



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 23 November 2016**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

**11<sup>th</sup> Meeting 2016, Session 5**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Gail Ross (Caithness, Sutherland and Ross) (SNP)

**COMMITTEE MEMBERS**

\*Peter Chapman (North East Scotland) (Con)

\*Mairi Evans (Angus North and Mearns) (SNP)

\*John Finnie (Highlands and Islands) (Green)

\*Rhoda Grant (Highlands and Islands) (Lab)

Jamie Greene (West Scotland) (Con)

\*Richard Lyle (Uddingston and Bellshill) (SNP)

\*John Mason (Glasgow Shettleston) (SNP)

\*Mike Rumbles (North East Scotland) (LD)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Judith Brown (Scottish Government)

Fergus Ewing (Cabinet Secretary for Rural Economy and Connectivity)

Stuart Goodall (Confor)

Jon Hollingdale (Community Woodlands Association)

Gordon Jackson (Scottish Government)

Willie McGhee (Forest Policy Group)

Michael O'Neill (Scottish Government)

Rodney Shearer (Alba Trees)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Rural Economy and Connectivity Committee

Wednesday 23 November 2016

*[The Convener opened the meeting at 09:04]*

### Subordinate Legislation

#### Crofting Commission (Elections) (Scotland) Amendment Regulations 2016 [Draft]

**The Convener (Edward Mountain):** Good morning. I welcome everyone to the 11th meeting in 2016 of the Rural Economy and Connectivity Committee and remind them to switch off their mobile phones. Apologies have been received from Jamie Greene and Mike Rumbles, though Mr Rumbles will turn up later—sooner rather than later, I hope.

Our first three agenda items this morning relate to crofting. The first two relate to an affirmative Scottish statutory instrument on Crofting Commission elections, after which we will take evidence on our review of crofting law priorities. The regulations are laid under the affirmative procedure, which means that Parliament must approve them before the provisions can come into force. Following this evidence session, the committee will be invited to consider a motion to approve the regulations.

I welcome Fergus Ewing, the Cabinet Secretary for Rural Economy and Connectivity; Gordon Jackson, head of agricultural development and crofting at the Scottish Government; and Judith Brown, who is the solicitor acting on behalf of the Scottish Government. I invite the cabinet secretary to make an opening statement on the regulations.

**The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing):** Thank you, convener, and good morning to everyone. I am pleased to be here this morning to support the committee's consideration of the draft Crofting Commission (Elections) (Scotland) Amendment Regulations 2016. The regulations are made by the Scottish ministers in accordance with powers conferred by paragraph 7(1) of schedule 1 to the Crofters (Scotland) Act 1993. I will provide a brief overview and outline the reasons why the amendment regulations have been prepared. Thereafter, my officials, Gordon Jackson and Judith Brown, and I will answer questions.

The regulations amend the Crofting Commission (Elections) (Scotland) Regulations 2011—the

principal regulations—which set out the arrangements under which elections to the Crofting Commission are conducted. Of course, a member of this committee, Stewart Stevenson, as the then Minister for Environment and Climate Change, was responsible for the 2011 Regulations—not that I mention that to pass the buck in any way.

The amendments to the principal 2011 regulations relate to candidate eligibility; absent and proxy votes; the filling of vacancies; the retention of documents; election expenses; and consequential amendments to and revocations of provisions of the principal regulations. I will cover each of the headings in turn—there is quite a lot to cover, but I will try to be as brief as possible.

On candidate eligibility, the 2011 regulations set out the grounds on which a person is disqualified from being a candidate at an election. That includes disqualification where a person is found by the commission to be in breach of the residency duty—which is to live within 32km of the croft—without having obtained consent from the Crofting Commission.

The amending regulations add further grounds of disqualification from being a candidate. That applies to persons the commission has decided are failing to comply with the duties under the act to not misuse or neglect their croft, and to cultivate and maintain their croft. The amending regulations place all three duties—residency, misuse and cultivation—on an equal footing in terms of candidate eligibility to stand for election.

The 2011 regulations allow voters to have their ballot paper sent to an address other than their registered address—the absent voters list. They also allow voters to have their ballot paper sent to a proxy—the proxy list. The regulations place a deadline on when a voter can make such arrangements. However, voters can also apply to be removed from the absent voters and proxy lists, and the principal regulations place no deadline on that. The amending regulations introduce a deadline, which is to avoid scope for errors in the issuing of ballot papers. That new deadline provides the registration officer with a week in which to amend the crofting electoral register, which must be supplied to the returning officer not later than four weeks before the day of the count. The deadline is reflected in an amendment to the election timetable.

As it stands, the only way to select a replacement commissioner, should an elected commissioner vacate their post part way through their elected term, is for Scottish ministers to appoint a replacement. The amending regulations allow for the filling of vacancies that arise among elected members by candidates who polled the next greatest numbers of votes behind the elected

member. That process will be repeated until a person accepts the invitation or until the list of candidates is exhausted. If the list of candidates is exhausted, the Scottish ministers will then be able to make an appointment.

The amending regulations also allow the Scottish ministers to leave a vacancy unfilled, in the case of a vacancy arising less than a year before the next election, provided the Crofting Commission remains quorate.

The amending regulations allow for the retention of certain documents for a period of five years. That is a consequential requirement of the new provision regarding filling vacancies which, in order to operate, requires certain information about the last election to remain available.

The amending regulations increase the 2011 limit on election expenses from £600 to £700 and require all candidates to make a declaration of all payments that are made and to present all relevant bills and receipts.

The amending regulations include a number of minor amendments that are consequential to the other changes that are being introduced. They also revoke two provisions that were included in error in the principal regulations. Regulation 11(2) of the principal regulations is revoked to make it clear that non-business days should not be discounted from the election timetable when referring to periods of weeks, which will make the election timetable clearer to the reader. Regulation 49 of the principal regulations is also revoked as it referred to information that was relevant to the single transferable vote system, whereas the Crofting Commission elections operate under the alternative vote system.

I confirm that a public consultation on proposed changes to election arrangements took place from 18 March to 22 June 2016. The consultation paper, the responses and the analysis report have been published on the Scottish Government website. I also confirm that an equality impact assessment has been completed and that no equality impact issues were identified. In terms of financial impact, no business and regulatory impact assessment has been prepared for the regulations, as no impact on business, public bodies or the third sector is foreseen.

I apologise for the length of my opening statement; I sought to cover a number of disparate aspects of the proposed regulations. I thank you for listening, I commend the amendment regulations to you and I am pleased to try to answer any questions that you might have.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I have a technical question to which it might be useful for future reference to have the answer on the record.

The filling of vacancies among elected members is in regulation 10 of the amendment regulations, which refers to regulation 54A in the original regulations. Paragraph 4 states that the person who would replace a vacating member

“would be qualified to be a candidate at an election under regulation 9”.

I assume—the regulations seem to be silent on this—that the qualification relates to the date on which the vacancy occurs, rather than to the date on which the person qualified originally. Presumably, they would have been qualified on the original date of election, as otherwise they could not have stood. In other words, they have to remain qualified through to that point. For clarity, it would perhaps be helpful to confirm that.

**Judith Brown (Scottish Government):** Yes, that is correct. At the time of being given the invitation, they must remain qualified.

**Stewart Stevenson:** That is the relevant day plus.

**Judith Brown:** That is correct.

**Rhoda Grant (Highlands and Islands) (Lab):** I am a bit concerned about replacing someone who was elected with the person who got the next highest number of votes. We are all aware that, quite often, a couple of people stand and one wins by a country mile, while the other gets almost no support. I would be concerned if the person who had little or no support were elected at that point, especially as the cabinet secretary said that the registration officer will go down through the list and eventually get to the person who polled the least number of votes. If the person with no support is elected, that is not very democratic.

**Fergus Ewing:** One could draw comparison with the elections to this Parliament—in the event of by-elections—and list MSPs. However, that is perhaps a mischievous reflection so, instead of giving that as an answer, I will pass to Judith Brown.

**The Convener:** I agree that that is mischievous.

**Rhoda Grant:** That is not the same. The candidates in this case are not on a list.

**Judith Brown:** It would perhaps assist to look at the schedule to the Crofters (Scotland) Act 1993. Paragraph 6 of schedule 1, as introduced by the Crofting Reform (Scotland) Act 2010, sets out the arrangements for when an elected member ceases to hold office. It makes provision for Scottish ministers to appoint a member in the situation that the member who has left is not replaced by a person such as those mentioned in sub-paragraph 4. That sub-paragraph goes on to say that the person who would normally fill the vacancy would be the person who

“was a candidate in the election by virtue of which the elected member ... held office ... polled, in that election, fewer votes than the elected member ... and ... by virtue of regulations made under paragraph 7, may hold office as a member of the Commission.”

Therefore Parliament’s intention when those provisions were passed was that vacancies among elected members should be filled by people who had stood for election and polled fewer votes, rather than through a by-election, for instance. The provisions are to give effect to that intention of Parliament.

09:15

**Rhoda Grant:** I am concerned about that but, as you say, that is in the legislation. That just adds to the long list of things that are maybe wrong with the legislation.

**Fergus Ewing:** To be serious, Rhoda Grant makes a very reasonable point, and I think that we all recognise it. However, Judith Brown has very helpfully and clearly made the point that the 1993 act, as amended, indicates that the intended process for filling vacancies was not through by-elections but through the process that is now included in the regulations. If that is correct—I have no reason to doubt the advice of our legal adviser—it is really up to the Parliament to implement the will as expressed in the law as passed by previous Parliaments. To be serious, if in due course we discuss reform of the law, as Rhoda Grant has just indicated—I do not doubt at all that she has raised a very fair point—that would be a legitimate area for debate.

**The Convener:** I have two questions. First, will any of the changes to the election criteria for the commissioners mean that any of the current commissioners will be disbarred from standing again?

**Fergus Ewing:** I am not aware of that. In any event, that is not something on which I would be likely to opine unless I were in possession of very clear evidence, as that would be quite a significant comment to make. I do not know whether my officials have anything to add to that.

**Gordon Jackson (Scottish Government):** I have no awareness of that.

**Fergus Ewing:** A question occurred to me earlier that I have not had the opportunity to reflect on in detail. I said in my opening statement that the amending regulations add grounds of disqualification from being a candidate—namely, not misusing or neglecting their croft and not cultivating or maintaining it. Where the commission has decided that such persons are failing to fulfil those duties, they would be disqualified. Are the officials aware of whether the

commission has decided that any persons have fallen into those categories?

**Gordon Jackson:** I am not aware of any current on-going cases in which the commission has made a decision that a breach has occurred.

**The Convener:** My second question is a general one. The cabinet secretary will understand that the committee has been looking at crofting issues; indeed, we will continue to look at them during this meeting. If, as a result of that and the information gathering that the cabinet secretary is undertaking separate from the committee, there was a decision to change crofting law completely, would those elections hinder his ability to do so? I would like some assurance that that will not be the case if that was the decision of the Parliament.

**Fergus Ewing:** I can offer that assurance. Plainly, it is the duty of Parliament to consider any question of law reform. We do so on the basis that we have a Crofting Commission that performs regulatory functions that require to be carried out under the existing system. Clearly, the commission needs to continue to function and operate, and it is correct that we make proper provision for it to do so.

The elections will take place in March next year for five-year elected appointments. That takes us through to 2022. We will go on to discuss at a high level at an early stage issues that relate to crofting reform, but it is fair to say that that process quite properly should not be rushed and that it will take quite a long time.

We need a functioning Crofting Commission and I give the assurance that the decisions that we make today will in no way impede or impair the rights and responsibilities of the Parliament and its members.

**The Convener:** As there are no other questions from the committee, I thank the cabinet secretary and his officials for their evidence to the committee.

Item 2 is formal consideration of motion S5M-02263, calling for the committee to recommend approval of the draft Crofting Commission (Elections) (Scotland) Amendment Regulations 2016. I invite the cabinet secretary to speak to and move motion S5M-02263.

**Fergus Ewing:** I commend the regulations to the committee.

*Motion moved,*

That the Rural Economy and Connectivity Committee recommends that the Crofting Commission (Elections) (Scotland) Amendment Regulations 2016 [draft] be approved.—[*Fergus Ewing*]

*Motion agreed to.*

**The Convener:** That concludes the consideration of this affirmative instrument. We will report the outcome of our consideration to the Parliament.

I briefly suspend the meeting to allow the witness panel to be reconfigured.

09:21

*Meeting suspended.*

09:22

*On resuming—*

## **Crofting Law Reform**

**The Convener:** Item 3 is our final evidence session for our review of the legislative priorities for crofting. The cabinet secretary and Gordon Jackson are now joined by Michael O'Neill, who is the Scottish Government's crofting bill team leader.

As I mentioned in previous meetings, the committee is particularly conscious that contentious crofting issues have been in the media in recent weeks. However, the committee does not intend to stray into those specific areas and I urge members and witnesses to focus on the legislative priorities.

I invite the cabinet secretary to make a short opening statement.

**Fergus Ewing:** Thank you for the opportunity to discuss matters that relate to the future of crofting legislation. In recent months, I have met a number of stakeholders; in each case, I have been impressed by the enthusiasm that they have displayed and the sense that much can be achieved if everyone pulls in the same direction.

I would like the process of modernising crofting law to bring people together and I would like them to take the opportunity that is presented to work constructively for the future good of crofting. The Scottish Government is committed to crofting and to support for crofting. That support is wide ranging and includes crofting agricultural grants, common agricultural policy payments, the Scottish rural development programme, pillar 2 grants and the less favoured area support scheme.

We have made commitments that we intend to deliver during this parliamentary session, which are to introduce a new entrants scheme for crofting; to develop a national development plan for crofting; to explore whether we can create new woodland crofts; to reintroduce a croft house loan scheme; to ensure that new community landowners are not left out of pocket through registering as the new landlord of crofts in their community-owned estates; and to reform crofting law. If committee members—individually and collectively—have ideas, we will be grateful for them and keen to hear them.

Crofting law reform is the topic of today's discussion. We understand that crofters have long been concerned about overly complicated and outdated legislation, so we want to modernise crofting law to make it more transparent, understandable and workable in practice.



