Mark?

Mark Ruskell: Nick Halfhide, to begin with.

Nick Halfhide: That was a wide-ranging question. We have been very closely involved in developing the Scottish biodiversity strategy. We have also been working closely with Scottish Government officials on the climate change plan—the one about reducing emissions—and on the climate change adaptation programme. There is a huge amount of overlap on the three of those, particularly between the Scottish biodiversity strategy and the plan for reducing emissions, because about 50 per cent of Scotland's emissions are related to the land in one way or another. They also offer a major opportunity for sequestering carbon through woodlands and peatlands in good condition.

Looking forward, as the climate becomes more chaotic, we know that one of our best insurance policies for dealing with that more chaotic climate is having a more robust natural environment. The science tells us that that is the way to go. On flooding for example, having a natural environment that is in better condition will not stop flooding, but it will reduce some of the challenges around it. The land being in better condition will also help with water scarcity and drought issues.

Therefore, the work on those areas is absolutely interconnected. In helping to develop the Scottish biodiversity strategy, we have had a very firm eye on climate change mitigation and on adaptation.

There are a few tensions in there—there are bound to be. You mentioned wind farms. The tensions to do with renewables are not insurmountable; they simply need to be worked through carefully.

With land use, there are maybe a few more intractable tensions. We have a finite amount of land—and of sea for that matter—and what we do with it is really important. There will be challenges in how we increase the land that we make available for nature and for adaptation and sequestration, and how we produce all the food that we need to eat.

Bioenergy crops are at the centre of one of the particular tensions within all that. Should we use land to grow crops for energy when we need the land to do all those other things, and where there may be alternatives to using bioenergy? That is the classic example of where there are tensions. However, I would say that, in 90 to 95 per cent of cases, there is a very good overlap—there is complementarity.

Mark Ruskell: Do you agree that dialogue with industries is really important? For example, I have heard criticism from the onshore wind industry that NatureScot did not consult with the industry on the development of the peatland guidance. Are you aware of that? How does NatureScot prioritise good-quality engagement with the various sectors that obviously have a vested interest in developing land, including the renewables sector? Clearly, we need to find a way through on these issues and ensure that development can proceed, but in a way that supports the objectives on climate and biodiversity.

Nick Halfhide: I was not aware of that particular criticism, but one of the things that we pride ourselves on is working closely with all the sectors with whom we interact. We work very closely with the renewables sector, but clearly it has a slightly different objective at times. For example, with the peatland code, that might be about enabling some applications to go ahead with conditions that the developer will then restore areas of peat. We have worked hard on that issue on the onshore side.

In the offshore industry, we have worked hard with the sector on where it places the turbines, how they are serviced and how conditions can be applied to help developments go ahead in a way that is sensitive to, and indeed in some instances helps to restore, the nature that is being displaced or killed.

We work closely with all industries, including the farming sector, the renewables sector and so on.

Mark Ruskell: The criticism is that there has not been any consultation with the renewables industry—that is what I was told. Maybe you can go away and reflect on that.

Can I get a view from SEPA on how we square the circle of the climate and biodiversity objectives?

David Harley: Like Nick Halfhide, I think that there are huge synergies between those two global issues and we should concentrate on where the synergies are—there is huge overlap. Essentially, when natural systems fail—we are talking about systems failure—you get degradation but, if you can rebuild the system, you get huge multiple benefits for many areas.

I will give just one example from the area of land management. Having more trees by rivers sounds very simple, doesn't it? However, it increases carbon sequestration; protects from flooding, which will increasingly come about from climate change; protects the soil so that we enable sustainable food production; provides biodiversity improvement and potentially amenity improvement; and improves fisheries resilience as a result of shading from the trees. There are strategies that we can use that have big multiple benefits. In a very complicated world, we should concentrate on those win-win areas.

Mark Ruskell: Have you fed that directly into the biodiversity strategy and the forthcoming climate plan?

David Harley: Yes.

Mark Ruskell: Thank you.

Jackie Dunbar: Both of my questions are about water quality and the first is probably for David Harley. Last year, we discussed with SEPA the issue of monitoring sewer overflows, and we raised the concerns of stakeholders regarding the small percentage of overflows that were being monitored. Can you give us an update on the progress that has been made since then? Has monitoring increased and what is the current impact of sewer overflows on our water environment?

10:30

David Harley: We are the regulator, whereas Scottish Water provides the monitoring, but I can give you an update. I will not speak on its behalf, but we hold it to account on its "Improving Urban Waters—Route Map". That plan is fairly multifaceted, but it absolutely includes monitoring. I think that there are 3,000-plus combined sewer overflows in Scotland, of which about 10 per cent are monitored. However, Scottish Water is very quickly increasing that to a third, so 1,000 overflows will be monitored. That work is under way. I could not give you much more information on the exact timescales for that, but things are moving fast in that area.

On water quality and sewage, although there is a lot of concern from the public, which I understand, the impact on ecological water quality at a national scale is quite low compared to other

impacts on the water environment, such as the impact of diffuse pollution from land use. That is not to say that there are not more urbanised areas of Scotland where that is a problem. The issue has been exacerbated by development and particularly by climate change and increasingly flashier flooding. Those areas need to be dealt with.

An interesting point about water quality is that good ecological water quality is not the same as good bathing water quality, which in turn is not the same as good potable water quality. There is a big public education opportunity here to ensure that people understand the difference between what is safe for bathing, and the requirements around that, and what is sufficient for good or better ecological water quality. We have a plan for both. We have the "River Basin Management Plan for Scotland 2021-2027", which sets targets across all the impacts on the water environment across all our 3,000 water bodies. Where those have less than good status, there is a plan in place. It is a ministerial objective to improve waters across Scotland. That includes tackling sewage pollution, as well as pollution from agriculture, abstractions and a host of other impacts.

Scotland's water quality is good. Eighty-five per cent of Scotland's water bodies have good or better water quality.

The Convener: Before I bring you back in Jackie, may I ask a quick question?

Mr Harley, you are kind of saying that the water might be fine from the environmental perspective but for God's sake do not drink it and the last thing that you should do is swim in it. Is that what you are saying?

David Harley: I am not saying that.

The Convener: Oh, right.

David Harley: I am saying that there are different requirements for different purposes. You can understand why you might have a very stringent requirement for drinking water. There is no bacteria at all in that water. There are no contaminants in it—

The Convener: Well, that is because it has got chlorine in it—

David Harley: It also undergoes other treatment, although I will not speak for Scottish Water. Drinking water is the highest standard. For bathing water, there is a very high standard, particularly in relation to the presence of bacteria and viruses. In those places that are designated for bathing, we monitor the water for those pollutants and require improvements accordingly, in line with European standards.

The Convener: Is it fine to swim in every river in Scotland?

David Harley: I do not think that it is fine to swim in every urban river in Scotland. That is why monitoring and public education and awareness are really important. The risks are much less at certain times of the year and under certain weather conditions, but after a large shower in the middle of summer would not be the best time to swim in some areas.

The Convener: Thank you. You have just given me an excuse not to go swimming with my wife.

Jackie Dunbar: On the back of that, how do we find out what rivers are safe to swim in? I used to swim in the river as a kid and never gave it much thought. How does the public find out where it is safe and where it is not safe?

David, you said that you could not give me a timescale for when monitoring will increase to include a third of sewer overflows, but are we expecting it by the end of this year or the end of spring next year, for example? Are you able to give us any indication of that?

David Harley: I think that we expect that to happen in the coming year. I do not have the exact information to hand. Scottish Water tracks its progress against those targets on its website; the project is called improving urban waters. We could forward that link and pull out the specific areas that are relevant. I think that your second question was about where it is safe to swim—

Jackie Dunbar: Where can I go for a dook?

David Harley: We can definitively say that it is safe to swim at designated bathing beaches. In a situation where there has been heavy rainfall and a bathing beach might not be safe, information will be available on site to inform people about that. We have a role in providing that information. However, the safety of other swimming areas is tricky, because we do not know what land management practices are taking place. For example, you could go swimming in the Highlands somewhere where you think that it is absolutely safe to do so, but there could be a deer in the river a mile upstream.

Jackie Dunbar: I have been there.

David Harley: It is impossible to give a definitive answer. However, there is a large public awareness element that we are very much part of. People need to be able to make decisions based on the environment and the conditions that they can see around them. Monitoring the combined sewer overflows is part of that, but there could be something much more holistic that helps people. There has been a huge increase in wild swimming over the past three years and an understandable increase in concerns about water safety.

Jackie Dunbar: I will put my next question to both of you. I will go to Nick Halfhide first, so that

David Harley can have a break and a drink of water.

There is a programme for government commitment to develop legislation on the adaptation of water infrastructure to deal with future water scarcity. How is water scarcity impacting on your organisations' functions? What role would you like to or do you expect to have in developing the new legislation?

Nick Halfhide: For our organisation, the main impact of water scarcity relates to protected sites and protected species. If there is a period of drought, we will work closely with Scottish Water, SEPA and local authorities on any use of alternative water sources. If their backup water source is, for example, a protected site, we will work closely with them on what water levels might be appropriate to use before that site is adversely impacted. There have been live cases of that happening on Skye; there was one this year. We are expecting an increase in that, because all the research that we have seen suggests that there will be more severe and more regular periods of drought throughout Scotland as climate change takes place.

There is also an impact on species. Most water species are reasonably mobile, so our greatest concern is for freshwater pearl mussels. In periods of drought, we will work closely with bodies including SEPA on whether or not to move mussel populations to deeper water. That happens regularly in one or two rivers, particularly up north. It is tricky, because we are not sure that the survival rates of those creatures is higher after they are moved. Sometimes, it is better to leave them where they are and there is a judgment to be made depending on the circumstances. That is how future water scarcity specifically impacts our role.

I will turn to the second part of your question about what role we would want to play in developing new legislation. We are not a leading light, as it were, in the water world, but we would want to make sure that the interests of our protected sites and protected species were taken into account as any regulations were brought forward. We know from the Scottish biodiversity strategy and, as I mentioned, from the climate change adaptation programme, that it is not just our protected sites that are important—those sites make up only 18 per cent of land the moment. All our land matters and we need to make sure, even for sites that are not designated, that the approach to how we manage our water resources is given much higher priority, whether that is in farmland, our uplands or elsewhere.

We have rather taken water for granted. Yes, it rains a lot, but all the climate change projections

suggest that we will have to look after our water resource as if it were much more scarce.

It is interesting that, when considering how the situation in north-east Scotland might progress in the future, we are looking at strategies that places such as East Anglia in England have not only for water management in drinking water and agriculture but for addressing the impact on protected sites and species.

Jackie Dunbar: I should probably declare my interest as the nature champion for sea trout, which I discussed in my recent members' business debate.

I ask David Harley to respond, please.

David Harley: We are more directly involved. The past two summers have been busy for us as we have put in a lot of effort and done good work to help the country through two water scarcity incidents.

That is why climate change resilience is right up there in our priorities. The issue is not just having too much water around the country but having too little.

Our main roles involve expertise and information. We are the organisation that must understand the risks going forward and project where things are going to get difficult in the country within an event. We must also have the long-term understanding.

We are proud of our weekly report. Throughout the summer, we produce a really factual two-page weekly report that offers a helpful service to the country in an elemental way. We also regulate abstraction, so we understand where water is being taken from the water environment, and we regulate through the standards that are in licences for abstraction.

We have a water scarcity plan. When we find ourselves in a water scarcity situation, the plan has a stepwise series of actions that range from providing advice in the early stages and working with operators on how they can be more water efficient to removing an operator's ability to take water. There have been times in the past couple of years when we have had to do that, which is challenging for all who are concerned.

We are working closely with Government officials on the legislation that you mentioned. We are discussing whether we could have a more defined role in assessing water scarcity in relation to private water supplies. We work closely and we have joint multi-agency teams that are working with the Scottish Government on the legislation.

Jackie Dunbar: I have no further questions, so I hand back to the convener.

The Convener: Mark Ruskell has a question about water quality and a further question after that.

Mark Ruskell: I will go back to what David Harley said about the bathing water quality designation process. My understanding is that any application for bathing water designation in Scotland is required to meet a minimum threshold of 150 daily users. That differs from England and Wales, where there is no threshold for daily users or the number is much lower—I think that it is about 40.

Is SEPA looking at reforming that and making suggestions to ministers? Your point was that the situation is all fine in designated bathing water quality areas, at least over an entire season, but if an area where people regularly wild swim cannot be designated, who will monitor it? How will we get a partnership approach to address the problems of pollution in areas that people use, but not at a level that is above the threshold of 150 daily users?

David Harley: I am aware of the issue. Ministers make such decisions, and we support the Scottish Government with that process.

I think that what you suggest could be done. Improving water quality in such areas would have expenditure implications that would not be insignificant if we had double or treble the number of designated bathing waters. As I said, environmental standards are different from bathing water standards, and that would have to be brought into the mix, but it would be for the Government to weigh up the pros and cons.

10:45

Mark Ruskell: Okay, thanks. I will stick with David Harley for my next question, and then I might bring Nick Halfhide back in. I want to ask about the Retained EU Law (Revocation and Reform) Act 2023, which is now in place, although the dramatic cliff edge of a lot of EU legislation being rescinded did not materialise. You have perhaps noted the committee's interest in the withdrawal of the legislation on the national air quality performance framework and the lack of clarity about what it will be replaced with. Does SEPA have reflections on the 2023 act and where we are now, and on its implications for environmental standards?

David Harley: It would really be for Scottish Government officials to manage that and work through it. We have not seen a significant shift in what we do, and we do not expect to. For example, in the water environment, we have not seen any change in expectation around the river basin management planning process—which is quite powerful and is driven by the water

framework directive—and we welcome that. We have not seen a significant shift at the coalface.

Mark Ruskell: Okay. Nick, do you have any reflections on that, in relation to biodiversity provisions, for example?

Nick Halfhide: Yes. I have two points to make. One is that we have also not seen much change overall in terms of continued engagement and alignment with laws that originally came from Europe. However, we are unsure what impact the new legislation at Westminster will have on the supremacy of EU case law. That is still unclear. Although we do not expect it to be clarified by 1 January, it is a potential area of concern in the medium term because we rely on that case law quite a lot. If it were no longer relevant, that would have an impact on some of our decisions about licensing in particular.

Mark Ruskell: Have you got any examples of that? Do you mean offshore wind, or are there other areas in which there is a weight of EU case law on the interpretation of key environmental principles that could now be challenged?

Nick Halfhide: I do not have a specific example, but we have relied on that case law in some of our planning advice around European protected species, for example.

The Convener: That draws us to the end of our questions. In case I do not do it after the next session, I thank both Nick Halfhide and David Harley for their evidence to the committee. It is always useful to hear what is going on and what has been achieved.

10:48

Meeting suspended.

10:55

On resuming—

Circular Economy (Scotland) Bill: Stage 1

The Convener: Our next item of business is an evidence session with environmental bodies as part of the committee's stage 1 scrutiny of the Circular Economy (Scotland) Bill. This is our second session on the bill, following a panel with business stakeholders last week.

I welcome back Nick Halfhide, who is director of nature and climate change for NatureScot, and David Harley, who is chief officer for circular economy for the Scottish Environment Protection Agency. I am also pleased to welcome Iain Gulland, who is chief executive officer of Zero Waste Scotland.

We have a list of questions. I have read your evidence to the committee and want to start by asking for a brief sentence or couple of sentences from Nick Halfhide and David Harley on whether they support the bill and whether we need it.

Nick Halfhide: We need the bill, and NatureScot supports it. The reason why we need it is that it deals with matters that are some of the direct drivers of biodiversity loss. I am sorry that I am going over your limit of a couple of sentences, but we absolutely need to reduce and make better use of our material flows. Where we would extend not the bill, but the conversation, is into organic flows, but perhaps we will come on to that.