A lot has changed since crofting law came into force in 1886. Some argue that it is very outdated and that it is time to take a clean-slate approach to ensure that the law best serves crofting in the 21st century. Others argue that we should sort all the problems and reconcile and consolidate all the nuances but leave the basic components as they are. Others still think that a hybrid approach should be taken.

Much good work has already been done through the Shucksmith report and the creation of the so-called crofting law sump. It is important that we use that work to inform what we will undertake to develop new law.

Whatever the approach, we need to think strategically about what we want from crofting and about what we want and expect from new legislation. We need to be clear at the outset about what we want crofting to deliver, so being clear about the role of crofting and the vision that we have for it will be key. I want the new law that is developed to be fit for meeting crofting needs in the future.

In thinking about that future, we must consider many issues, such as the flexibility to cater for new entrants and the need for crofts to be thought of not as hobby farms but as thriving rural businesses, as well as productive agricultural units. It is important that we are clear about why we need change, what change we want to see and how we plan to achieve that, bearing in mind that creating new legislation might not be the only way to do it.

It is essential that stakeholders engage and help the Scottish Government with the development of new legislation. I have been pleased to meet many stakeholders, and I am keen to meet individuals who have profound knowledge and experience of crofting, as well as representative bodies, statutory bodies and others. All that work is to ensure that we are in the best position to create the right environment in which crofters and crofting communities can further contribute to a successful rural Scotland.

Crofting legislation is important and we need to get it right. Crofting is an essential part of our history and our culture and it is crucial that we take the time to do this properly. I have my own views on policy objectives, but they are not set in stone. I have no doubt that the committee's questions and its role will help us all to develop our thinking. I want the process of creating new legislation to be open and I am determined that others outwith this place should engage, so that their views are clear and can be considered in the work that is undertaken. Here, we are a long way from the crofting counties geographically and perhaps in many other ways.

I know from my experience in government that the best solutions are always arrived at collaboratively and after a great deal of thought and discussion. It is in that spirit of co-operation that I wish to take forward the future of crofting law.

**The Convener:** Thank you. A lot of what you said reflects the committee's keenness to take forward crofting and make it fit for purpose, which will serve the aspirations of those who are involved and of the people of Scotland.

**Peter Chapman (North East Scotland) (Con):** My question is basic and gets to the heart of the matter. We have taken evidence from various witnesses and heard various ideas of what crofting is all about. Is it about population retention, farming, housing or something else? We believe that any legislation that covers crofting should be underpinned by a clear policy on what the Scottish Government expects crofting to deliver. What does the cabinet secretary consider the purpose of crofting to be in the 21st century?

09:30

**Fergus Ewing:** Crofting serves and fulfils many purposes. I urge people not to think of it as having only one purpose.

Mr Chapman has raised a good starting point to allow us to think about the various roles and purposes that crofting fulfils. For example, crofting undoubtedly contributes to population retention. It also contributes to the sustainability of rural and remote communities, where, as members—especially those who represent the crofting counties in the Highlands—know, there tend to be fewer opportunities than in cities to get jobs and set up businesses and the likelihood of being connected to the internet is perhaps less. Connectivity is never far away in any debate, and that is right these days.

Crofting has a role in population retention and the sustainability of remote and rural communities. At a basic level, for a great many thousands of people, crofting activity supplements family income. In almost all cases of crofting, it is reasonable to say that that income is unlikely to be the sole income. Where crofting as agricultural activity is carried out, the income may supplement work that is done as a main job or self-employment.

When I met Stewart Robertson in the rural payments and inspections division office in Stornoway, which I visited when I was on holiday this year—I tend to have lots of busman's holidays—he informed me that the largest payment to a crofter of which he was aware under the basic scheme was £22,000. As many

members will be aware, that would not be an enormous payment to many farmers.

Crofting has a purpose of providing an income, but that is often a very modest income. Nevertheless, it is an income and perhaps it provides the difference between a subsistence existence and a little more comfort and opportunity. Crofting contributes to agriculture and to the cohesion of society.

I have mentioned some purposes, and I hope that members will see that crofting is not about one thing and does not have a sole purpose. For that reason as well as many others, it is important that we continue to support it in the work that we do in the Parliament.

**The Convener:** Thank you for the full answer. I warn you that there are a huge amount of questions and that we do not want to miss any of your replies. I ask you and committee members to make sure that questions and answers are as focused as possible.

**Fergus Ewing:** I will be briefer next time.

**The Convener:** On that basis, I move to the deputy convener, Gail Ross, for the next question.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** Point taken. Thank you for your time this morning, cabinet secretary. As you know, the function of developing crofting sits with Highlands and Islands Enterprise. How effective is that? What is your opinion on the idea of the development function sitting alongside the regulation function in the Crofting Commission?

**Fergus Ewing:** HIE is well placed to perform its development role, not least because, as members know, unlike Scottish Enterprise, it has a social function as well as an economic duty. It differs in its statutory duties and in how it approaches its task.

I know that individuals who work for HIE have an affinity for and an understanding of crofting, so they can be responsive in many cases. HIE tends to deal with the larger business enterprises; business gateway exists to deal with smaller businesses. They both play a part.

The Crofting Commission is effectively, substantially and primarily a regulatory body. It does not have the budget to be a development body. It is important to remember that the issue is not just about which organisation has the duty but about the budget to fulfil that duty. The two issues must be considered together.

I am aware that HIE is working intensively with about 50 communities in its most fragile areas. I support that. When the Crofting Reform (Scotland) Act 2010 was introduced, a conscious decision was taken to remove the development and grant-

giving functions that were carried out by the Crofters Commission, the predecessor body, from the range of functions that were transferred to the Crofting Commission.

Through RPID, the Scottish Government administers, for example, the croft house grants, the CAGS, support for new entrants, agri-environment schemes and the crofting cattle improvement scheme. I have involved myself in many such decisions, which are taken fairly swiftly and reasonably efficiently, as far as I can see. If others take a different view about how well we perform those functions, I am keen to hear that. It is a perfectly legitimate area for debate, and I would welcome the committee's thoughts, once it has explored the issue with all the witnesses and—I hope—listened to what I have had to say.

**Richard Lyle (Uddingston and Bellshill) (SNP):** HIE is the Scottish Government's economic and community development agency. It supports businesses and strengthens communities, and it has done a tremendous job in the past 30 to 40 years. When young crofters or people who want to go into crofting go to a bank to ask for a loan, the bank says no because they do not have a title over the land or they owe it money. Do you believe—as I do—that HIE should make small loans to people to encourage and develop crofting?

**Fergus Ewing:** Access to affordable housing is the key issue. Part of the issue is access to secured loan finance—to mortgages, to use what I still think of as the English term; "heritable security" is the Scots law term, but I suspect that "mortgage" wins the day. An unfairness perhaps arises through the vagaries of crofting law, as it is quite difficult to get a mortgage. Decrofting has to be done, and even then it is difficult.

Getting a mortgage is difficult for practical reasons, because many crofters have seasonal income and cannot persuade a bank or building society that they have sufficient financial standing to qualify for a mortgage. It is also difficult because many of the houses are self-built and it has traditionally been difficult to secure a mortgage for such properties.

The process of decrofting does not exist for people outwith the crofting counties. If members here wanted to buy a house, how would they feel about having to go to a regulatory body first to apply for permission to buy it? If one thinks about it, that is a bit of an anomaly. I have raised that anomaly with, for example, Scottish crofting lawyers. At least one of them has opined on various ways in which the issue could be resolved. A provision to do that was in a previous crofting bill, but I think that it was removed at stage 3.

This is undoubtedly a key area that we all need to consider carefully. It is a matter of fundamental rights. It is unfair that people who live on crofting land should find it so difficult to get access to a loan to build or buy a house on the same terms as everybody else who is not in the crofting counties. I do not particularly think that HIE should sort out the matter; rather, it is for Parliament, working with, for example, the Committee of Scottish Bankers, to do so.

I am sorry to go on about this, convener, but I have done a bit of work on the matter. I have met most of the major banks in Scotland over the past wee while. I have asked them all to consider and contribute to the issue's resolution and I believe that they are all willing so to do. It would be helpful to tackle the issue by working with everybody, because the issue is controversial. After all, loss of tenure and security of tenure were what the Napier commission and the Crofters Holdings (Scotland) Act 1886 were all about. As I said, the issue is not without controversy, but I hope that we can study it in detail and find options for solutions.

**Rhoda Grant:** To return to HIE's role in crofting development—that is, in business rather than housing development—a lot of the evidence that we have got is that it has worked with crofting communities, but what is missing and what the Crofters Commission provided in the past was individual advice to crofters on how they could develop their business and increase their income. That seems to have largely disappeared. Is there a way to get HIE or the Crofting Commission to do that?

**Fergus Ewing:** That is an interesting observation and I would like to look closely at the evidence for it. Across Scotland, improvement can always be made to businesses, potential businesses, new starts and so on. In most cases, business gateway and not HIE has that responsibility, just as Scottish Enterprise has in the rest of Scotland when it deals with larger businesses.

The responsibility is primarily with business gateway, but many crofters are involved in agricultural activity and various sources of advice are available to them. For example, mentoring is available from the banks and is often provided free of charge. Mentoring is also arranged through HIE, although that is for larger companies. We provide finance to Scotland's Rural College to provide advice and I would expect that to extend to crofters. In response to your question, I will check to make sure that the farm advisory service gives such advice.

There is a range of areas where advice can be sought. I certainly agree that we need to be sure that appropriate advice is available to those who live and work in the crofting counties who wish to

have it. It is especially important that businesses should be nurtured and supported where possible and appropriate and that the relevant sources of advice should be available to them. The committee has raised an important point.

**The Convener:** The issue of forming new crofts and giving new entrants the opportunity in that respect has been raised with the committee. That falls under HIE's development principles. It has been suggested that, especially on crofting estates that have been purchased by the community, some areas of common grazings should be resumed to allow for the formation of new crofts. Would that encourage more crofters and make communities more vibrant, or do you think that that is a bad idea?

**Fergus Ewing:** Given our commitment to introducing a new entrants scheme for crofting, we certainly welcome suggestions about how that can operate. Work has already begun in the crofting stakeholder forum to identify what such a scheme might look like. As we understand it, a draft new entrants paper has been compiled, and it focuses strongly on making crofts available and the reintroduction of the croft entrants scheme. As with all papers, the new entrants paper will, once it is finalised, be presented to Parliament in some shape or form.

In the meantime, crofters are already eligible to apply for other new entrants schemes and funding such as the young farmer start-up grant, the new entrants start-up grant and the new entrants capital grant is available through the common agricultural policy. Your proposal might cause a bit of controversy but it should be considered. We will look at it carefully and work with the committee on the new entrants scheme.

**John Finnie (Highlands and Islands) (Green):** The programme for government commits to beginning work this year on the national development plan for crofting. We have heard various opinions, including from Sir Crispin Agnew, that that might be challenging within the existing limitations of the 2010 act and that there is no active crofting policy to develop new entrants or the other issues that you have just mentioned. Can you advise on a timescale for the production of the national development plan?

**Fergus Ewing:** That is a very fair question. Scotland's programme for government, which was published a couple of months ago, makes it clear that we will engage with crofting stakeholders to start the process of drafting a national development plan for crofting as part of a sustainable rural economy. It will focus on what we want from crofting in future rather than what has gone on in the past, although it goes without saying that pieces of work such as the Shucksmith report and the crofting law sump will set a helpful

context. We must use the fruits of all the valuable work that has been done by a great many people in the past.

09:45

There will be further stakeholder engagement—and, indeed, that process has already commenced. The development plan will include a wide variety of measures to support new entrants, provide support for crofting housing, explore the potential to create woodland crofts and ensure that community-owned estates are not disadvantaged by the croft registration process. We have begun the process of delivering all that.

As with all such things, that process should be governed by the principle of getting it right, not getting it out. We need to get the process right—that is the priority. This committee's work will be a useful contribution to that process. It is far more important to have a plan that is right, that wins support, that commands buy-in and which is visionary but deliverable and practical. It is far more important to ensure that we have that than rush something out, which would be very easy to do but would not be the right approach.

**John Finnie:** Can you clarify who is responsible for implementing the plan?

**Fergus Ewing:** The buck stops with me.

**John Finnie:** Thank you.

**The Convener:** I understand your determination to get the process right, and I think that that is entirely the right approach. However, you will have in your brain a timescale for when you want to get it right by. Can you give the committee an indication of when that would be? You have not done that yet, and I wondered whether I could push you for some guidance on it.

**Fergus Ewing:** Obviously, we are talking about the national development plan at the moment, not the bill. It is one of the pledges in our manifesto, but, advisedly, the authors of the manifesto did not set a timescale because we knew that it was a matter that needed to be the subject of careful thought. I therefore do not have in my brain a definite timescale, but I am always keen to make as swift progress as possible.

To answer your question directly, I envisage that it would be possible within a reasonable period of time to set some kind of target for timing, because people want us to make progress. However, I am not planning to do so today, because I think that it is too early. We have not really had the chance to hear views from crofters and their representatives about what precisely they want to see in the plan. I have mentioned a series of things, but it could well be that the process of engagement might raise another series of issues. Some that occur to me

include more of a focus on potential areas of further diversification such as food and drink, tourism and renewable energy, all of which are very important areas for many individual crofters.

There might be a host of such ideas. I do not want to delimit and constrain the national development plan's ability to be ambitious, bold and effective by the arbitrary and premature setting of a timetable. However, I always want to make progress swiftly, so I might give you a clearer answer at some point in the reasonably near future, if that is any consolation.

**The Convener:** Even with your reference to “the reasonably near future”, I am not sure that I am any the clearer. However, we will leave it at that for the moment. Unless anyone else has a question on the development plan, I will move to Stewart Stevenson.

**Stewart Stevenson:** I have a series of questions about the Crofting Commission, the first of which relates to the review of the commission itself. Can the cabinet secretary tell us a bit more about the review's objectives and give us an indication of the timetable for it and how the Government might deal with its outcomes?

**Fergus Ewing:** Yes, I can. The review will consider the governance arrangements of the Crofting Commission's board—in other words, the systems, procedures and support mechanisms that are in place to underpin effective decision making. The review will have due regard to the three recent common grazings cases at Bohuntin, Upper Coll and Mangersta—although not to the decisions taken—and it will also examine arrangements that are in place for handling conflicts of interest.

The work will be undertaken by business advisers and accountants Scott-Moncrieff, and we expect to make available the report on the review's findings early next year. The review will help to promote effective governance in the Crofting Commission; it will be an opportunity to take stock, learn from experience and examine positives as well as opportunities for improvement; and we expect the report and its findings to inform the new board of the crofting commission following the elections in spring next year. The Scottish Government will work with the commission, through its normal sponsorship arrangements, to ensure that due regard is had to the review outcomes.

**Stewart Stevenson:** I am going to change the order of my next two questions in light of what has just been said, but I will deal with both matters.

An issue that has arisen in evidence relates to delegated decision making and, perhaps, direct delegation to commissioners. The minister's comment that the review of the commission will

consider conflicts of interest might give a context to this question. Does the minister consider that the current processes of delegated decision making are working to the interests of both the commission and the crofting areas?

**Fergus Ewing:** We are supportive of the Crofting Commission's delegated decision-making initiative, and my officials have informed me that it has been undertaken in parallel with the Crofting Commission board's initiative to develop and implement regulatory policies and set the framework within which delegated decisions can be taken. That is good for governance, because it improves organisational efficiency and effectiveness and frees up commissioners' time for work on more strategic matters, which can be only a good thing.

Delegated decision making is sensible for many bodies and can work very well where the delegation is supervised and is carried out effectively. In local planning authorities, for example, it is routinely and correctly used to free up the time of senior officials and, indeed, members to allow them to consider the cases that really warrant the devotion of sufficient time and expense. In general, I support delegated decision making and I am told that it is working reasonably well.

**Stewart Stevenson:** With regard to the elected members—there are also, of course, appointed members—there appears, from the evidence that we have had, to be a tension between the idea that elected members have to act on behalf of the whole commission and the idea that they are simply delegates from their own constituencies. The issue is one that members here are probably familiar with, but I wonder whether the system of elected commissioners is working well in dealing with the tension between the two—perhaps alternative—duties that there are on commissioners.

Perhaps related to that is another question: how well do the staff who are appointed help those who are elected take a corporate view rather than an individual one? I am sure that that will be necessary from time to time.

**Fergus Ewing:** Such issues are matters of debate and, indeed, I discussed them with my officials earlier this morning. Elected commissioners are expected to bring their knowledge of crofting from their respective constituency areas and their responsibility is to use that knowledge better to inform board decisions on regulatory matters.

The Crofting Commission is, as I mentioned earlier, fundamentally a regulatory body, which puts into sharp relief the potential conflict of interest of an elected commissioner in, for

example, representing one individual person in one individual case. There is a fundamental debate to be had here about the role of the elected commissioners, because each member here would probably take the view—as I certainly do—that our job is to represent all constituents as individuals and to do so irrespective of their views, our views, their politics, our politics, their position and their standing. Our job is to represent everyone. It would therefore be a matter of common view that someone who is elected should represent those who elected him or her. However, in a regulatory body such as the commission, the purpose is to effect and carry out and implement regulations.

This is a very important area for debate and, perhaps, reform of the law in due course. I am very interested to hear the committee's views in that regard after it has had the chance to reflect on what I have said and what has been said by others in evidence. Being an elected commissioner is not an easy task.

**Stewart Stevenson:** So if I take this back to where I started, you are saying that this is essentially part of the review of the Crofting Commission.

**Fergus Ewing:** I think that it is something that, if it wished to, the committee could consider in the sense that it is a legitimate and important area of debate. What is the duty of an elected commissioner of the Crofting Commission? Is it to individuals or is it to the area? Is it to bring knowledge and expertise to the board or is it to opine, lobby and put forward the case of individuals? I am not prescribing any of those views but it appears to me that there are potential areas of reform in relation to the proposed legislation.

**John Mason (Glasgow Shettleston) (SNP):** As the cabinet secretary probably knows, my constituency does not have many crofts so I am learning as we go along. My questions are about administration costs, including, to start with, the cost of having to register a croft. It has been pointed out to us that registering a croft involves quite considerable costs, particularly the requirement to put advertisements in newspapers, which some questioned as possibly being a little bit out of date and quite expensive. Often there seem to be legal costs or other costs involved in the registration process, and we have certainly had some witnesses suggesting that that is an area where things could be modernised and perhaps simplified. Do you have any thoughts on that?

**Fergus Ewing:** That is another good point that has been raised by your committee members today, convener.

There are costs involved, and they are incurred in maintaining the register, which is free to search online. The £90 fee for registering or updating a croft is based on a common principle of public finance, namely cost recovery, and the fee has remained the same since the register commenced on 30 November 2012. Scottish ministers recently announced that the fees charged by Registers of Scotland will remain the same.

On potential cost savings, the 2010 act provides that in most cases the applicant for first registration of a croft must,

“on receipt of the certificate ... give public notice of the registration ... by ... placing an advertisement, for two consecutive weeks, in a local newspaper circulating in the area where the croft is situated”.

That requirement has been the subject of much criticism, given that the cost of advertising is, as Mr Mason has quite rightly pointed out, not inconsiderable. As part of the regulatory review process, we will explore options for removing or reducing costs in this area, possibly through the use of some form of web-based notification system. It needs to be considered carefully but the member has raised a very valid point indeed and one with which I have a degree of sympathy.

**John Mason:** Thank you—that is great.

Secondly, there is the whole question of how common grazings are mapped. I am not entirely clear about this but it has been suggested to us that in the past specific funding or a specific budget was given to the Crofting Commission to map common grazings but that that is no longer the case. That appears to be the commission's reason for not carrying out mappings of common grazings at present. Is that your understanding, or were you expecting the Crofting Commission to carry on with such work within its existing budget?

**Fergus Ewing:** No funding has been withdrawn. The Scottish Government provided the commission with an additional £400,000 over the four years from 2012-13 to 2015-16. At the outset, that was expected to be sufficient to facilitate registration of all the circa 1,000 common grazings.

The task proved to be more challenging than had been first anticipated and despite the Crofting Commission's adding significant levels of resource from its own budget, it was only able to register around 300 common grazings. That equates to around £1,300 per grazing, without taking into account resources above the £400,000 budget that were invested by the Crofting Commission, and it is likely that registering the 500 or so grazings committees without a committee in office will be more resource intensive.

Any decision on whether to devote resources from within its existing budget allocation to

continue with common grazings registration would be for the Crofting Commission to make and would need to be balanced against the organisation's other responsibilities, such as processing regulatory applications, tackling absenteeism and administering the annual crofting census. That illustrates the importance of the governance review that we are carrying out and of ensuring that, in some cases, delegated work is carried out to allow the body to operate as efficiently as possible. An important matter has been identified and I hope that I have given the full factual detail of the situation at the moment, if not a perfect solution to the problem. However, it is a problem that we are considering.

10:00

**John Mason:** You said that there was a governance review. I imagine that that could throw up a lot of different things. Are you saying that, if there was £400,000 in the past, there are no plans to repeat that with another £400,000 to move the situation on?

**Fergus Ewing:** After next year's elections, the new Crofting Commission should consider how to continue the work. It is a perfectly legitimate topic for the process of elections, of course, and we will need to discuss with the commission the question of how we achieve a task that we all wish to be carried out effectively and swiftly.

Of course, it is not only in the crofting counties that there is much work to be done in completing registers. As members will know, the land register is being converted to map-based land certificates, as paired to the register of sasines. Most people understand that such matters are being progressed but cannot be done overnight. It is the nature of the beast that such work must be done with great care and meticulous attention to detail; otherwise, it is of no purpose.

**The Convener:** The committee has heard that it is important to ensure that the system is map based. Your answer to the point that John Mason raised is reflected in answers that we have had from previous witnesses. However, there is definitely a call from all the witnesses—across all the bodies—that more money is needed for croft registration. With the budget coming up, have you made a plea for some extra money to allow registration to be carried forward over the next couple of years so that we get it right?

**Fergus Ewing:** As members will be aware, there are huge pressures on the budget from many sources. I undertake to communicate with the commission to explore how best to ensure that we all fulfil the functions that rest on us.

**John Mason:** I understand that, to appeal against something in the register, one has to go to

the Scottish Land Court. We have had slightly differing evidence from witnesses about that. It has been suggested that a mediation service might be helpful, as that would save people having to go to court to resolve disputes, which can be expensive, I presume. On the other hand, one witness told us that the Scottish Land Court is quite a friendly court and a lawyer is not necessary, so it is not such a bad process. Is there a need for mediation, or is the Land Court process sufficient?

**Fergus Ewing:** I am amused by the phrase “friendly court”, but I will pass to Michael O’Neill for an answer.

**Michael O’Neill (Scottish Government):** In considering the changes to crofting law, mediation should be considered because it may be a useful tool in settling disagreements. So far, there have been about 44 challenges to croft registration and common grazings registration combined, out of about 3,500 registrations. My understanding is that most of those cases are being considered by the Scottish Land Court. That is done swiftly and the process is not intended to require any specialist legal representation, which should reduce crofters’ costs. There may still be people who are hesitant to take a challenge to court, but the figures may suggest that the current system functions well, in that the vast majority of boundary disagreements are resolved prior to registration.

If mediation is to be progressed, we will need to consider the financial implications and the risks. There will still be challenges, which will likely end up in the Scottish Land Court.

**John Mason:** Are you saying that there could be extra costs if we bring in an extra layer?

**Michael O’Neill:** Potentially, yes.

**John Mason:** I am with you. Thank you.

**Fergus Ewing:** Mr Jackson has a supplementary point to make, if that is okay.

**Gordon Jackson:** It is on the context. As far as we know, there have been 44 challenges so far, which equates to 1 per cent of the cases. The fact that that is a relatively small number suggests that amicable agreements are being reached in most cases.

**John Mason:** I suppose that my only comment is that, as Mr O’Neill said, some people will back off as soon as the word “court” is mentioned, whether they feel that they are right or wrong. However, I accept that none of us knows that at the moment.

**Mairi Evans (Angus North and Mearns) (SNP):** I was going to ask about access to mortgages for crofts, but the issue has been touched on already.

My other question is on the provisions in crofting law that deal with absenteeism and neglect, on which we have heard from quite a few witnesses already. One of them said:

“The underlying principles ... are ... simple, but the process ... is anything but.”—[*Official Report, Rural Economy and Connectivity Committee*, 16 November 2016; c 16.]

It would be useful for the committee to hear the cabinet secretary’s thoughts on those provisions.

**Fergus Ewing:** The characterisation that you quoted might be shared by many people. I think we all accept that the underlying principle is simple, but the process is anything but.

The current legislation has the means to deal with absenteeism and neglect, although some regard the process for dealing with a breach of a crofter’s duty on an ad hoc basis as cumbersome and long and believe that it does not necessarily improve the overall situation in an individual community. The commission is trying to move the way in which it focuses on such issues towards the idea of geographically based regulatory work, whereby it operates within a particular community at the community’s request to address the issues concerned, including breaches of duties.

With regard to new legislation, absenteeism and neglect clearly need to be considered and the most appropriate way to deal with them thought through. They are very sensitive issues, as they are about people’s lives. Often, absentees have a strong affinity for the croft. Indeed, people may have had to leave places such as the Western Isles to go to Glasgow to work in the police force or the national health service. All of us probably know a great many people who have a real affinity for their croft. I am very conscious of that and I hope that we all understand the need to deal with those matters sensitively and see that as the appropriate approach.

**Mairi Evans:** Absolutely. The young crofters who came in to give evidence talked about how important it is to get new entrants into crofting, and the points that you touched on with regard to mortgages are important. I was glad to hear about the conversations that you have had with the banks, because they are the big stumbling block. I do not know whether it is possible for us to seek more information on that, but it would be useful to look further into it, because the banks play an integral role in that situation.

**Fergus Ewing:** I would be pleased if the committee felt it appropriate to involve the banks. That would be a welcome intervention if the committee thought it appropriate.

**The Convener:** One issue that was mentioned was that the common grazings committees have to produce and submit annual reports on crofting

that cover things such as absenteeism and neglect. Some of those committees find that particularly difficult to deal with. Indeed, I am not aware that the majority of them actually submit reports. Is there a better way of dealing with those issues?

**Fergus Ewing:** I ask Mr Jackson to deal with that, because he is keen to do so.

**Gordon Jackson:** On a point of clarification, the 2010 act requires common grazings committees to report at the earliest opportunity, but thereafter every five years, not every year. It is a challenging area because the committees might perceive that they are interfering with the day-to-day business of crofters within the crofting communities. Nevertheless, that is a requirement in primary legislation.

**The Convener:** How many have actually submitted annual reports?

**Gordon Jackson:** The Crofting Commission has recently encouraged common grazings committees to come forward, but they have not done so as yet.

**The Convener:** I understand that the Crofting Commission is asking people to come forward. Do you have a figure for those who have actually submitted reports? If not, would it be possible for you to submit that in writing to the committee post this session?

**Gordon Jackson:** As far as I am aware, no committees have reported as yet.

**The Convener:** No committees have reported, despite the fact that the provision was instigated in the 2010 act.

**Gordon Jackson:** That is correct.

**The Convener:** Do you feel that the committee should be looking at that more closely in relation to the future of crofting?

**Gordon Jackson:** I would certainly agree with that, yes.

**The Convener:** Thank you. The next question is from Richard Lyle.

**Richard Lyle:** I entirely support crofting; it is an integral part of the Highlands and of Scotland. This legislation has been going on since 1883—for 133 years—and has been amended 22 times. Prior to that, we had the laird, then we had the crofter. In 2010, we changed it to cover owner-occupiers. Does the cabinet secretary agree with witnesses that provisions in the 2010 act with regard to owner-occupiers are complex and inconsistent and have proved difficult to apply? Do you intend to consider legislative changes to that in future?

**Fergus Ewing:** I am no legal expert, but I was fortunate to have a very interesting and lengthy discussion with the crofting law group, many of whose members are extremely experienced and well informed. I think that the crofting law on owner-occupiers who croft is complex; the issue has been raised in the crofting law sump by members of the crofting law group; and there have been calls for a simpler definition of “crofter”. It is important that new legislation addresses the matter, and I am open to suggestions as part of our considerations in that respect.