David Harley: We absolutely need the bill. Around 80 per cent of Scotland's carbon footprint comes from products and services that we manufacture, use and throw away—essentially, our consumption. Scotland's consumption per capita, or material footprint, is double the world average. That is unsustainable. The circular economy is a game-changing opportunity to meet Scotland's climate change targets and ambitions, create new industries and economic opportunities and reduce the harms associated with waste management.

The Convener: One of the important things about the bill must be to ensure that we take the public with it and get the public to support it. The problem is that there is a lot of enabling legislation in the bill; there is not a lot of clarity. Would public support be enhanced if we had more clarity, rather than just enabling legislation?

Nick, do you want to kick off on that?

Nick Halfhide: I am not sure that I have much to say about that. That is almost a political judgment, isn't it?

The Convener: What I mean is that, as an organisation, you would love enabling legislation because it could enable you to do a huge number of things, but it does not necessarily allow the public to see what is behind it.

Nick Halfhide: Er—

The Convener: You can dodge the question.

Nick Halfhide: I am just saying that there is a lot in it about the role of legislation—primary and secondary legislation. There is quite a lot to be said for having as much detail as possible in primary legislation, but we are in a system where a lot of the detail tends to go into secondary legislation. Therefore, that is where the scrutiny happens.

I am sorry—I am not answering your question.

The Convener: Well, no. As a parliamentarian, I am trying to push the fact that enabling legislation allows for less scrutiny. Scrutiny happens when things are in the bill.

I will bring in Iain Gulland. You might or might not have a view on that, Iain.

Iain Gulland (Zero Waste Scotland): If I could just go back to your first question—

The Convener: I kind of guessed your answer to that question, but I am happy to let you answer it now.

11:00

Iain Gulland: We have talked about the environment and the climate emergency, but we must also think about the circular economy in the context of economic opportunity. That is much bigger than just what businesses can do; we are thinking of the impact of resources globally on the world economy, geopolitics and so on, because that is what is really driving the shift in the circular economy. It is not just about our climate ambitions and environmental concerns, although they are critically important to our survival; it is about our broader economy, particularly around the net zero transition and reducing our consumption. Thinking about the materials that we already have in this country will be essential to our success, and that feeds into the broader wellbeing of our communities and citizens in Scotland.

To be honest, the public are more on board with this than you might imagine. I suspect that the driver behind the success of enabling legislation is engaging more with key stakeholders in industry and business that could be affected—hopefully positively—by the shift to the circular economy, and getting into more of the detail with them. I genuinely think that citizens of Scotland understand the issues of consumption. Climate change and the impact on biodiversity loss in

Scotland and globally are visible to them personally and in the media. People are very much aware that they need to start making different choices, and they want to be enabled to do so. That comes down to businesses in key sectors, local authorities and people on the ground making those choices accessible.

The implementation of secondary legislation really involves getting into in-depth conversations with key stakeholders. The idea of the circular economy will be a bit newer to some of them than to other groups that we have been working with, which are coming to the fore and really trying to immerse themselves in the opportunities that are in front of us.

The Convener: David, do you want to add anything?

David Harley: I agree with what Iain Gulland said. The one thing that I would add is that, on individual behaviours, we have a problem in Scotland. Some 60 per cent of the material in residual waste—the stuff that goes in your black bin bag, which is not going to be recycled—could be recycled. We are stuck at that level—our recycling rate has plateaued at 43 per cent. There is a public awareness element to the issue, and encouragement in that area is fundamental to our efforts in this area.

The Convener: I will bring in Mark Ruskell—no, before I do, Ben Macpherson would like to ask a supplementary question.

Ben Macpherson: On that point, Mr Harley, you touched on the important fact that there is a way to go in terms of taking the public with us by different means—nudging, encouraging, as well as punishing, if necessary; we will get on to that element of the bill later. Is the secondary legislation that follows the bill's passing in fact necessitated by the need to walk through the process in terms of implementation and awareness raising?

David Harley: I think so. As Iain Gulland said, there is a mix of actions that can be taken, from system-wide actions to individual actions. Further, given the complexity of the system, there is a danger of unintended consequences. It is important to walk the public through the process and set the right targets, measures and interventions.

Ben Macpherson: And the use of secondary legislation gives that flexibility.

David Harley: Yes.

The Convener: Having introduced him and then cut him off, I now bring in Mark Ruskell.

Mark Ruskell: Thank you, convener.

How much of a problem is the disposal of unsold goods in Scotland? Which sectors or products are particularly problematic for the environment in that regard?

Iain Gulland: I am not sure that I have the details in front of me about the amounts of unsold goods that are disposed of. I can perhaps feed that back to the committee at a later date.

We know that it is an issue with the online shopping phenomenon: people return stuff and the logistics operation is not really set up to get it back. What to do with that stuff is a growing challenge for some online operators, and for operators that have in-store take-back. To some extent, they have been set up to distribute stuff, but not to take it back, so the back end of their logistics is focused on disposing of that stuff as quickly as possible and getting it out of the system. That is a challenge. How can we introduce regulation or legislation to ensure that such organisations are thinking about end of life? As well as focusing on how to get material or products out to the customer, they need to think about what to do with products when they come back in. That is really important.

The bigger companies that we speak to are very aware of the issue and are on it. It is a cost. I do not have the figures in front of me but, globally, we are talking billions of pounds-worth of returns, particularly for the textiles trade. Businesses have to deal with that cost and they are either bearing it or passing it on through their supply chains. It is in their interest to come up with avenues not just to do the right thing in relation to the environment but to reduce their costs. However, if they were in the room, they would say that the scale of the challenge is daunting to most of them, as is thinking about how they reorientate or reverse logistics, because that is not the way in which they have set themselves up. How can they partner with people at the back end of the system to ensure that they are not disposing of those products but reusing them and making them available to keep them in circulation?

There is also an opportunity for such businesses to think differently about their model. Ultimately, that is what the circular economy is about. Although we are trying to tidy up the retail environment, we need to think about how we can change that environment so that people do not just think about product as a sale but perhaps think of subscription services or leasing and rental systems and engaging with different actors in the supply chain to provide a different service—servitisation rather than product.

I hope that, through the enabling legislation, we will not just tidy up the reverse logistics operation but get businesses of every shape and size to think differently about their model. Ultimately, just

passing things on or selling things is not the future—we need to think differently about that model.

Mark Ruskell: In the conversations that Zero Waste Scotland has had with particular sectors and businesses at a particular scale, what has the feedback been? Are there any concerns about unintended consequences or other issues?

Iain Gulland: We have not heard about any unintended consequences. The conversations with the companies that we have engaged with have been very positive. For some of them, the issue is the scale of the take-backs and having outlets to redistribute them at local level. Some of that is a challenge. For some companies, it is not just about what happens here in Scotland, because they are UK-wide or global companies. It is not just a Scottish challenge. However, they are engaging with that and they are keen to support measures that will help them because, as I said, it represents a cost and that cost has to be passed on to somebody. In relation to their wider sustainability challenges, they recognise that it is not something that they can keep on doing. To an extent, the spotlight is already on some of those companies.

New companies that are coming on to the market such as Scottish-owned small and medium-sized enterprises are very aware of the issue. They have been pushed into the online space because consumers are now much more comfortable in that space. They are challenged by the issue, too. When we get in early with those companies to ensure that they think about what happens to returns and how that model works, what we find is encouraging. We have seen a lot of interest in having a different type of model. However, that might need different types of platform or collaboration across companies in the same space, whether that is in clothing or electricals.

The idea of working more collaboratively within a location, whether that is Scotland or the regions, is new to some companies. We have talked to the chambers of commerce about that through our work on circular cities to try to understand whether there are solutions that we could put in place locally that would help individual businesses but more importantly would create economic and social opportunities in those locations.

Ultimately, we are trying to reduce consumption. It cannot be seen as just cleaning up the back end of an inefficient retail operation; it has to be seen in the wider context of reducing our overall consumption.

Mark Ruskell: What are those positive opportunities? You talked about a more local approach to redistributing goods although,

ultimately, we are trying to reduce the amount of unsold goods that are being distributed like that. For businesses that are under development at the moment, what are the positive opportunities or discussions that you have been having?

Iain Gulland: Getting into reverse logistics, some of it is simply about having the space. Those operations are not set up to receive things back in, so it is about having that space available to them. Rather than all businesses having a space, there could be a shared space. The answer might be that, instead of a business doing the work itself, a logistical partner—which could be in the social enterprise or community sector—might provide the mechanism to redistribute the stuff. There is a potential role for local authorities to think about how they could facilitate that redistribution, particularly at local level. Again, to some extent, multiple companies working together would be much more efficient and effective than every company trying to deal with the issue themselves. The challenge is that they are all trying to think about it themselves.

Other operations might also be affected. We have had conversations with the national health service, which has similar challenges around equipment such as walking aids being returned. Again, the NHS has a big distribution network but is not really set up to bring all that stuff back in. There might be partnerships with public agencies that have similar challenges, although possibly not at the same scale as the online retailers. How can we work collaboratively to create that efficiency?

As you said, redistribution is not the whole answer. We need to start thinking much smarter about that consumption piece up front as well, so that we do not end up with all these things residing in a warehouse, trying to find a home.

Mark Ruskell: I will turn to SEPA to ask for your reflections on how a ban on unsold goods disposal could be enforced.

David Harley: I do not have a huge amount to add to what Iain Gulland said. We are broadly supportive of the principle. The one thing that we would urge caution on is that, where such a ban is applied, it needs to be supported by good evidence, to make sure that we do not have unintended consequences.

Mark Ruskell: Would we expect SEPA to be the enforcement body?

David Harley: That is absolutely a possibility.

Mark Ruskell: What discussions have been taking place?

David Harley: I am not aware of discussions in detail about how that would be done practically. I am not sure that they have happened yet.

Mark Ruskell: That is obviously pretty critical to the bill, so it would be good if SEPA could write back to the committee with detail on how you might take on those duties and how monitoring could take place around compliance.

David Harley: Yes—we can do that.

Mark Ruskell: That is good. Are there any views from NatureScot?

Nick Halfhide: We have no views on that.

The Convener: Mark, the committee wrote to one of the big suppliers in Scotland—Amazon—and asked whether its representatives would like to come and give evidence to the committee on the subject of redistribution but, unfortunately, they are not prepared to come and give physical evidence to the committee. They have offered written evidence, but it would have been much stronger to hear from them in person.

I will go back to the disposal of unused goods. Is there a concern that, if legislation does not keep pace across the United Kingdom, companies in Scotland might move stuff south of the border and avoid the regulation by saying that the goods can still be used in other parts of the United Kingdom? Iain Gulland, would that concern you, or is it totally impossible for that to happen?

Iain Gulland: Obviously, that would concern me, because it is possible, but it depends on how the regulations are set and how the situation is monitored to make sure that that does not happen against the regulations. Engagement with the companies would help, to try to help them understand the opportunity to do something for Scotland. A lot of companies are on this journey. Going down this route produces benefits, such as pushing things further up the hierarchy, so to speak, and getting people to think differently about their business model.

11:15

Many of those retailers could see an opportunity to resell that stuff in their stores, which they are not currently doing. The stuff goes out through the back door. Okay, some of it goes into other markets and some of it is handed over to charities, but retailers are washing their hands of it because it is not new.

We can encourage retailers to reselling as part of their business strategy. Some of them are very interested in that aspect—there is a bit of a “Who wants to go first?” view. Some of the bigger retailers are already thinking about selling second-hand clothing in store. That is beginning to creep into the high street already, so anything that encourages retailers to see that as part of their business model will be well received, I think. They will start to see that, and they might embrace it, as

something that they could replicate in other parts of the UK, if not abroad. To some extent, it is about helping them to get over what they see as quite a big challenge in their wider business model.

The Convener: If SEPA were to be the regulator for the disposal of unsold goods, might there be problems with a company moving stuff around the United Kingdom, or even around Europe or wherever, to avoid having to comply with more stringent conditions in Scotland? David, are you confident that you, at SEPA, could be on top of that?

David Harley: It would make the regulatory job more challenging if there were a different approach in Scotland in comparison with the rest of the UK—having a level playing field across the UK is definitely easier.

The Convener: I will come back to you, David, but perhaps Iain Gulland can address this question. If I were struggling to sell an item, I might be prepared to give it to a charity to use or sell. If they could not sell it, however, they would take on the obligation of disposing of it, would they not? Would that frighten charities, or would they have confidence that they could keep shifting items?

Iain Gulland: That leads on from my other answer. We cannot look at the idea in isolation. If we are bringing in something like that, we need to think about exactly what you describe: the supply chain and the broader system.

We will prevent the retailers, or whomever we are talking about, including online retailers, from trying to circumvent such a regulation if we create the right market opportunity in Scotland, whether that involves working with the charitable sector or social enterprises, or creating a different model or platform to enable retailers to reuse some of the equipment for different functions.

If we do not create that market in Scotland, you are absolutely right that all those challenges will arise. Retailers will not find outlets, or they will lack confidence in the markets that are already available. If we are going to go down this route—we could pick textiles, electrical goods or beds; you name it—we have to embrace the sector that will be behind that, whether it is the charity sector, as you have said, or social enterprises, and create the right ecosystem that sits behind that.

That is what the circular economy is about: it is about taking a systems approach, rather than seeing things in isolation and saying to retailers, “It’s all on you to sort this out.” That will happen otherwise—we have seen that. As you have probably heard me say previously, we in Scotland are very good at recycling, at both household and business level, but the vast bulk of that material

now gets shipped out of our country. Apart from organics and glass, most of the material that we collect for recycling goes somewhere else, because we have not set up the systems, the reprocessing infrastructure and the market to make recycling a much more viable proposition.

For every job there is in collection and recycling, there are eight jobs further up the chain in reprocessing and the resupply of those materials back into the economy. That is the economic opportunity that we want to embrace. If we go down this route, let us think about the system that sits behind it and all the organisations, businesses, sectors and citizens who will come around that and make it happen for Scotland.

The Convener: I share your enthusiasm for making it work, but it concerns me that we are being asked to pass a bill that will enable that to happen when we do not have, or do not understand, all the details behind it to make it work.

I go to the deputy convener, Ben Macpherson.

Ben Macpherson: We will return to the issue of household waste in due course, but I have some questions about charges for single-use items. How should the Scottish Government strategically use powers to charge for single-use items, as proposed in the bill, to support the transition to a circular economy? What role can charging play alongside the many other potential measures and options, such as producer responsibility, deposit return and any relevant taxation? I am not sure who wants to answer first.

David Harley: As Iain Gulland said, charging has a role to play as part of a system in conjunction with other levers.

Ben Macpherson: Is it important not to overemphasise the contribution made by charging for single-use items, but to ensure that that is considered as part of a wider suite of measures to reduce waste and encourage upcycling and recycling?

David Harley: Absolutely. I know that this is a dry statement, but it is so important to get the evidence base right. We need information, data and the behaviours, and we need to understand all that and the interplay among everything. That is crucial to the successful delivery of our ambition.

Ben Macpherson: As you have done, many respondents to the call for views emphasised the need for proper life-cycle analysis of any new charges to ensure that there would be environmental benefits. They also mentioned the need for engagement with businesses and consumers as a way of avoiding unintended consequences and ensuring a collegiate and collective approach to implementation.

Does the bill provide a framework for the assessment and engagement that will be required for any new charges that are introduced? Are you confident that the bill is robust and appropriate?

David Harley: I am not familiar with the detail. Are you asking about the engagement required?

Ben Macpherson: Yes.