We should go back to our earlier discussion about what it is we are trying to achieve. There is a case to consider, because what we should be trying to achieve is the removal of impediments to people obtaining affordable housing—or any housing, or access to a mortgage. Those are issues on which, I hope, we would all want progress to be made, given the complexities of making some of these obvious, clear, simple and desirable social aims as easy to achieve in the crofting counties as they are in other parts of Scotland. That purpose should be the driver of our work on legal definitions. In any case, that is certainly an issue that requires to be simplified, and I would therefore support the thrust of what Mr Lyle has said.

We should always remember that the 1886 act came from the struggle of crofters in the Bernera riots in 1874 and the battle of the braes about 10 years thereafter. It was only activism against the landlords of the time that brought security of tenure following the Napier commission. These are not matters of history, but things that are still felt strongly in the crofting counties today. We need to proceed with clear objectives, but with one eye on history.

**Richard Lyle:** As a lowlander who is starting to learn about and getting very interested in crofting, I totally agree with your final comments.

The evidence to the committee so far on owner-occupiers falls into two camps. Those in the first camp feel that someone who occupies a croft should be considered a crofter and thus subject to the same rights and responsibilities, and those in the second feel that owner-occupiers should not be considered crofters and thus should not be subject to crofting regulations. Do you have a view on either opinion?

**Fergus Ewing:** I am aware of two views and, again, I think that this is a matter for legitimate debate. Indeed, that debate is necessary; it would be impossible to approach our task with regard to crofting law without looking at such issues at a high level. I will ask Mr O'Neill to answer your question from a more technical point of view.



**Michael O'Neill:** It is a very interesting question that attracts differing views among stakeholders and potentially polarises opinion. Given where we are with thinking about new legislation, it is really too early to say that there is a firm view on the matter. There is a case to be made either way, and people should feel free to make their views heard as we go forward to ensure that each case is considered on its merits.

**Richard Lyle:** Thank you.

10:15

**John Mason:** Common grazings have already been mentioned. Some people seem to feel that grazings committees are working and are quite happy with them, while others feel that they need to be upgraded, given that a lot more things are being done with common ground than used to be the case. Interestingly, the Shucksmith report says:

“At community level, Grazings Committees should be modernised to become *Crofting Township Development Committees* with a broader remit and more inclusive membership.”

It has been suggested that, with wind turbines appearing, or potentially appearing, on common grazings and with other ways of using the land, grazings committees need to be updated. Do you have a view on that?

**Fergus Ewing:** I think that there is a very strong case for updating the role of grazings committees. Indeed, the topic was raised by the crofting lawyers, particularly Sir Crispin Agnew, who might well have shared his thoughts on the matter with you.

Grazings committees are very much creatures of their time. They were prescribed as an appropriate method of ensuring that the common elements of crofting were properly organised in a world where crofting was the norm—indeed, the fundamental way of life and existence. As Mr Mason pointed out, things have changed substantially since then, but the role, definition, duties, functions and organisation of grazings committees have not been updated alongside them. As a result, law reform should involve examining the potential for grazings committees or their future equivalents to take on business development or community development company-type roles. At present, their remit is, I am told, prescribed in statute as set out in section 48 to 50B of the 1993 act, and there might be a desire for the grazings committees to assume a wider role. That would need to be looked at in the context of legislation.

For those who are reading the *Official Report* of this discussion, I am keen to stress that the vast majority of grazings committees function well and

are operated by people who give their time freely and voluntarily pro bono, and that we recognise and value that work.

**John Mason:** Continuing with that theme, the issue of a deemed croft in a common grazing has been raised with us. As I understand it, that might sometimes be marked with only an X on the map of the common grazing, and people have asked whether there is a conflict there between guidance and what is eligible on an integrated administration and control system—or IACS—form. I think that the area is quite complex.

**Fergus Ewing:** I ask Mr Jackson to take that question. [*Laughter.*]

**Gordon Jackson:** It is a complex area, but the top-line answer is relatively simple. The Scottish Government can see nothing to prevent common grazings committees from applying for funding under the SRDP. Furthermore, it sees nothing in the IACS rules to suggest that land that is subject to common grazings rights is precluded. That is the Scottish Government's position on the matter.

**John Mason:** So as far as you are concerned no change is needed.

**Gordon Jackson:** That is right.

**John Mason:** Thank you.

**The Convener:** I do not know who would be the appropriate person to answer this question—I am sure that you will decide that, cabinet secretary—but one question that has come up relates to the fact that shares in common grazings have become separated from crofts to such an extent that those who sell their crofts retain their common grazings shares and do not actually use them. It has been suggested that that prevents new entrants from getting a share in the common grazings; it has also been suggested by some witnesses that people who have shares in the common grazings but who are not active crofters are able to benefit from any income that the common grazings achieve. Is that a problem? If so, what should happen about it?

**Fergus Ewing:** I will pass that over to Mr Jackson, who I know has looked at the issue.

**Gordon Jackson:** We do not have figures, but anecdotal evidence suggests that a number of common grazings are underutilised and that some people who have shares are not utilising them. There is a missed opportunity and, as the committee has recognised, the area needs to be looked at in the context of crofting law reform and how matters are progressing. It is a missed opportunity, particularly for new entrants; it is important matter.

**The Convener:** You are suggesting that you accept entirely that it is a problem. As a farmer, I

note that we have—rightly—got rid of the slipper farming cases, but there may be slipper crofters. I see the cabinet secretary shaking his head, and I know that we have got rid of a lot of them, but is it correct that we have a situation in which a shareholder in the common grazings may be taking income—to which he or she is entitled—but without doing any activity?

**Gordon Jackson:** Not to my knowledge. The concept of the active farmer still applies; the area-based payment depends on active use. There is an opportunity for shareholders who do not utilise the common grazings to enter an agreement to pass over the share—the souming—to somebody else who can use it.

**The Convener:** I am going to push you a wee bit on that. You have said that there is no reason why a common grazings committee cannot claim a payment. Indeed, such committees get payments for resumptions and any use of the common grazings for windfarms. We have also been told that they are not allowed to hold money. The money belongs to the shareholders and the committees have to pay out the money if it is not being used to improve the common grazings. People could be taking an income from, but not contributing to, the common grazings. Is that correct?

**Gordon Jackson:** My understanding of the legislative provisions is that resumption moneys go via the constable and should be distributed to the shareholders. The money should not go to common grazings committees. Furthermore, pillar 1 payments under the CAP for use of the common grazings should go to the shareholders and not to the committees.

**The Convener:** Someone with shares in the common grazings but no croft could take money that is being paid under a grant scheme.

**Gordon Jackson:** It is slightly complex. In that scenario, it would be a deemed croft. It would be a croft for all intents and purposes, and if the shareholder utilises the common grazings they would be entitled to CAP payments.

**The Convener:** I observe that a person who has a deemed croft on the common grazings but does not have inby land would not necessarily be using the common grazings, because there would be nowhere to overwinter the stock. Does Peter Chapman have a view?

**Peter Chapman:** We have heard that there is real pressure for young new entrants to get into crofting and that it is very difficult for them to get a start for various reasons. Thousands of acres of common grazings are underutilised, so why can we not take some of that land and create new crofts for young, keen folk to get into the crofting system? That suggestion has been made.

**Fergus Ewing:** That issue may have been raised earlier. It is a perfectly legitimate point and one that should be considered very carefully indeed, because I think that we all share the objective of getting new entrants into crofting.

There is land of all sorts. Last week in the chamber, when John Scott raised with me the general question of new entrants, I referred to work that has been done under the chairmanship of Henry Graham and by me to persuade public bodies to look at making available land that they own to new entrants. Of course, public bodies that own land in the crofting counties should be encouraged to look at new entrants not only in farming, but in crofting.

That important work has the potential to provide some opportunities for new entrants, and the Forestry Commission has led the way on it. Other public bodies, including Scottish Water, Scottish Natural Heritage, the Scottish Environment Protection Agency, local authorities and even smaller public bodies, are actually quite large owners of land in Scotland, which they hold for the nation. They have all been tasked by me and Mr Graham to come back fairly early in the new year and advise us whether they think that there is the potential to provide some of the land that they own—perhaps relatively small parts of it—for new entrants. That is a related piece of work that I hope is of relevance to the topic.

**Peter Chapman:** That is one issue—and I understand what you are saying about public bodies—but my question was specifically about common grazings. Is it possible to use some of the common grazings to create new crofts?

**Fergus Ewing:** That is a perfectly legitimate point that should be considered further in exploring the means of fulfilling an objective that we all share.

**John Finnie:** We have heard frequent mentions of smallholders. Does the Scottish Government have any plans to bring together smallholders and crofters? Could that be part of a simplification of crofting law?

**Fergus Ewing:** I am not ruling out the possibility that we may need to simplify and improve the legislation that governs smallholding and crofting and look at how best to make crofting and small landholding legislation work in practice. Unlike crofting, which is undertaken only in specifically designated parts of Scotland, small landholdings are spread across the country. Turning them into crofts is not necessarily the answer. There are concentrations of small landholders in Ayrshire, Aberdeenshire, Dumfries, the Scottish Borders and east central Scotland, but there are only a small number in the designated crofting areas.

I can share with the committee that recently my officials met small landholders on Arran, who had differing views. Some wanted to be crofters and some did not. Some did not want to be tenant farmers either. It is right that we consider all their views and the views of other small landholders across the country, to give them the opportunity to have their voices heard before decisions are made that affect their homes and businesses.

**Rhoda Grant:** The Scottish Government has said that it will legislate on crofting, possibly towards the end of this parliamentary session. You have rehearsed some of the options for that legislation, but you have not expressed a preference. Is there one option that is the Scottish Government's preference? What is the timescale for consulting on that?

**Fergus Ewing:** I have a script here, but I do not need it so I will not use it.

There are two main approaches and a hybrid. The first main approach is the clean-sheet approach that has been advocated by some. The second main approach is to tidy up the legislation and use the good work that lawyers and others have done to produce the sump. "Sump" is a slightly derogatory word, since it refers to a container for waste water. The sump is actually a valuable container of useful ideas for reforming and upgrading the legislation.

In other words, one approach is a fundamental overhaul, starting from first principles, to update crofting law and make it fit for the 21st century. I hope that I am fair in saying that Sir Crispin Agnew has perhaps advocated that kind of thing. It would overhaul definitions of grazings committees, to bring modern parlance and concepts to them and allow them to be used as community development vehicles, for example. The other approach is to tidy up the existing legislation. A third group argues for a hybrid approach.

I should say for completeness that there are others who believe that we can have crofting but do not necessarily need the Crofting Commission. I do not necessarily share that view, but it has been expressed by others in the debate.

I have no set view on which approach should be taken. Indeed, it is right that I should not have a set view at this very early stage of consideration. If it is the case that we should look at an overhaul, then, almost by definition, one should not have a set view until that approach has been fully considered. One should consider the merits of that approach first before coming to a view on the correct approach to take.

10:30

All that means that I do not expect that the bill will be introduced in the first half of this parliamentary session—Rhoda Grant referred to that—and nor should it be. Most crofters of my acquaintance are blessed with large quantities of patience and would far prefer that we spend a lot of time on matters and have a lot of discussion rather than rush into one approach or another.

I hope that I have given a reasonably clear answer to Rhoda Grant.

**Rhoda Grant:** When will you formally consult on the matter so that you can take some of those views forward? My concern is that Parliament dealt with the 2010 act at the end of a parliamentary session and with undue haste. That created a lot of the issues that are now being put in the sump, because the timing meant that there was not the chance to go back to the bill and review the provisions about which concerns were raised. I fear that if the new crofting act, whatever form it takes, is dealt with at the same point in a parliamentary session, the same thing will happen and we will end up with legislation that creates problems. I agree that we need to get the legislation right, but rushing it through at the end of the parliamentary session might not be the way to do it.

**Fergus Ewing:** I hope that it is not impertinent to say that it is taking a slightly gloomy perspective to argue that legislation that is passed in the final year of a parliamentary session is necessarily inferior to that which has been passed at a different time. I have been the lead minister for many bills, some of which were dealt with at the end of the parliamentary session, and I could only bristle at that idea—initially at least.

To be serious, the process is not to be rushed. That is the important thing to me. I am not trying to dodge any question about the timetable; I sincerely think and strongly believe that we should take time and take time to listen to views very carefully. There is no compulsion or compulsitor that means that we have to rush into the matter. My impression is that that is not expected of us.

The committee's decision to work on the matter is a very welcome contribution to opening a debate on a topic to which it is very clear that different approaches could be taken. We need to collectively and carefully decide what we want our work in the Parliament to achieve.

**John Mason:** I will press you on that, cabinet secretary. You said that we should take time, but could somebody fairly quickly decide whether we will just do a sump tidying-up exercise and perhaps a consolidation, which would be pretty straightforward and which we could move forward fairly quickly, or take the clean-sheet approach

and rewrite the whole of crofting legislation from scratch, which would clearly take a lot longer? Does that basic decision not need to be made fairly soon? There is no point in delaying if we are just going to do the sump exercise in two years' time.

**Fergus Ewing:** I do not accept that that is the correct way to look at the matter, for reasons that I will give.

First, I do not expect that it would be a simple process if we decided simply to proceed with the sump approach. Moreover, it would perfectly legitimately lend itself to every member who wished to supplement any bill with the first approach. If a crofting bill is drafted, it is quite open to members to lodge amendments to it to fundamentally overhaul crofting. Just because the Government chooses one approach or the other, that does not necessarily mean that that will be Parliament's choice. It is up to Parliament what choice to make.

I would far prefer to work towards developing in collaboration an agreement on whether to take a fundamental overhaul approach or an upgrading and improving approach. That needs time. We have made it quite clear that we do not expect to legislate in the early stages of this parliamentary session. I agree that the decision on the timing of a bill needs to be taken in due course in the context of the Scottish Government's other legislative priorities, and I undertake that we will consider that decision very carefully.

I do not think, with all respect to the member who is quite rightly pressing me, that the Government could decide to legislate to tidy things up based on what is in the sump, and that that would of necessity mean that that is what Parliament would do.

Secondly, there is nothing very simple or easy about crofting law. Ms Grant, Mr Rumbles, Mr Stevenson and I have seen that through the various efforts that very well-intentioned ministers of all administrations have made. There are no easy solutions here. That argues for us to take the approach that I have advocated: to try to develop a broad consensus in and outwith this place before we decide which approach to take.

**The Convener:** I will bring in Mike Rumbles, and then I will wrap up with some questions on finance.

**Mike Rumbles (North East Scotland) (LD):** From a Government perspective, the right approach is to take time to get right the decision whether to start with a blank sheet of paper and begin the whole thing again or to amend the existing legislation. I understand that the Government has huge resources to get this right

and will take time to do that and then present the bill to the committee and Parliament to examine.

My plea is that it is very important that the committee itself is not rushed because the Government has taken such a long time to present the bill. The committee must also have an appropriate period in which to examine the bill in detail to make sure that everybody gets this right. We are all working for the same thing. I plead for time on the Parliament side as well as on the Government side.

**Fergus Ewing:** I find myself in agreement with Mr Rumbles.

**Mike Rumbles:** That is good.

**Fergus Ewing:** It is a happy state to be in. I think that he is right. I undertake to work with the committee: its role is valuable and the work that it is doing is useful. I undertake to continue to work with the committee on this. That is the best approach. I am particularly keen to get a bipartisan approach across the political parties if we possibly can.

**The Convener:** I have three questions on financial matters. The Government has been good at supporting the crofting bull hire scheme, which I believe costs in the region of £0.25 million to run, excluding capital costs. Is the cabinet secretary happy that that scheme will continue to run at the level that it has done and with the investment that it has had, post the budget that will shortly be announced?

**Fergus Ewing:** I have been pleased to take a lot of decisions on the loan scheme as quickly as possible. Every loan granted—

**The Convener:** I am sorry if I did not make it clear. I meant the bull hire scheme. I am pretty sure that I said the bull hire scheme.

**Fergus Ewing:** Sorry, I thought that you said the loan scheme.

**The Convener:** That is my next question. You can answer that one in a minute.

**Fergus Ewing:** It would be wrong for me to make any undertakings about the budget. It is not for me to do so. Both the loan and the bull hire schemes play a valuable role. We want to continue to do everything that we can to support crofting.

I am well placed to say that we are under enormous financial pressure in the budget. I do not mean to be political. However, the pressures from a reduction in our budget mean that in my seat there are no easy answers and only a series of very difficult choices to be made.

The committee may try, but I do not think that I can be drawn into specifics. That would not be

right, because all those matters are quite properly the province of Mr Mackay as the Cabinet Secretary for Finance and the Constitution in discussion with all cabinet secretaries.

I am pleased that we have been able to support the various schemes and I was very pleased to visit one of the recipients of a crofting loan who had completed his house. It is a very effective and cost-efficient method of providing houses and there is not a great deal of bureaucracy or administration involved. Were mortgages to be more easily and readily available to young people on crofts, it might be easier for more young people to build or obtain houses on crofts. We want repopulation and that is not easy to achieve. All those things will be taken into account in the budgetary decisions.

**The Convener:** I understand that you want to skirt around the edges of that, cabinet secretary, but I note your understanding and commitment that the bull scheme and the crofting house grant scheme are both important and that, where possible, they should continue at the current level.

Cabinet secretary, does the Crofting Commission have sufficient resources to carry out the functions that you are asking it to do?

**Fergus Ewing:** Obviously, all public bodies are required to optimise the use of finite resources and they need to be as efficient as possible. The Crofting Commission has already taken proactive action to improve organisational effectiveness, for example with the introduction of a new electronic case management system, of regulatory policies and of delegated decision making—we have covered some of those topics. They have made progress but, as with all public bodies, more progress will be required to be made at a time of serious financial pressure on budgets, and those are not easy matters. As far as I know, all the chief executives of public bodies are well aware of that issue and they work with the Scottish Government to get the best results possible out of an increasingly reduced budget.

**The Convener:** Those are all the questions that we have for you. Is there anything that you or your team would like to add before we conclude this part of the meeting?

**Fergus Ewing:** It is not for me to say, but I hope that we can work together on those issues in the way that Mr Rumbles suggested and I expect that we will. I also hope—this is really for the committee and it is not meant to be cheeky—that some meetings could be held in the crofting counties, perhaps in Stornoway or other places. Gail Ross looks very enthusiastic, so perhaps her constituency might be an appropriate location. The Scottish Parliament committees have always done such things, but it would be very appropriate for

that to be considered as the way in which we do our work. That might allow evidence taking from ordinary individuals who—because of the geographical distance from Edinburgh—do not have their voices heard, generally.

**The Convener:** Thank you for your comments, cabinet secretary, and the last comment on getting out and about was not at all cheeky. Looking to see whether we can meet crofters is one of the things that we have on our agenda for when we consider the islands bill.

I thank all the witnesses for attending today's meeting, which is the committee's final planned meeting on its review of the legislative priorities for crofting. The committee will now consider the evidence that it has heard and will write to the Scottish Government in due course.

10:43

*Meeting suspended.*

10:50

*On resuming—*

## Draft Budget Scrutiny 2017-18

**The Convener:** The fourth item on the agenda is the committee's first evidence session on the Scottish Government's forthcoming draft budget 2017-18. Today, we will focus on forestry and I welcome Stuart Goodall, chief executive of Confor; Jon Hollingdale, chief executive of the Community Woodlands Association; Willie McGhee, co-ordinator of the forest policy group; and Rodney Shearer, managing director of Alba Trees, which is part of Buccleuch Estates. I welcome the witnesses to the meeting and invite them to give a brief outline of their respective roles and of the organisations that they represent. Without being rude, I ask that the witnesses are as brief as possible so that we can get into our questions.

**Stuart Goodall (Confor):** Confor is the principal representative body for the forestry and wood processing sector. We operate across the United Kingdom and we are based in Scotland. We have 1,600 members—about half of whom are based in Scotland—representing the full range of the supply chain in the forestry and wood processing sector. I describe Confor as a broad church—we have everything from environmental non-governmental organisations and large forestry businesses to solo traders as members.

We operate on the basis of appointing members to a board and the board agreeing policy. It is my responsibility to represent that policy in places such as this. The last thing to point out is that—through direct membership and indirect membership via agents and the businesses that work in the sector—we represent the overwhelming majority of the private forestry sector in Scotland.

**Jon Hollingdale (Community Woodlands Association):** I am the chief executive officer of the Community Woodlands Association. We are a membership organisation that was established in 2003 by community woodland groups around Scotland, some of which are very much older than we are. We have 175 members from locations that range from the middle of Edinburgh and Glasgow right out to the Western Isles and the very north of Scotland. We represent a great diversity of woodland communities and activities from small woods on the edge of town that focus on recreation to large commercial forest operations—particularly in the north and west—that operate as social enterprises. Those operations manage forests commercially, but reinvest the profits for social benefit, such as creating housing, setting up renewables schemes and creating a lot of jobs.

**Willie McGhee (Forest Policy Group):** The forest policy group is an independent think tank. We produce research on local community forestry, on deer, and on the types of woodland that Scotland has and what it might need. We are very interested in local economies and in a diverse woodland portfolio for Scotland. Whereas Stuart Goodall badges a lot of forestry, we represent the opinions of the small and medium-sized operators and owners.

**Rodney Shearer (Alba Trees):** I am the managing director of Alba Trees, which is the largest container-tree nursery in Great Britain. We produce about 40 per cent of all the container trees in the country and we produce about 140 different species, spread over commercial forestry and native-style forestry.

**The Convener:** We would like to ask a series of questions. I will look to each of you to bring you in so, if you do not want to be called to answer, do not catch my eye and I will be happy to pass you by. Some people will want to give fuller answers and there might be areas on which you do not want to answer.

Following up on the concerns expressed by the Rural Affairs, Climate Change and Environment Committee in the previous session, does the panel think that, in the face of real-terms budget reductions, Forestry Commission Scotland can continue to deliver all its requirements and responsibilities? Have you seen any impacts of those reductions?

**Stuart Goodall:** It is quite clear that, if the Forestry Commission is going to deliver the objectives that the Scottish Government has set, the budget will be insufficient. Just to pick up a specific point, on the planting side there is a projected budget of £36 million under the forestry grant scheme, which is not just planting, though the bulk of it—£30 million—is planting. If we look at the average rate of grant that is being paid out, we calculate that it would require £45 million per annum in total to achieve the Scottish Government's 10,000 hectare a year target.

The previous Government's objective was to achieve 100,000 hectares by 2022, which was agreed with the agricultural community, the forestry community more generally and the Government at the time. We are falling behind achieving that objective. In order to achieve it, we would have to plant 13,000 hectares a year, which would require an overall budget, under the forestry grant headline, of £59 million. In that one area alone, with the current budget, we will not be able to deliver the current Government target, or what we would see as the required target, over the 10-year period.

**Willie McGhee:** Convener, did you mean Forestry Commission Scotland or Forestry Commission Scotland and Forest Enterprise Scotland?

**The Convener:** It is always difficult to separate the requirements. We are trying to identify whether the Government's forestry planting targets can be met within the budget that has been allowed, which I think is what Stuart Goodall picked up on.

**Willie McGhee:** As someone who bought land in the Borders in September 2015, applied for a grant and got the grant through in three months—that was in the teeth of a scheduled ancient monument and some environmental concerns—one of my concerns is that the commission is under pressure because of staffing. We heard the cabinet secretary doing a marvellous job of obfuscation in giving financial figures for Government departments. It is absorbed, I think. Bob McIntosh started cutting posts and funding in the Forestry Commission in preparation for austerity. The forest policy group would like the Forestry Commission and Forest Enterprise Scotland to be better resourced, not only to do things such as restocking in Forest Enterprise but to enable. Forestry Commission Scotland has always been an enabler, which means that it is able to give advice and guidance and assist agents. The time and resources that it has at the moment are not up to that. I would agree with Stuart Goodall's point about the absolute money issue, but the organisation itself needs to be well resourced.

**Jon Hollingdale:** I would endorse those two points. A lot of our members have remarked on the apparent stress among Forestry Commission staff. People are being asked to do more with fewer resources.

**Rodney Shearer:** There is enough will in the private industry to meet the planting target of approximately 10,000 hectares a year. At the moment, options for more than 10,000 hectares have been submitted to the scheme, and inquiries for a further 11,000 have been submitted to the Forestry Commission. The biggest problem that the Forestry Commission has right now is that 5,900 hectares has been approved, which has taken £27 million of the money. There is absolutely no way that the budget will get up to 10,000 hectares.

First, we needed a will within the private industry to plant that number of trees, and I would say that we have that. The second question, about whether there is enough money, can be set by whoever sets budgets.

11:00

The practical detail comes after that. Because of the lack of continuity in planting in the past few years, we have been losing employees from the forestry industry. The one thing that our industry needs is continuity so that we can retrain people and bring them back in. The question about whether we have the labour to plant 10,000 trees would be answered by the private industry, if we had continuity.

The next question is whether there are enough trees. I am in one of six major nurseries in Scotland. We are trying to plan the production of trees two or three years in advance of any schemes being approved. It is becoming increasingly difficult to have the confidence to plan trees for the future. We have just gone through a year in which the nurseries in Scotland have destroyed approximately 3 million trees. We cannot have another year like that.

**The Convener:** Thank you for that. It sort of leads us into the next question, or perhaps another question further down the line. The point is that staff and budgets are under pressure and we are not going to achieve the planting target. That seems to be the general response from all the witnesses.

John Finnie is next.

**John Finnie:** I would like to hear the panel's views on Forest Enterprise's approach to the acquisition and sale of land. We were told in 2014 that it could be used to encourage new entrants into forestry. How has that panned out?

**Willie McGhee:** I will start the ball rolling on that one. Forest Enterprise is charged within the repositioning programme to sell, to raise money, and to buy bare land, ostensibly to meet climate change targets. In the last iteration, it was buying farms, which was relatively contentious, and there were new entrants as in young tenant farmers in the lower lying land and forestry happening in the uplands or outby land.

The forest policy group lobbied quite hard for some mechanism whereby you could have new forest owners, tenants or entrants. I do not think that that has been achieved. It can be achieved, but we do not know what the target is in the repositioning programme that the cabinet secretary is considering—perhaps some of you do—but 12,000 to 36,000 hectares of public forest estate is to be sold off in the next four years to raise money to reclaim the sites of mines that were left by bankrupt coal mining companies. That is the message that we have been getting. We do not think that that is a good use of land. It could be better used in productive forestry, native woodland or commercial forestry, and to encourage new entrants.

There is an opportunity. Forest Enterprise is a flexible, listening and adaptable organisation. If it was instructed by the Government to encourage new entrants, it would do that.

**Stuart Goodall:** As Willie McGhee said, repositioning has been going on for some time. We have been sympathetic to the principle of repositioning. The national forest estate in Scotland emerged out of the 20th century and the objectives of the 20th century for what publicly-owned forests should be seeking to deliver, which was primarily timber production. If we fast-forward to the 21st century, it appears to make sense to say that a national forest estate is there to deliver a wider range of benefits, including stimulating the opportunity for new entrants, whether into forestry or farming.

We are sympathetic to that approach, and there are opportunities, including in farming, to provide for new entrants. The key thing for us is that when we are going through a process of repositioning, the forests that are sold are primarily productive. Forests that are being sold are not those on the edge of towns that are important for local access but those that are primarily for producing wood.

The sector will face the really difficult issue of a declining availability of wood in 20, 30 or 40 years' time. That will hit rural businesses in the forestry sector very hard. We are nervous that if we go down a repositioning programme route and sell productive forests that are then lost—cleared and not managed—it will mean that we will drain the supply of wood available. A significant component of the new planting that we are putting in place is to tackle that future lack of availability. If we are not mindful of what happens with the forests that we sell, we will make it even harder to achieve our new planting targets.