David Harley: I am not close to the detail in terms of the engagement requirement, but it will be needed, because we are talking about a systems change and societal shifts that will put us, as the regulator, in a different role regarding societal behaviour. Engagement will be crucial.

Ben Macpherson: Unfortunately, that takes time. That is the reality. Do any other witnesses want to come in?

Iain Gulland: As you will know, one of the key contributions that Zero Waste Scotland makes to the circular economy is to provide an evidence base. We have looked at a number of opportunities and will continue that work with the Scottish Government. That is our role. We look at life-cycle evidence and at what works to create behavioural change.

A whole range of policy options could be used. We are well versed in the single-use charge. Human beings are more motivated by loss than by gain, which led to the successful introduction of the levy on single-use carrier bags. That is a good example of taking everyone, including stakeholders and retailers, on a journey that included training and many other things and led to successful implementation in 2014.

Charging for single-use items can work and there are good examples of that working, but the evidence base is important. You have to take people on a journey and ensure that you have thought things through so that there are no unintended consequences. That is part of our remit as an evidence-based organisation, as is engagement. We work with partners and engage with industry, businesses, individual retailers and whoever is involved to ensure that they are on the journey with us.

Ben Macpherson: What limitations or inconsistencies are there in the existing and proposed powers to ban, or to introduce charges for, single-use items? Do you wish to say anything about that, Mr Gulland, before I bring in Mr Halfhide?

Iain Gulland: I do not have anything to add.

Nick Halfhide: I do not have anything further to add.

Ben Macpherson: Mr Halfhide, do you want to say anything about any of the questions that I have asked?

Nick Halfhide: NatureScot is not involved in the detail in the way that my colleagues here are, but I have a more general point to make, which it is useful to keep sight of.

Across society, we are expecting pretty profound behavioural changes in response to climate change over the next decades. I was so assertive in saying that we need the Circular Economy (Scotland) Bill because it is one of many changes that are needed. We need the bill in its own right, but the behavioural changes that need to be made in relation to our natural environment are pretty profound. The bill deals with just one aspect of those—how we use what I think of as inert resources, such as tin cans—but the issue goes right across the piece. As I said in my introductory remarks, it is about how we use all our resources—not just the inert ones but the live ones. I hope that we will get on to talking about soils, because that is one of my favourite topics. That is in the same space. The issue is about how we use all our resources and the fact that we need to reduce the pressure on all of them, because they are direct and indirect drivers of biodiversity loss, they contribute to our emissions and they make it harder for us to adapt. They are all part of a really complicated system.

Ben Macpherson: Absolutely. I have a final question on charges for single-use items. You talked about the success of the carrier bag charge that was introduced in 2014. That has been an undoubted success environmentally, but also from the point of view of behavioural change.

Last week, it was argued by representatives of the business community that the fact that the money that is raised from the plastic bag charge can be put towards local causes has helped with collegiate buy-in to the policy, from the point of view of both implementation and seeing the benefits. Do you have any comments to make on how the net proceeds from charges for single-use items should be used? As things stand, the bill proposes a different approach from the one that has been taken in relation to the 2014 plastic bag charge.

Iain Gulland: It is key when putting a charge on something that there is an alternative. With the bag charge, there was an alternative—people could get a reusable bag and could continue to get their shopping home conveniently.

The issue here is transparency—it all comes down to being up front and honest with citizens about what will happen to the money, whether it takes the form of a tax that will go back into central coffers, whether it will be hypothecated for something else or whether it will be gathered at a local level. Transparency benefits engagement with the policy. We know that from what happened with the carrier bag charge. There was

engagement on what would happen with the money and how it would be spent.

We know from talking to individual citizens that people are much more aware of what is happening in their area as regards the work of charities or the provision of recycling services. We should not lose sight of that. People live in a community in a particular place. If they can see a benefit coming back to that place, they are more likely to respond directly.

There needs to be transparency. There are examples from other countries where charging for single-use items has been seen as a tax. There is a challenge to do with where the money from that goes—it simply disappears back into Government coffers. There is no real appreciation of what that is about. There might be other drivers there, too, such as people trying to avoid paying tax. As the bill is taken forward, there is an opportunity to engage with the local community and local businesses about how best to provide transparency on where the money will go.

Ultimately, however, this is not about raising money, in the same way that the carrier bag charge was not about raising money. We must remember that. Putting a charge on coffee cups or whatever is not about raising money for good causes; it is about reducing the use of single-use items. Ideally, we want to achieve a 100 per cent shift. If we did that, there would be no money to be recirculated within the community. That is a hard thing to talk about as well, but the reality is that there will still be some money available. One of the challenges, especially with the carrier bag charge, was that it was not to be seen as an on-going fund.

Ben Macpherson: Convener, does anyone else want to come in on that issue before I move on?

The Convener: I am not seeing any raised hands, and I think that you have more questions to ask, so we are all ears.

11:30

Ben Macpherson: I will press on and ask about considerations around household waste, which we have touched on briefly already. What impact will the strengthening of enforcement measures regarding the disposal of household waste have? How should high levels of compliance with household waste and recycling systems be achieved? Is what is in the bill enforceable?

David Harley: It is helpful to have options in there on household waste and enforcement around that. However, in countries where it works, the householder responsibility element is in the mix along with something like a deposit return scheme and a powerful producer responsibility

framework. We keep coming back to the point that it is very much a mix, and this is one part of the puzzle that needs to be put together to make the system work. We keep saying this, but we need the evidence base to make sure that the approach works and that we understand the impact. However, there is no doubt that there is work to be done on the 60 per cent of material in bins that could be recycled.

Ben Macpherson: If no one wants to add to that, I will move on.

It definitely is part of a puzzle and, of course, one advantage of a deposit return scheme is that it helps to reduce contamination. There is not just the challenge of the 60 per cent of materials that go into landfill but that could be recycled; it is also about how we improve the quality of the recyclate that goes into recycling provisions as they are. To me, the puzzle is about deposit return and the considerations in the bill, but it is also about public awareness and cultural change.

Regarding the provisions to put the recycling code on a statutory footing and to enable the setting of local targets, what evidence is there to suggest that taking a statutory approach in those areas will drive up standards? What are the key opportunities in making systems more consistent across the country? How do we drive up standards and make the systems more consistent, and how important would those elements be?

David Harley: I will come back on that and then maybe pass to others.

There is an opportunity to explore some sort of charge on householders, potentially in relation to weight, to deal with residual waste, but that should very much be part of a mix. On the code of practice for local authorities, it is really important that there is consistency in collection and process and an associated confidence in the system from the people who are investing in the processing and the recycling. That is an important element with household waste.

Ben Macpherson: Local authorities will need to co-ordinate and establish best practice. In an urban constituency such as my constituency of Edinburgh Northern and Leith, there are large street bins for general recycling. All it takes is for one person walking past to dump some contamination in there, sometimes unwittingly, and the whole recyclate is contaminated and, in some cases, cast aside. Do you envisage significant engagement between, and strategic decision making from, local authorities to make this work and ensure that the public are aware of their expectations before considerations of enforcement are applied and that enforcement is carried out in a just manner?

David Harley: Yes, I think that consistency of process around the country, consistency of message and consistency of approach are crucial here.

Ben Macpherson: Yes, and it is also about consistency of practice and how it is implemented.

If there is no other feedback on that, I want, finally, to come back to a point already raised by Mr Gulland about our facilities to meet the bill's requirements and the shared collective aim of reducing waste and increasing recycling. What investment in waste, whether it be in recycling, reuse, redistribution or infrastructure, will be needed to support the bill's aims? I would be grateful if you could elaborate on what you said earlier, Mr Gulland, because I think that it is really important.

Iain Gulland: I definitely think that enforcement and consistency come together, and you are right that we need to do the consistency part first. There are two elements to that. With the 60 per cent of stuff that goes into the residual bin but which could be recycled in our current infrastructure, we need an educational approach to raise awareness and get the message across to people, because a lot of people will not be aware of that. That is before we even get to the challenge of contamination as a result of people putting stuff in the wrong bin—say, the residual bin. We need to get the message across about the impact of that, too.