We support the principle; we believe that there are opportunities for it to provide for new entrants and to invest in new woodland creation. It could happen in different ways, and we will need to see what comes out of it, as Willie McGhee has said. Our plea is that the woodland that is sold should not be lost. An example of how it should be sold is in north-west Mull, where the community sector manages the forest, supports rural jobs and brings wood into the basket of Scotland's forestry resource. That is the kind of approach that we would like to see.

**Jon Hollingdale:** We are, likewise, very supportive of the principle, particularly where the receipts are retained within forestry for forestry purposes—that was the critical step forward in 2005—rather than the receipts just disappearing back to the UK Treasury. That is very important.

Disposal has been an important trigger for community acquisition. Over the past decade,

about 4,000 hectares of disposals, which is 6 or 7 per cent of the total, has gone into community hands. As part of the process, community bodies are required to demonstrate their plans for future management. Very often, those plans are for more intensive management, which bring woods into management and do more than Forest Enterprise would have been able to do.

An interesting step would be to place some of those requirements on all purchasers. At the moment, if the forest goes to community hands, there is a requirement to have an appropriate management plan and a commitment from the community to deliver certain public benefits. The remainder, which is sold to the private sector, has no such requirement. Of course, some of the forests that are sold to the private sector are managed productively—I am not making the case that all of them are not. However, there is a risk that some will be lost. Introducing requirements for private sector purchasers would be an interesting step.

**John Finnie:** What use has the income from sales been put to? Has that use been appropriate, or do the witnesses have other suggestions?

**Willie McGhee:** I have very strong opinions. [*Laughter.*] Previously, I believe that what happened—I am looking at my learned colleagues—is that when Forest Enterprise disposed of 1,000 hectares on the west coast of Scotland and bought a 200-hectare farm in Fife, the receipts had to cover all the operations. The unit cost, or hectareage cost, was higher for buying agricultural land and the establishment of the forest had to be funded from the receipts.

It is now proposed that we sell rural forests that may be of benefit to rural communities if they can get their hands on them—that is great—but the receipts will go into greening or reclaiming abandoned industrial land such as sites in central Scotland or Ayrshire that were abandoned by the likes of Scottish Coal, or others who went down the tubes and left derelict sites. Those of us who have worked in the central belt know that the unit costs are staggering. To a forester, a piece of land in central Scotland might be £20,000 per hectare; on the side of a hill in Caithness or the Borders, it might be £2,000. The Government is signing up—we think—to do something that is quite barking.

**John Finnie:** Who will benefit from the greening, as you describe it, of those sites that were shamelessly abandoned by some of those coal companies? Would they view it as barking?

**Willie McGhee:** If there were community benefits and communities adjacent to the sites were seen to benefit, I would not have a problem with that. However, many of the sites, such as in Alloa, are not adjacent to communities—they



might be more than 2 or 3 miles from a community. It is not entirely obvious why the Government would pick up the tab for somebody else's failure in order to do something that might not benefit the community. I think that the community should be consulted on how it would want the money to be spent.

**The Convener:** I will bring in Jon Hollingdale in a moment, because I know that he wants to follow up on this. Are you suggesting that the money will achieve greening but that it will not achieve commercial timber?

**Willie McGhee:** It will not achieve community buy-in either. The situation was the same with the money for the buying of farms, which was potentially great for climate change targets in the short term but was perhaps not great value for money and did not necessarily benefit communities.

**Jon Hollingdale:** It is very difficult to say what would be produced if the greening of some of the sites concerned went ahead, given that some sites have land that was never mined in the first place, some have been partially restored and some have barely been restored. Clearly, what could be produced on those sites will vary greatly.

Community buy-in has to be considered on a case-by-case basis. I am aware that of the acquisitions that have happened to date, some have had considerable community buy-in; for example, Forest Enterprise Scotland bought a site outside Wick in Caithness, and the local community has been involved in that process—the feedback that I have had has been very positive. Whether that is a cost-efficient way of achieving public benefits is a slightly different question, and I might reserve judgment on that in some cases.

**John Finnie:** Does any of the witnesses have concerns about any major acquisition of forest from a major landowner?

**Willie McGhee:** Do you mean Forest Enterprise Scotland buying land from a major landowner and putting money in their pockets?

**John Finnie:** Yes.

**Willie McGhee:** I might use Jon Hollingdale's more guarded words here. To answer your question, that would have to be considered on a landowner-by-landowner basis and would depend on who the land was acquired from and for how much. In essence, I would wish to see that kind of purchase operating under the new community asset transfer scheme, whereby the purchaser would not have to buy at valuation, as I understand it, if they can make a case that public benefits would flow from the acquisition. For example, if a community wanted to buy a bit of Forest Enterprise ground that was valued at £1

million, it could buy the land for under that if it could demonstrate public benefits. That might be a way of dealing with purchasing from a landowner.

**John Finnie:** Are you aware of any disposals that were subsequently acquired?

**Willie McGhee:** Disposals of what?

**John Finnie:** A disposal to a major landowner that was subsequently bought back.

**Willie McGhee:** No, but I would be very interested to know if that had happened.

**Stuart Goodall:** I want to pick up on a few points that have been made. The main principle is that we have both the forest that is being sold and the land that is being purchased; it is about how we would go about that and what it would achieve. There is a general view that we want to retain the land that is being sold as forestry. Under the old national forest land scheme, communities had the option to buy the land first, then there was a nested arrangement of other organisations and then it was a private sale. As Jon Hollingdale said, there was no need in a private sale to specify how that forest would be managed. We are now moving forward and a new system is being launched.

Our view is that there should still be an option for community buy-out, which could achieve a lot of positives. Beneath that, the forest should be open for sale, but something should be in place to ensure that it will be managed as a forest, with a productive outcome. That is what it was established for. It is an asset for the local community and the wider region and we feel that it is important that it is retained.

11:15

We then come to the issue of what kind of land is bought and what it is for. One option is the greening of former coal land. My understanding is that, as Jon Hollingdale said, that does not necessarily involve just the spoil heaps and the reconditioning of the land as it can also involve surrounding land that was not damaged. In that context, there might be an opportunity to grow some decent modern mixed forestry that provides income but also biodiversity and places for recreation.

A lot will come down to what is proposed in each case and the public benefits that can flow from that. It is difficult to say that it is a good or a bad thing. It could be a good thing. If we go down the route of ensuring that real public benefits flow from it, it will be a good thing, as long as we also look after the forest that is sold so that there is a net benefit. That would be my summary.

**Rodney Shearer:** My only comment is that I am a horticulturist by trade as opposed to a forester and it depresses me that we always seem to fall into two camps—commercial forestry and community benefit. I do not understand why the two do not come together. Native trees can be productive and commercial trees can create good habitats and good public access.

**Rhoda Grant:** My question is about the disparity in costs between the coal mining land and the planting in Caithness. There are clean-up costs for the former, but why is there such a huge difference?

**Willie McGhee:** It is partly about the state of the land and the ground preparation that has to be done in order to make the land suitable for growing trees. On mining sites, we have to treat the soil, bring in new topsoil or plant species that are tolerant of whatever is in the soil, whether it is heavy metals or hostile compounds.

We normally use a mixture of exotic trees such as *Alnus rubra* or red alder. In central Scotland and even at Craigmillar or one of the other community forests in Edinburgh, the planting costs may be anywhere between £7,500 and £15,000 depending on what has to be done to protect the site. Industrial sites are challenging. We do not want to discuss deer today—

**The Convener:** Definitely not.

**Willie McGhee:** —but, on a hillside, if we can protect from deer and take them out of the equation, planting costs are relatively modest. They might be a couple of thousand pounds per hectare. It is all to do with the preparation, the planting cost and then the protection.

**The Convener:** I have a question about repositioning. My brief research shows that forestry sales have been four times the amount of purchases in the past four years and that the Scottish Government's policy was to reposition woodland, which allowed it to sell off bits that did not quite fit within the portfolio to increase the tree cover. Jon Hollingdale made a point about the receipts being kept in forestry, and particularly in the land on which the trees are grown. Would there be merit in trying to get money reinvested in a shorter term—that is, not sitting on it for four years—or would that create an artificial market in that, when people saw the forestry being sold, they would know that they could bump up the price of bare land when the forestry has the cash to pay for it?

**Stuart Goodall:** There are a couple of points there. As you say, income has exceeded expenditure in recent years and there is a banking up of money. The issue might be relevant to John Finnie's question about whether there are controversies around the land being purchased.

There was an active programme of selling and buying land but it bumped up against agricultural concern about lost arable land in particular. The original repositioning programme was intended to deliver planting across a range of land types and the agricultural community was very upset when the Forestry Commission purchased high-quality arable land to plant trees. That resulted in the woodland expansion advisory group and discussions about what is an appropriate level of planting, which arrived at the 100,000 hectare figure that I mentioned earlier. That put a brake on buying land, so the sales in the repositioning programme carried on but there was no opportunity to purchase land. That is part of the reason why we have the issue that we have.

The second part of your question was about the impact of tightening up on that and making it work. We want to ensure that the money is reinvested in forestry. Some of the money has leaked out into supporting grants for which there has been an increased level of demand and not necessarily available budget. I think that all of us on this panel of witnesses would be in favour of ensuring that money does not leak out in that way. The Government should provide the money that is required for planting and the money from the repositioning programme should be recycled into forestry.

That should be done in a way that provides benefits that the private sector is not better able to deliver. That would have less of an impact on land prices. If what the public sector tries to deliver is the same as what the private sector delivers, it will create additional demand for available land, which will drive prices up if availability becomes tighter. It is important that we consider how we complement things to get value for money for the public purse and ensure that we deliver a wider variety of benefits.

**Jon Hollingdale:** I might be wrong about this, but my impression was that there had not been a huge build-up of stored money. Certainly, more money is received from selling land than is spent on buying it but what is in the middle is spent largely on woodland creation and the other works that go on with the new land. Someone from the commission would have to give the committee the final numbers on that.

It has been difficult for FE to engage in the land market to acquire sites in many cases. There is not a huge turnover of land sales in Scotland and, without that, trying to find land to buy is difficult. In a tight market and one in which many people would think that the price of land is not reflected in its productive capacity, it is difficult for FE to buy land at a price that makes sense.

**Willie McGhee:** Jon Hollingdale has made most of my point. I was under the impression that it was

less a case of sitting on money. However, in some of the farm purchases, arrangements have been entered into with private sector companies, such as Tilhill Forestry—I am not sure whether it is Tilhill, but certainly other companies—that are contracted in to do the forest establishment. Therefore, a portion of that money has been sitting waiting to go out the door into the establishment—the trees themselves.

It will be interesting to see what scale of repositioning goes ahead. Up to now, about 50,000 hectares of public land from forest estate has been sold. If the Cabinet Secretary for Rural Economy and Connectivity is minded to put 36,000 hectares on the market in the next four years, that will mean that it bites deeply into what the public would consider more sensitive forests. There is no way around that. We have looked at some of the scoring systems with the Forestry Commission and Forest Enterprise. Forests would be coming on the market that would attract a lot more public attention than forest sales have done to date. That is something to bear in mind.

**The Convener:** We will leave repositioning, if that is all right.

**Mairi Evans:** In 2014, the RACCE Committee expressed concerns about

“the transparency, accessibility and consultation process surrounding the sales and purchases of Forestry Commission Scotland land by Forest Enterprise.”

What are your opinions on that? Are you content with the transparency and the accessibility of and the consultation on those processes, or would you make any changes in that regard? If you would make changes, what would they be?

**The Convener:** I will let Jon Hollingdale go first, to get a change in the order.

**Jon Hollingdale:** There is a well-established system whereby disposals are lined up some way in advance. There is pre-notification, which allows communities and others to know what is in the pipeline for the next year or so. Clearly, forewarning is good, and there is a process by which communities are formally notified. Very occasionally and on the ground it does not work quite so well because the notification goes through a community council that does not function well. However, that is not a major issue.

On the disposal side, the transparency and the accountability is fine once forests are notified. On acquisitions, inevitably, a lot of things get done with a requirement for commercial confidentiality, whether that is buying bare land or existing woodlands. Quite often that requirement for confidentiality is placed on the negotiation by the seller; the FC is not—as far as I am aware—the one that requires that. That is a moot point. If the Forestry Commission is going to buy land from

private individuals or organisations, they will generally have the right to demand confidentiality, and whether that should be subject to someone else’s scrutiny is for MSPs to decide on rather than for us to have a view on.

**Willie McGhee:** Again, Jon has answered fairly comprehensively. We have been working with the Forestry Commission and Forest Enterprise Scotland for the past four years. We have been looking at their sales portfolio—Jon has been part of the process—even down to the simplest of things, such as a great big sign being placed at the end of the forest. There are simple ways in which they could do better on transparency; the process need not be complicated or require consultation. They just need to do things such as put a notice in the newspaper and put signs at the end of road.

We have been particularly interested in sales in which there is the potential to lot a forest. Take a big forest that is covered in a road network, with a community that is close by and which could afford a bit of that forest but not all of it. We have been working with Forest Enterprise Scotland land agents to see whether we can identify potential areas for local communities or small businesses. A driver in the next five to 10 years will be trying to get more local involvement, including that of business, in forests.

Jon Hollingdale has said everything that I would have said about purchases. I do not see any way around that.

**Richard Lyle:** Good morning, gentlemen. Forestry contributes nearly £1 billion to the economy and—this astounds me—nearly 25,000 full-time jobs. Basically, you are saying that we are underplanting the target by 17,000 hectares, so we would need to plant about 13,000 hectares for each of the next six years, and at least 9,000 hectares of that would have to be productive conifer.

I am going to put you in the spotlight. Confor told the RACCE Committee that the money available for the planting was insufficient, going so far as to call it “pathetic”. I know that I have given you the answer, but why are planting targets still not consistently being met? Do you still think that the budget is “pathetic”?

11:30

**Rodney Shearer:** I would not use the word “pathetic”, because £27 million invested into forestry is not pathetic. However, if the target is for 10,000 hectares and the overall budget is £31 million, the fact that we are already up to £27 million and have planted only 5,900 hectares means that we will not get to 10,000. That is just not possible.

When you look at the breakdown of where the grant money goes, you see that the only efficiencies to be made are in the type of forestry that you invest in. If you invest in commercial forestry, it tends to be a lower price per hectare and you get more trees in the ground, but our forestry has multiple objectives and we are not just looking for commercial forestry. We are looking for native-type forestry as well, but native-type forestry costs more per hectare.

**Richard Lyle:** I love adverts on TV that say, “For every paper towel that we use, we will plant three trees.” Does that happen? How long does it take for the average woodland in Scotland to grow to a level at which it is productive?

**Rodney Shearer:** In commercial forestry the first thinning takes place after about 40 years and a full crop after 70 to 80 years, roughly. You have to realise that when we plant trees back into an area that has been felled, even in commercial forestry, it is not a monoculture of a species such as Sitka spruce that goes in. We pay attention to diversity of conifer species. A fair proportion of what goes back in will not be a commercial crop. If we plant three trees but one is planted for environmental reasons, only two will contribute to paper in the future. There is a price to be paid for that.

**Stuart Goodall:** We used the word “pathetic”, but we did not use it about the current round.

**The Convener:** I should stress that that word was used in evidence to the previous committee. It is not a word that we would strive to use.

**Stuart Goodall:** I was going to make a serious point. We said “pathetic” because it gave us media coverage, but the serious point behind that is that, at the time, we were not convinced that there was political support or that action was being taken to deliver, so we wanted to raise what we thought was a fundamental problem. Now we are in a situation where we believe that there is political understanding, particularly with the current cabinet secretary but not just at that level. In the intervening few years, the MSPs on this committee and the other MSPs to whom we speak have appreciated and understood the issues that we face.

We are in a very different position in terms of political awareness and appreciation, but funding is still an issue. If we are going to deliver on the target that we are aiming for, the funding that is available is insufficient, and that must be addressed. Why is the target not being met? One element of the reason why it has not been met in the past is that forestry is tied into an agricultural scheme that changes every seven years. If you look at what has happened with planting in the past, you see that it has been like a rollercoaster.

Planting dips every time we come to a CAP renegotiation period and pulls back a bit, because there is uncertainty about funding, particularly if a new scheme is being brought in. There is no predictability, which is something that Rodney Shearer referred to.

We need a forestry scheme that is focused on delivering forestry planting and is not tied into the whole CAP process. That is possible, and we have asked for it, but there has been a reluctance to go down that route. It would make a difference.

We also need to broaden appeal to all the different types of landowners who want to plant. Some of them will be involved in large-scale planting and they will generally be people buying land, who are looking for a shorter processing period. We raised the issue of processing time and the cabinet secretary appointed Jim MacKinnon. He has reported to the cabinet secretary and we are waiting to hear back on that. That is about speeding up the process so that somebody who is buying land will know that they can plant it in a far shorter timescale—in one year rather than three.

To meet the target, we must also appeal to sheep farmers and estate owners—people who have mixed uses of land. There has been an underappreciation of the financial benefits that can come from planting trees of all types—not just conifers but productive broad-leaves. Those people can all benefit, and there is a greater understanding of that. With the uncertainty over the next couple of years around CAP, Brexit and so on, I think that there will be a lot more interest in planting from sheep farmers and estate owners, which will help us. There are also community woodlands and smaller-scale forestry. All of that has to come together to help us achieve the target and, with the political support, the funding and the communication of benefits, we will definitely do it.

**The Convener:** Just before I bring in Willie McGhee, I will let Gail Ross ask a supplementary that leads on from what we have just heard. I realise that the questions are piling up.

**Gail Ross:** With regard to planting targets, we have been focusing quite a lot on funding, but do you have any opinion on objections to planting proposals from individuals or groups? Could the planning system be improved to assist the meeting of targets?

**The Convener:** I will let Willie McGhee in, as he was already queueing up. I do not know whether you can weave your answer around that and the previous question, Willie.

**Willie McGhee:** My answer is that it will ever be thus; there will always be people who object—both rightly and wrongly. In my experience as director of Borders Forest Trust, managing 3,000-odd hectares in the Scottish Borders, not a day went

by when we did not get some input to new planting that we were carrying out. Ours was native woodland planting, so there are times when even doing a different kind of planting does not help.

I agree slightly with Stuart Goodall on the time that things can take under the current planning process. With environmental impact assessments, for example, you will get the local council coming in and making comments. Indeed, when we wanted to put in a new road, it took three months for us to get approval.

I know that you do not want the discussion to go down the deer route—again—but I have to say that a lot of the money in the grant scheme and the money that is being expended in forestry is being used to control deer. If you were to take that money out and put it into planting trees alone, it would make a big difference. The deer fences go up when you are obliged to put in native woodland or species that are not Sitka spruce, so it is a major issue for forestry. It would be a better use of the money—and the money would stretch a little bit further—if we did not have to put up deer fences at £13 a metre or whatever it is.

**The Convener:** I am sure that we could delve into the question whether we want to eradicate deer from Scotland or make them part of our native landscape, but I guess that we are going to have to miss that one out. Everyone has given their own opinion on biodiversity.

**Jon Hollingdale:** I just want to make a couple of points, convener. Sitka spruce might be ready for harvesting in 40 years, but some of the social and environmental benefits of that forest will be available and delivered very much earlier.

On planting targets, I think that there is general agreement that the budget is insufficient. Unfortunately, for whatever reason, individual landowners have not been persuaded to invest in forestry, despite the fact that, as most people will agree, we have quite high levels of grant in terms of pounds per hectare. That is partly to do with the kinds of process issues that have always been the case. I have plenty of anecdotes going back 20 years about the interesting objections that we have had, but perhaps one of the answers is to empower Forestry Commission staff more to take a view and be the experts who understand what constitutes a reasonable objection or a spoiling objection.

There are also cash-flow issues. For example, the grants are structured in such a way that you have to do the work before you get the money, and that limits some landowners, particularly community landowners, in their ability to go down that route.

Fundamentally, there needs to be more work to support and demonstrate the value of forestry in

order to encourage individual landowners to make the right decisions—or the decisions that we want them to make. Ultimately, the Forestry Commission cannot do all this planting itself. It has its planting targets, but it has to rely on convincing individual private sector landowners.

**Richard Lyle:** Can I just ask—

**The Convener:** Hold on, Richard. I was going to bring in Stuart Goodall next. There is a queue, but I will definitely bring you in as soon as I can.

**Stuart Goodall:** I will try to answer quickly. Consultation and engagement are hugely important. What people see are the forests that are out there, and the forests that are out there were planted 40 or more years ago. They were planted against a standard that was set by the Government at the time, which was to maximise production from an area of land. We now have modern forestry standards, which are about planting productive forests within a matrix of open ground, native and broad-leaf species, landscapes and all the rest of it. That has all been accepted and supported by environmental organisations and many others. However, we do not have mature forests yet, so a lot of people are making judgments, and there is a fear that we will plant a dark, square-edged monoculture. That creates an issue.

We are trying to overcome that. As an industry, we are taking on responsibility to develop more evidence. We are also developing guidance, which we are sharing with people who submit new planting applications so that they are aware of the benefits of engagement, and how to engage with local communities and others to explain what modern forestry means. We are also providing evidence about the economic and jobs impact of forestry. That does not just mean the 25,000 jobs and £1 billion contribution to the Scottish economy. If you plant a marginal sheep farming area, you will deliver four times as much income to the landowner and twice as much money into the local economy as you will from marginal sheep farming. You will also provide more jobs.

There has been a perception in the past that planting destroys rural communities. We have been able to demonstrate that that is not the case. There is a requirement on us to do that, which is what we are doing.

On planning, it is important that the Forestry Commission, as the authority here, differentiates between real concern and what is sometimes, as Jon Hollingdale referred to, a spoiling objection or a lack of understanding. If you respond to someone saying, “I don’t like that,” by saying, “But that’s not what we’re going to deliver.” the situation can drag on. The industry has got to step up to the plate and engage and communicate and,

alongside that, the Forestry Commission has got to be robust and apply the process as it should be applied.

**Richard Lyle:** I have a small question. I am looking at the £1 billion contribution to the economy and the number of years that it takes a tree to grow. I take it that we still import quite a lot of various other types of wood into the country, but what happens if we do not plant enough over the next few years? Will we run out of producible wood?

**Stuart Goodall:** That is very much the case. Rodney Shearer indicated that some of the plantings may take 60 years but, for most of the productive softwood planting, we are now looking at 35 to 40 years of maturing. That means that we are still forecasting a falling away in 20 years' time. There are strategies that we can put in place to delay felling and to mix in faster-growing trees. There are things that we can do. Fundamentally, though, it is not just for me to say today that we do not have the budget to hit the target; we should be taking action to ensure that we bring that planting through. The funding then supports that in order to make it happen.

The sector is worth £1 billion and is looking at how it can become a £2 billion industry by the mid-2020s. There is the capacity to do that, because we are still working with an increasing availability of wood. We are looking at how we can add value, for example by putting more wood into housing. We understand that affordable housing will be part of the autumn statement. Scotland provides an awful lot of the wood that is used in housing throughout the UK. There is a huge opportunity for us. We want to grow that, and then maintain that level, which means that we need to deliver that planting.

11:45

**Richard Lyle:** So it is speculate to accumulate.

**Stuart Goodall:** Yes.

**The Convener:** I would like to widen out the discussion a wee bit and bring in Peter Chapman, if I may. However, I want to make a point to Willie McGhee first. You mentioned deer. I am sure that you know that the Environment, Climate Change and Land Reform Committee, which I call our sister committee, is looking at deer management. It had a meeting with SNH on Tuesday, and one of the questions that came up was specifically about deer fencing. I do not want to get too involved in deer management, because I know that that committee is looking at it. It is legitimate that we will get an input into that. Therefore, please understand that your point has been accepted and is being dealt with.

**Peter Chapman:** I declare an interest as a farmer.

Surely one of the main drivers to achieve our targets is encouraging more farmers to get involved in forestry. We all know that there are many stresses and strains between foresters and farmers and that there is often seen to be a them-and-us situation. Stuart Goodall has spoken a bit about that conundrum. Surely there must be a better way in which we can encourage more farmers to get involved in forestry as a sensible way forward. Farmers still control the vast bulk of the land in Scotland, so they must be an important part of solving that problem. I encourage a wee bit more debate about that, because it is one of the most important ways in which we can unlock the potential of forestry. We know that there is an issue. We are not planting enough, and we need to do better.

**The Convener:** I will bring in Jon Hollingdale first; Rodney Shearer can then add something. I want to try to balance all of your inputs.

**Jon Hollingdale:** We are talking about 25,000 jobs and a £1 billion industry. Those are very useful figures, and the report on that was very useful. It is important to remember that a large chunk of that is in other bits of forestry production, not just in industrial sawmilling, and that there is considerable potential for growth in the tourism and related uses of forestry. We want to encourage that as well.

On encouraging farmers, the long-term future post-Brexit is on the list of things that the committee wanted to talk about. One of the problems is the grant structure: there are agricultural grants and agricultural funding, and there is forestry funding, but we do not have land use funding. One way forward would be to start from a land use strategy perspective and attempt to abolish the silo mentality in the grant structures. We can start to think about the best means for the Scottish Government to incentivise land managers to manage their land in the best interests of the economy and the people of Scotland, rather than having an agricultural silo with money going that way and a set of grants that members are very well aware of, and a forestry silo with a different set of money to do a different set of things. Perhaps the opportunity in the future is to move away from that and design something that is based on incentivising land use in a particular area, such as a particular river catchment, that is assessed at the higher level.

**Rodney Shearer:** The farming community tends not to be pro trees, but that is often well justified because, if farmers set trees on to land, that will quite often change the use of that land for ever. If there was a grant scheme and people wanted to bring back that land to agricultural use, that would

be very difficult for them to do. Land drainage is affected. Our farmers have never been used to a culture of trees. They are used to annual crop production, for example. When they think of 35 years, that is just alien to them. Quite an education process is needed in bringing through the new generation of farmers to try to treat trees as an agricultural crop and not as a forestry crop. It is an education issue in the industry.

**The Convener:** There are quite a lot of questions to be asked, and they are stacking up around me. I would appreciate it if people tried to keep their answers succinct. I remind people that we are trying to influence budget decisions. I understand that wider policy is part of that, but we are trying to aim at your helping us with finance stuff.

**Willie McGhee:** I do not think that farmers are that much agin trees. My job was to speak to upland sheep farmers in the Borders, which was not an easy gig for a forester. You have to approach it in the right way and not come with a message that the farmer will lose half their land and that it will all go under one type of tree. You have to explain that the land will have different uses, that the farmer can put some of their less good land under trees that might be useful for timber or biomass, and that they can let their sheep back in after a certain amount of time. There is no reason why farmers cannot play a key role in meeting the targets.

The big difference is that the farm woodland premium scheme paid £60 per hectare per annum for 15 years. Under the single farm payment, a hill farm in the Borders above 500 metres might get £20 per hectare, which is not the same. Previously, someone with a holding of 500 hectares would quite happily have given up 100 hectares in strategically placed patches. That is expensive; it is not as simple as slapping a large Sitka spruce plantation on it—I am paraphrasing here. That can still happen, but the message has to be more nuanced. It is necessary to work with farmers on where ground can be surrendered to trees and what they will get out of that. The money is the key.

**Stuart Goodall:** We have not done Sitka spruce plantations for 25 years.

**Willie McGhee:** I know, but that is how farmers see it.

**Stuart Goodall:** The important thing is that farmers need to be helped to understand what the opportunities are. I do not mean to sound patronising. We need awareness of the opportunity. We lack examples and models of how that can be taken forward.

There is some work going on between the Forestry Commission and the National Sheep

Association to try to encourage sheep farmers to come and look at integrated models of sheep farming and forestry that demonstrate that forestry can be put on part of a sheep farm and not reduce the meat production. There will be a different type of income from another source. As well as the annual income from sheep, there will be the opportunity for a capital investment when the trees are harvested. We need to do more to demonstrate how those models can operate.

Once land is under trees, it is not under the annual subsidy arrangement, so the Government saves money. Farmers are offered a situation in which they are more economically active, they have sheep production, which deals with any issues around food security, and the cost to the public exchequer is reduced. It seems a very obvious thing to do; we just need to raise awareness of it.