Again, it is all about transparency. A lot of people do not know where their recycle ends up. We are not sharing with the whole of Scotland the information about what happens to that material—what it gets turned into and where it turns up. What is the end destination of that recycle? We have all seen the horror stories in the media about recycle, not specifically from Scotland but from the UK, ending up dumped in other parts of the world. Does that niggle at the back of the consumer's mind? We need to be much more transparent in that respect, because having much more obvious communications with citizens will help them not just think, "Put it in the right bin" but say, "Let's recycle more."

As for your question, I have a list—just name the material and there will be some opportunity at national and certainly at local level. The thing that we all forget is that the circular economy is distributive; it is not about sucking all the materials out into—with every respect—the central belt of Scotland. With digital enablement and technology, we can size solutions into the rural parts of Scotland, too. However, whether we are talking about mixed plastics, plastic film or electronics, it all needs co-ordination. I point out, with respect, that the supply chain is quite fragmented with the 32 local authorities, each of which have their own way of collecting the material.

I come back to the point about consistency. If we had a consistent approach and if the same materials were being collected, we could look at aggregating some of those materials at national or regional level to find solutions and maximise opportunities. There is lots of interest in this; indeed, when I was down at our exhibition in Birmingham just a few weeks ago, I noted lots of interest in a number of products, including plastics and electronics, from a range of industries interested in coming to Scotland. Although we are a small country, the scale of materials that we have is potentially available for inward investment; however, it needs a bit of co-ordination and the right signals with regard to consistency—that, for example, the supply will be consistent across the country, will be of good quality and can start to take up those economic opportunities.

It is also about reuse and repair—we should not forget that. How do we create the right accessible infrastructure for those things to happen? There is a role for individual local authorities, or for local authorities working together, in sizing some of those opportunities, both at a really local level and on the kind of regional base that we discussed before, if we are talking about reusing unused, unsold goods.

Ben Macpherson: I absolutely appreciate the points about reuse.

Iain Gulland: I was thinking of the Tool Library, for example.

Ben Macpherson: Exactly, and there are several other examples that I can think of.

The Convener: I wonder where that suggestion came from, deputy convener.

Ben Macpherson: On recycling, can you be any more definitive about what additional recycling infrastructure Scotland needs as a nation to meet the requirements of what is ahead and to reach a position where less of our recycle is going offshore and elsewhere to be utilised?

Iain Gulland: I am happy to provide a list to the committee. There are a number of opportunities, some of which, as I have said, can be found at national level. I am thinking of things such as plastic bottles; there is probably enough polyethylene terephthalate—PET—for one or two plants in Scotland. Others, on a different scale, could be distributed more around the country.

There is a whole range of things—we could look at any material. There is also an opportunity for landing something in Scotland that could, potentially, attract material from the north-east or the north-west of England. Having the ability to land one of those opportunities here in Scotland, as opposed to just looking after what is in the local

area, could create a far-reaching dividend for the local economy.

Ben Macpherson: That follow-up would be appreciated.

Iain Gulland: The economic areas of Government would need to think about such opportunities, because it is not just about waste management. It would involve considering how we can harness economic opportunities such as inward investment or job creation.

Ben Macpherson: If you could follow up on that, it would be helpful. Your points about inward investment and job creation are absolutely of interest, including the point that having consistency and a uniform position across local authorities on processing would attract such investment.

Iain Gulland: As a point of interest, I would just say that, this week, I will be visiting Terry McDonald from Eugene in Oregon, who is in Scotland to speak at the Scottish Resources Conference in Perth tomorrow. He runs a social enterprise in Eugene, which has about 250,000 people. There are various reuse and remanufacturing opportunities in the area, and his is a \$60 million business that is based on resources in and outwith the local area. It is all about reusing, remanufacturing and repurposing materials, and all of the \$60 million is deployed back into the community for emergency shelters or to provide relief for people in poverty. It is creating a massive dividend, and it is all based on resources. That is just one example of what is possible for Scotland, before we think about the big-scale, national picture. That sort of thing could be delivered at local levels across Scotland.

The Convener: We have a few other questions on household waste, but Monica Lennon has a supplementary question on a point that was raised earlier.

Monica Lennon: I have been listening with interest, but I just wanted to pick up on the theme of single-use items. Single-use nappies, for example, clearly contribute a lot of waste and end up in landfill, and we know that some councils have put in place local small-scale initiatives to improve access to reusable ones. My question is probably best aimed at Iain Gulland. Is there more scope outside the legislation to do more of that locally and to have schemes that can work with nappy libraries, for example, or is there potential for the legislation to put more of a duty on local authorities and other partners to do that in a much more proactive way?

The Convener: Iain, do you want to come in on that briefly?

Iain Gulland: Yes, there is more that we can do. There are a lot of local initiatives, which need to be promoted more and be made more accessible. It comes back to the point about what we call recycling opportunities or reusing opportunities, or opportunities to address consumption, when we are talking about reusable nappies. We need to start thinking about that infrastructure and how we can encourage this sort of thing, whether through legislation, powers or investment, and we need to think about the broader health and wellbeing opportunities that such initiatives bring. We have to think about not only the environmental benefits but the broader societal benefits that such solutions offer.

There is a conversation to be had with local authorities about the Circular Economy (Scotland) Bill. It is not only about bins and boxes; it is about how they can broaden their thinking on procurement operations, community engagement, preventative health and all that sort of stuff. It presents a real opportunity, so items such as reusable nappies should be put into that mix.

Monica Lennon: That is great. Thank you.

Douglas Lumsden: Following on from the deputy convener's questions, I note that David Harley mentioned that 60 per cent of the material in residual waste could be recycled. I think that we are going the wrong way with regard to recycling, but I guess that we do not need to wait for the legislation to be in place before we consider initiatives. What could we do now to try to improve our recycling rates?

11:45

David Harley: We need more initiatives like those that we have been talking about over the past half hour. For example, a strengthened or extended producer responsibility will make a big difference, as it is about reducing the amount of waste generated in the first place, which is a major part of the problem.

Some of the additional provisions are important. There is a stick element to dealing with household waste; people might have to pay by weight for disposal, though a deposit return scheme will help with that. It is all in the mix.

We need to do more at this point, because we have plateaued. Education and public awareness have a role to play; indeed, Nick Halfhide mentioned the need for wider societal education about what we use. As an aside, I will just highlight our use of water. We use more water domestically than just about any other country in Europe. There is something in our psyche in relation to our use of resources across the board that could be improved, and we need more education and awareness about that.

More action is needed to make the difference. Now that the overall recycling rate of 43 per cent has plateaued, something else needs to be done.

Douglas Lumsden: The situation is different in different parts of Scotland. Iain Gulland probably knows more about that.

David Harley: It is, but the difference is not massive. Overall, it is in the 50s.

Iain Gulland: It varies across different council areas. Some of that is to do with whether those areas are urban or rural, with different housing types and with particular challenges in some parts of Scotland. However, having a discussion about consistency of approach will surely help, because it will get us into some of the conversations that we need to have about how we simplify or make more consistent the approach to recycling, which will then feed into more general messaging.

There is investment at the moment, with the Government providing £70 million to improve recycling services. The bulk of that money has been committed already. However, I point out, with respect, that one of the challenges is that what is going into infrastructure is capital money, which leaves only very limited money for communication. Ultimately, if you are going to introduce a new service, you need to educate people about it, but you also need to continue that communication on an on-going basis. That brings me back to the 60 per cent figure—it is all down to communicating with people. It is not about developing something new, because that infrastructure already exists. All of that paper and those tins and plastic bottles could go into the current system. This is a communication issue that we are talking about.

Going back to the question of targets, I think that we beat ourselves up a bit about the recycling rate, but the fact is that we are measuring tonnes of material. We have developed in Scotland a carbon metric that is about the carbon intensity of our waste management operations, and it shows that we have made significant changes and have reduced the carbon impact of our waste management system significantly over the past 10 to 15 years. More important, we have reduced it in the past five years by focusing on food and plastics, which are the big carbon-intensive items.

As members will know, we released a report earlier this year on textiles. Textiles make up only 4 per cent of the household waste stream by weight, but 34 per cent by carbon. That is what we need to be addressing. It brings me back to the climate emergency, because we need to be tackling the issues relating to the carbon-intensive products and materials in our waste stream. Unfortunately, that might not shift the recycling rate for Scotland, but we still really need to do it. We have been addressing the issue, though; we

have been tackling food waste and plastics, and we want to tackle textile waste next.

Douglas Lumsden: The problem is that there is still inconsistency across different parts of Scotland, especially in relation to food waste, which some local authorities collect and others do not. That all has an impact on what ends up in the general waste bin.

Iain Gulland: There is a conversation to be had about targets, and about the targets being carbon targets and, therefore, part of carbon target emissions reporting. Councils take that kind of reporting very seriously. If we can make that link and explain that it is as much about carbon as it is about delivering a service and hitting recycling rates in tonnes, we might see a lot more councils looking at what is in the bins and their waste stream and thinking about how to target that from a carbon reduction point of view. We might then see an increase in participation rates.

Douglas Lumsden: You mentioned a lack of facilities for plastic. I presume that all our PET gets shipped to other parts of the UK or elsewhere. There might have been a lack of investment, but that sort of thing can happen now. Once again, there is no need to wait for a bill to be introduced.

Iain Gulland: No, there is no such need—it could happen now. However, it would require co-ordination and the right level of support for some of those companies to come into Scotland or for Scottish businesses to develop that infrastructure.

I keep making this point: we can talk about the one job in collection and recycling and the eight jobs elsewhere but, to get that economic opportunity, we need to design it. It will not happen by chance. These are, to some extent, UK and global commodities, but we want to get that success for Scotland. We all need to come round to thinking not just about the bins and boxes, but about the broader system and how we can create that here in Scotland. We might not get everything, but there are certainly some big wins out there. As I have said, there is significant interest in some of those opportunities.

The Convener: I will just make an observation, Douglas, which I will carefully phrase. Talking rubbish is very interesting, and we are getting through a pile of questions, but the problem is that we are also getting through a pile of time. I now request that witnesses give succinct answers to members' very succinct questions. I will come back to you, Douglas, if you have another question.

Douglas Lumsden: My last question is about labelling. Should more be done about that? I know that there is some labelling but, once again, it all depends on where you are in the country whether you can recycle certain things.

Iain Gulland: Yes, absolutely.

Douglas Lumsden: The recycling of Pringles tubes is an example.

David Harley: Yes. Coming back to the circular economy strategy, I think that putting the measure on a statutory footing will be really important as a way of responding to many of the questions that you have posed. The sector needs certainty that the country is serious about this and that it will not change its mind. Just having that commitment and putting it on a statutory footing will really help with investment in all elements of the infrastructure, whether it be processing and having the facilities nationally to do that or whether it be labelling. We then need consistency with regard to collection and processing. Again, labelling will really help with that.

The Convener: Monica, I am not sure whether you have a question on this subject.

Monica Lennon: No, convener. I was going to ask about fly-tipping.

The Convener: Okay. Just before we go on to that, I want to ask a very quick question on household waste. There are 32 authorities and 32 different schemes; there are different coloured and different sized bins, and I get confused about what I am supposed to be putting in what bin depending on where I am. When I come to Edinburgh, I have no idea which bin replicates the one in my area—actually, I do not have any recycling bins in the remote area that I live in, because the council does not do recycling there. However, I get confused as to whether I should be putting things in a green bin, a blue bin or a brown bin. I think that there are yellow bins out now, too.

Should we have something simple that everyone can understand across the whole of Scotland? Should the council recycle some of its recycling bins and make them one colour so that we know what we are talking about? Iain Gulland, do you want to respond to that?

Iain Gulland: I know that it is a challenge, because the issue comes up a lot. We would not advocate taking all of the bins away and then putting out a brand-new set, because that would use up too much material. I think, though, that it is all about communication. If there is consistency of approach, I do not think that it really matters what colour the bins are.

There have been more innovative suggestions. Irrespective of the colour of the bin, you could just put a number on it. However many bins everyone across Scotland has—whether it be one, two, three, four or six—the same number could be used everywhere.

There are different ways of doing this, but it comes back to labelling. How do you link up the

labelling, both at a national and local level, to the infrastructure that we have? We are not able to do that because, as you have rightly said, we have 32 different systems. That is what having a consistent approach is all about. How can we do that and then use it as a basis to communicate and engage with citizens across Scotland, regardless of where they live?

We must also recognise that it is not so much the geographical opportunities that might be different; there could be differences in approach by housing type. Such a system would be a bit more sophisticated, but there is an opportunity for a much more consistent approach. I think that it will be different for different areas, so, again, it is all about communication.

The Convener: Monica, I think that you want to ask about fly-tipping.

Monica Lennon: Yes, I have hinted that I want to ask about fly-tipping. I am keen to hear from all the witnesses, so do not feel that you have to answer all parts of my question.

What impact will the provisions in the bill have on fly-tipping? Would you like to see anything else in the bill in that regard? Outwith the proposals in the bill, I am keen to hear what else is happening to improve the enforcement and prevention of fly-tipping.

I will start with David Harley, but I am also keen to hear from Nick Halfhide and Iain Gulland, should they have anything to add.

David Harley: One helpful improvement would be to require not just the landowner but the fly-tipper to be responsible for removing materials. There should be accountability in all parts of that bad process. If businesses or individuals have used an unauthorised, illegitimate business to dispose of an item in the countryside, it would be helpful to have a fine or punitive element so that there is a duty of care for both individuals and businesses. I will leave it there.

Monica Lennon: That is helpful. Nick Halfhide, do you want to add any thoughts about the impact of fly-tipping on the environment and wildlife?

Nick Halfhide: I have nothing specific to add about what should be in the bill, but I will highlight the impact of fly-tipping on wildlife. Locally, it can be quite damaging. The effect is cumulative. If people see that fly-tipping is happening and that it is acceptable, often, they are less caring about their environment. It is, in part, about empowering local communities to be able to say, “No, that’s not acceptable. I don’t want that damaging the quality of my environment or the wildlife.” There is nothing more distressing than seeing a swan or a duck entangled in material that has been fly-tipped. That is all that I will add.

Monica Lennon: Thank you.

The Convener: That leads us neatly on to the next questions. I believe that you have some questions, Jackie.

Jackie Dunbar: Yes, I do, convener. You are reading my mind.

My question follows from what Monica Lennon said about household waste. I should declare an interest as a former local councillor for Aberdeen City Council, because I am away to ask a question regarding the enforcement challenges that SEPA and local authorities face in relation to waste crime, which Ben Macpherson has already touched on. What challenges do they face? When we talk about fly-tipping, people automatically think that it is about households, but it is also about businesses. Related to that, do you think that the power to seize vehicles that have been caught fly-tipping would act as a sufficient deterrent?

I am in your hands, convener, as to who would like to answer that, because I cannot see the witnesses.

The Convener: When you asked the question, Jackie, they all looked in the opposite direction, so I do not think that anyone wants to answer. [*Laughter.*] No, that is not true. David Harley, I think that you were nodding your head.

David Harley: Yes. We would really welcome the power to seize vehicles, as it would be quite a powerful incentive, if that is the right word.

The Convener: Iain Gulland, do you want to add anything?

Iain Gulland: No.

The Convener: You have your answer. Jackie, do you have any more questions?

Jackie Dunbar: I have taken that answer to be “Yes, please” to having that power, if I heard it correctly.

The Convener: Two out of the three witnesses are nodding and one is looking away. He is also nodding now.

Jackie Dunbar: I have a question for David Harley. Does SEPA have the resources and skills to make use of the new powers that are proposed in the bill?

David Harley: There is a lot of development work on new ways of regulating; we talked about some of them earlier. There is a considerable amount of preparatory work to implement a measure such as that. The application systems and the information technology behind all that requires investment, and we will work with Government to ensure that we will be funded

appropriately for that implementation phase, whatever new powers and new duties are required. However, once those things are up and running, as I said before, half our income will come from charges, so we will generate a charging scheme to enable cost recovery of that work from implementation onwards.

12:00

Jackie Dunbar: I will direct my final question to Iain Gulland, but anybody else can come in. What other work is being done to tackle waste crime, and could the bill be strengthened any further to support that work?

Iain Gulland: We in Zero Waste Scotland are not directly involved in that, although we work with partners, particularly SEPA, on aspects of the rural economy, and we think about behavioural change and engagement with communities that are blighted by fly-tipping.

More broadly, in a successful implementation of a circular economy, you would expect to close out those types of opportunities, because fly-tipping, illegal as it is, is leakage out of the circular economy. If you create a much more circular system for the materials that are being fly-tipped, you create a different framework for the security of those resources, and, as I said, if we design that right, it will limit opportunities for criminals to make money out of that. I am not saying that it is easy for them, but there are opportunities for criminals in the linear economy.

I will not say that the shift to a circular economy will end that criminality, but a successful deployment nationally, and particularly locally, while managing resources in a much more sustainable, economically, socially aware and transparent way, will help us to make it harder for criminals, surely. It might also help householders not to be persuaded to do the wrong thing, because they will be much more integrated as individual citizens into a local, national and global system, for all the reasons that we have talked about.

That is where we come in, because there are opportunities—whether that is in relation to dumping white goods, household waste or even some commercial waste—in the circular economy to close that loop, for lack of a better word.

The Convener: The deputy convener wants to come in with a brief follow-up question, and then I will go to Douglas Lumsden.

Ben Macpherson: Mr Gulland makes some important points. Most of the fly-tipping in my constituency is of sofas and mattresses, some of which is criminal in that people are dumping those materials in certain areas, but some of it is simply

people putting them out in the street because they are not aware of the law or cannot afford to or do not have the motivation to take it to an appropriate facility.

I come back to the challenge of organised crime in the waste management sector, and I wonder whether Mr Harley has anything to add about that wider challenge. As I said earlier, I appreciate the sensitivity of the issue, so I understand if you would prefer to follow up in writing with regard to that important wider consideration.

The Convener: Briefly, David Harley.

David Harley: As I said, we set up a unit 10 years ago to tackle the issue. It is very important work for us. We put a significant amount of resources into taking bad actors out of the game, and we have made significant progress. Prosecutions are in progress. We work very closely with the police because some of this is associated with organised crime. As we move forward in this more circular economy world, it is important to have strong enforcement in place for those people trying to take advantage of those unintended consequences in the system. That work continues to be important.

The Convener: Douglas, I am sorry, but I will be really mean and allow you only one question.

Douglas Lumsden: That is okay. We have heard from businesses that they have concerns about the burden of reporting that they will have to comply with once the legislation comes in. Do you have a view on the amount of reporting that businesses will have to do at that point?

David Harley: I do not have a view on the amount, but we as the regulator, and the players, must have sophisticated systems, which technological development and artificial intelligence might help with. If we have that, we might be able to reduce the burden as well as making it easier for ourselves, as the regulator, to understand the flows and whether they are going in the right direction and where they might be going wrong or where there might be illegal activity. Investment in good systems will be really important.

Iain Gulland: I hear that a lot. My organisation works directly with a lot of businesses. Once they start to measure waste and resources, they can take action. We have lots of evidence that businesses are saving money by doing that, for example by implementing new systems to deal with food waste. That has been mentioned specifically. There may be infrastructure or equipment challenges at the start, or a need for training, but businesses will make savings over time. They can report internally and externally. There should be transparency in engaging with consumers but also between businesses within

the supply chain. Those within the supply chain are asking for more of that.

The idea of the circular economy takes us back to the question of where the opportunities are for the re-use, repurposing and reprocessing of materials. We must understand that information at the macro level and in specific sectors to gauge where materials are, where they are flowing to and where we can access them, so that we can create circular economy opportunities.

More important, if there are common themes or common waste streams within particular sectors or particular locations, we need to know how we can harness them for economic benefit. We can show evidence that reporting definitely helps individual businesses and that it can shape and accelerate opportunities at the macro or sub-regional level.

Douglas Lumsden: The concern may be that there is no detail as yet.

The Convener: We will leave it there. That was quite a long answer. I am sorry, but we are up against the clock. I reiterate that there are some things that members wanted to ask but have been unable to do so because of time restrictions. There are questions about targets and target setting that we should have got to but did not, because of my poor time management, so the clerks will follow up in writing to ask witnesses for their views.

I thank the three witnesses for their evidence today. I will briefly suspend the meeting to allow the witnesses to leave. I want members back here at 12:10 for the next item.

12:07

Meeting suspended.

12:11

On resuming—

Subordinate Legislation

Persistent Organic Pollutants (Amendment) (No 2) Regulations 2023

Public Service Obligations in Transport Regulations 2023

The Convener: Welcome back. Our next item of business is consideration of two type 1 consent notifications. The UK Government's proposed UK statutory instruments are the Persistent Organic Pollutants (Amendment) (No 2) Regulations 2023 and the Public Service Obligations in Transport Regulations 2023. The UK Government is seeking the Scottish Government's consent to legislate in areas of devolved competence. We were notified of the SIs on 6 and 8 September.

The committee's role is to decide whether it agrees with the Scottish Government's proposals to consent to the UK Government making the regulations within devolved competence, and in the manner that the UK Government has indicated to the Scottish Government.

If members are content for consent to be given for the UK SIs, the committee will write to the Scottish Government accordingly. When doing so, we have options to pose questions, highlight issues or ask to be kept up to date on relevant developments. If the committee is not content with the proposals, it may make the recommendations that are outlined in the clerks' notes on the instruments.

Do members have any comments on the Persistent Organic Pollutants (Amendment) (No 2) Regulations 2023?

No member wishes to comment.

Is the committee content that the provisions set out in the notification should be made in the proposed UK statutory instrument?

Members indicated agreement.

The Convener: We will write to the Scottish Government to that effect.

Do members have any comments on the Public Service Obligations in Transport Regulations 2023?

Mark Ruskell: My only point is that the committee has not had adequate notice of or time to consider the instrument. I do not object to what is proposed, but I am concerned about the 28-day rule continually being broken. I seek your guidance, convener, as to what we can do to urge Governments to ensure that the committee is

treated with respect and that we have enough time to consider anything that comes before us.

The Convener: We can, of course, write back to say that.

You make a valid point, Mark, but I draw your attention to the fact that we were notified of the proposal on this instrument on 8 September. I would have liked to see it come up at a committee meeting earlier than 3 October, but perhaps that illustrates just how busy we are, which I am delighted about.

I suggest that the committee writes back to say that we would like consideration to be given to our receiving earlier notifications so that we can examine such instruments more fully. Is the committee agreed that we should write to make that point?

Members indicated agreement.

The Convener: Are members content that the provision set out in the notification should be made in the proposed UK statutory instrument? If the answer is yes, which it appears to be, we will write to the Scottish Government to that effect, but we will include a note with a request that we be given further time to examine such instruments.

Members indicated agreement.

Parking Attendants (Wearing of Uniforms) (North Ayrshire Council) Regulations 2023 (SSI 2023/248)

Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023 (SSI 2023/249)

12:15

The Convener: Our next agenda item is consideration of two instruments that have been laid under the negative procedure, which means that their provisions will come into force unless the Parliament agrees to a motion to annul them. No such motion has been lodged.

If no member wishes to comment, is the committee agreed that it does not wish to make any recommendations in relation to the instruments?

Members indicated agreement.

The Convener: That concludes the public part of our meeting.

12:16

Meeting continued in private until 12:47.

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