**Mike Rumbles:** I want to make sure that I understand the fundamentals here. We are looking at the draft budget that is about to be published for next year. The Forestry Commission has told us that on average over the past five years we have reached only 76 per cent of the target that the Government has set for new planting in Scotland.

As I understand it—correct me if I am wrong—you are saying that we have not reached the target because the Government has not provided enough financial incentive to reach it. First, is that correct? Is that what you are saying?

Secondly, what is the point of having a Scottish Government target of planting 10,000 hectares a year if on average we have planted only 7,600 hectares a year over a period of years?

We are focusing on the budget. Is this smoke and mirrors, or is it real? What does the future hold? There are fundamental questions here and I would like to confirm whether my understanding is correct.

**The Convener:** No holds barred. You can answer that.

**Stuart Goodall:** I am happy to. It is an important question, because it is a vital issue for us.

It is not the lack of cash that has been the problem in not delivering the planting. The not delivering the planting has come down to a few reasons, some of which we touched on earlier. One is the whole CAP link profile. When we go into a new CAP negotiation period, planting falls away because of uncertainty and changes to schemes. A grant scheme will be unavailable because there is a change from one thing to the next and it takes a while to create a new grant scheme. That all destroys confidence and activity.

We need to move away from that. It is a question of sending the right signals to people who want to plan and letting them know that they can get approval within a year or 18 months rather than three and a half years. If the cabinet secretary, advised by Jim Mackinnon, comes up with action that delivers that, it will make a huge difference.

The appeal for me is that the target is achievable. As Rodney Shearer said, interest is starting to come through. We are seeing more and more landowners saying that they believe that forestry is a real opportunity. It makes a lot of sense. There are more people in the farming community doing it. The appeal for me is that we believe that we will see in the coming year and in subsequent years more demand than had been predicted, so additional funding needs to be made available, because it will be required if we are to hit the target.

**The Convener:** Jon, do you agree?

**Jon Hollingdale:** Yes. The expectation is that, not particularly in the current financial year but in the next two years, planting will be much closer to 10,000 hectares. Whether it will catch up with the lag is a different question.

A lot of the lag has been to do with the process. It is perceived as being difficult to go through the system and create a significant area of new woodland. I hope that Jim Mackinnon's report and its recommendations will make that system appear to be a bit easier. Ultimately, we need to convince private individuals to change the use of land on some or all of their holding. There is not really an option for the Scottish Government to do that directly. The Forestry Commission does not have the land to plant 10,000 hectares a year itself, and to buy that land and plant it would be unbelievably expensive. Its contribution has been 600 or 700 hectares out of the 10,000.

**The Convener:** I want to follow the point right the way down, because it is fundamental. Rodney, would you like to comment?

**Rodney Shearer:** Within 18 months, enough applications will be in to meet the 10,000 hectares a year target. What worries me is that, if the programme is oversubscribed, how will we reject schemes? A rejection process could just take away the industry's confidence again. If someone proposes a bona fide scheme and it is approved from a technical point of view, but there is no money at that stage and they are told that they cannot do it, it just knocks the guts out of the industry again.

**The Convener:** Is the industry capable of supplying all the trees that are needed to achieve all the planting?

**Rodney Shearer:** The nurseries certainly have enough capacity to produce 10,000 trees, but we might not get enough notification of the requirement and what is needed. It worries me that we might not have the right tree going into the right place, and that leads to plant health questions.

**The Convener:** We are coming on to plant health. Willie, do you have a comment?

**Willie McGhee:** I say yes to all that has been said. There was enough money but there might not be enough in the future.

The real question on farming is about the rights of tenant farmers who have woodlands. I do not know what percentage of land in Scotland is under tenant farming, but as soon as a tenant farmer goes near woodlands, it becomes the landowner's prerogative—or rather, it has been the landowner's prerogative. Part of the answer to Mike Rumbles's question will be about how tenants can be empowered to get access to forest grants under some sort of landowner discretion scheme.

**The Convener:** Peter Chapman wants to come in on that.

**Peter Chapman:** I am pleased that you have come back to farming. We are going to design a new system to support agriculture in two years' time after Brexit. That gives us a real opportunity to design a system to support Scottish agriculture that includes forestry. It will be a win-win for all sides and we need to strive to achieve that. I do not know if the witnesses want to comment on that, but those are my thoughts.

**The Convener:** I am conscious of time, so if you agree that there will be opportunities, your answer will be yes, and if you think that there will be no opportunities, your answer will be no.

**Willie McGhee:** Yes.

**Stuart Goodall:** Yes.

**Jon Hollingdale:** Yes.

**The Convener:** The answer seems to be yes, and that is as far into Brexit as we are going to go at the moment.

John Mason has a follow-up question.

12:00

**John Mason:** It is on a completely different area.

I should perhaps say that I am a city MSP. I have very few trees and forests in my constituency, although slightly more than I have crofts. This is a genuine question, because I do



not know the answer: do we have a problem with pests and diseases in Scotland?

**Rodney Shearer:** We certainly have a problem with pests and diseases. The two that would probably come into the public's mind are the ash disease, which means that ash cannot be planted in Britain, and red band needle blight in pine.

The biggest problem that we have in pests and diseases is not the ones that we know; it is the ones that we do not know. They are not indigenous diseases and, because of climate change, they have started to spread more. The main route for them coming into the country is through the importation of plants.

**John Mason:** Is that done through nurseries or through other people?

**Rodney Shearer:** It tends to be through nurseries and through some buyers as well. The reason that nurseries will import trees is because they do not have the confidence to produce what they believe to be the full requirement of trees for the period going forward. They will tend to produce perhaps 80 per cent of the requirement then rely on imports for 20 per cent of production. That is purely a matter of confidence.

**John Mason:** Are the nurseries able to handle the pests and diseases or do they need input from the Forestry Commission as well?

**Rodney Shearer:** No. Our main input comes from the horticulture and marketing unit. That is the plant inspectorate of Scotland. That means that all commercial nurseries are inspected for plant health and disease. It is a full cost recovery system, in which we pay for the privilege of being inspected.

The biggest issue that we have in Scotland on plant health and disease comes from the public through the purchase of plants from garden centres. The same pests and diseases can affect plants in garden centres, and control there is much more difficult to police.

**John Mason:** Can that then affect forests?

**Rodney Shearer:** It certainly can. The biggest disease that is coming to us in the future is a disease called Xylella, which is now in Italy. It first came in on vines, which destroyed the vine crops. It then transferred across to olives. At least 300 different host species have now been found. That is a major concern on importation of plants, because it covers a wide variety of the types of material that are imported through garden centres. Education is the key on that—we must educate the public that they should not be buying those types of plants.

**The Convener:** Does anyone want to add anything to that?

**Willie McGhee:** Rodney Shearer is quite correct. Sudden oak death came in through azaleas—

**Rodney Shearer:** Rhododendrons.

**Willie McGhee:** —that were imported from California. It did not tackle oak in the first instance but eventually managed to jump to larch, with Phytophthora. What we have now in south-west Scotland is almost a larch-free zone and, as Rodney said, we cannot plant larch back into some places in Scotland.

**Rodney Shearer:** I think that the vast majority of the Forestry Commission's plant health budget is actually for removing larch.

**Willie McGhee:** So in terms of what we do, Rodney is quite right: it is a question of public education and awareness. As far as the tree species that we use are concerned—this is not a dig at Stuart Goodall—for Sitka and productive forestry, we need to talk to the millers and the buyers of timber to get them educated in a wide range of other types of wood that they can use, because we do not know what is going to come in next. Well, Rodney does, in some instances.

**The Convener:** I am going to bring John Mason back in before I ask Stuart Goodall and Jon Hollingdale to finish.

**John Mason:** As has been said, we are focusing on the budget and what we should be encouraging the Government to do more of. Public education is quite a wide issue and a difficult one to tackle. Should the Forestry Commission and its plant health service be doing more? Does it have the resources to tackle some of those issues and to carry out education along with research?

**Rodney Shearer:** We have the Scottish plant health strategy, which involves the plant health part of the agriculture department, Forestry Commission Scotland and Scottish Natural Heritage. They have quarterly liaison meetings and they communicate well with one another, so there is good cross-department communication. However, their budget falls to research and development work by the Forestry Commission on pests and diseases or it falls to the horticulture and marketing unit, which is self-funding anyway, so it does not cost the Government any money to police that.

What we need is confidence in plant supply so that we do not choose to import trees and for our customers to be aware that there is a major risk in importing trees and therefore know not to even ask for such trees.

**The Convener:** Stuart, do you want to add to that?

**Stuart Goodall:** Yes, particularly on the budgetary side of it. Border control is a significant issue and we need to be looking at borders. Some pests and diseases are airborne, but a lot are imported with plants. The issue is how we police our borders in terms of phytosanitary issues.

On budgetary issues, I flag up that it is important that Forest Research plays a key role in that regard. The consultation that has just been completed on the future of the Forestry Commission in Scotland involves cross-border research, so we have a cross-border function in that regard. Often on tree disease, though, we have one expert for the whole of Great Britain or the UK. If we decide that we are going to have three separate forest research bodies, we will have to find a way of cutting somebody in three and maintaining the bit that can tell you what is going on. We need to have collaboration.

We also need to look at how we operate the grant schemes and what we are funding. Willie McGhee made a point about diversification. It might be a surprise to Willie, but it is not one to me, that the sector has looked at that and is aware that it is an issue. However, what is key is anything that is done at scale. We are looking at planting forestry at scale and we are using products and sawmills at scale, so we need to ensure that we are planting tree species that can be harvested at scale and are suitable for the market. That can be done, but some of the work that has been done in the past has been about saying that diversification is the way forward, just for the sake of diversification, without actually thinking about the end product. We are improving on that aspect, though.

**John Mason:** In respect of pests and diseases, is diversification a good thing? Does it slow them down or hold them up?

**Stuart Goodall:** Diversification is basically about risk. If we have a broader range of species, we are reducing the impact of one species being affected. However, the corollary is that if we have more tree species, we have more trees that could be affected by a wide range of diseases. Diversification is a balanced-risk approach, which is a difficult approach to put over to the private sector. We have been trying to do that in the past couple of years, because we have regarded some of the policy responses as quite simplistic, and we need something more long-term and robust.

**Jon Hollingdale:** The Forestry Commission has invested money in citizen science projects to enlist members of the public, a great many of whom go to woods often and are very interested in what they see, to record and report symptoms of diseases. That has proved to be quite an effective way of monitoring the spread of diseases that are already here. I do not think that it is possible for

the Forestry Commission to regulate garden centres, unfortunately; that needs to be somebody else's job.

The budget is sufficient for exactly where we are now, but the danger is that we are in a world that is very uncertain. No one knows when the next big disease will strike or what species it will strike, but we are increasingly certain that there will be something coming down the line in two years, five years or 10 years.

**John Mason:** Rodney Shearer seems to be pretty clear what it is. Is it not as clear cut as that?

**Jon Hollingdale:** It is not as clear cut as that. Sometimes we can see things coming, but I am not sure that everything that has struck us in the past two or three years was predicted up front. I do not think that Chalara was flagged like that; if it was, I missed it and so did a lot of other people. I hope—touch wood—that it does not happen, but if there is a major disease that strikes the Sitka spruce, that will involve major cost issues.

**Rodney Shearer:** It is definitely the disease that we do not know about that is the biggest risk. We did know about ash dieback disease. We first knew about it in 1999, but the legislation and the phytosanitary certificates took a long time to catch up with the disease and we continued to import trees even though we knew that the disease was in Europe.

Diversity of species in a forest should help to reduce the incidence of pests and diseases. However, the type of diversity that we are planning is the introduction of new species from other parts of the world and we do not know the problems that lie with some of them. Quite a lot of that diversification is being done to combat the effects of climate change. We are recommended to grow plants from two or even five degrees further south. That policy has not been studied enough to see the risk involved. I really think that in Scotland we should stick to the use of our native species and not rely on some of those new exotic species that they intend to introduce.

**The Convener:** That message, and the message of giving confidence that there is a long-term future for forestry will give people some strength.

**Rhoda Grant:** We are all aware of the up-and-coming forestry bill and I ask your thoughts on the cost implications of that. Will it have a budgetary impact? Will it save money or cost us money?

**The Convener:** I will let Willie McGhee go first as he is looking perplexed. [*Laughter.*]

**Willie McGhee:** I was thinking about budgetary implications and the crystal ball gazing needed to answer that question.

From the forest policy group perspective, the forestry bill as we understand it could be very exciting and dynamic for Scotland's forests. We have been led to believe that it will be the mechanism whereby forestry will be devolved and Forest Enterprise will become part of the new forestry and land agency, along with the Crown Estates' land and SNH's national nature reserves.

**Stuart Goodall:** Not in the short term.

**Willie McGhee:** Not in the short term? Okay, this is the crystal ball gazing, then. That idea does not strike me as having a great cost implication or budgetary implication, except for the rebranding exercise—we all know how expensive rebranding exercises can be. It would be beholden on the committee to keep a close eye on that.

Forestry Commission Scotland will inevitably end up somewhere else; members will get a diversity of views from the panel on that. The forest policy group would like Forestry Commission Scotland to retain its enabling, flexible, community-friendly, forestry local development-friendly role. We do not see that being best served by stuffing it into the environment division in Victoria Quay where the staff will become humdrum civil servants without the flexibility that we would like. I do not believe that that has much of a cost implication except, again, for the rebranding.

We wish Forestry Commission Scotland to be retained as an arm's-length body, with an oversight body and an oversight committee like the national committee that Jon Hollingdale sits on. That may have a cost implication, but I am not able to say too much about that.

**Stuart Goodall:** I pick up Willie McGhee's point that there is always an issue around rebranding exercises. In itself, will that necessarily create budgetary issues? It is not clear that it will. We at Confor have a similar understanding of what is intended to happen.

One matter which is less a budgetary issue but is very important with regard to delivering policy—Willie McGhee alluded to it—is what we do with the facilitating, supporting and promoting element of the Forestry Commission, as it is described. We would not want those people to become “humdrum civil servants”—that would be a step back. Our response to the consultation made it very clear that it makes sense to have a body of civil servants who are there to operate with expertise to work with and support the sector. That expertise and ability and remit should continue, but we feel that forestry being a key part of the Scottish Government—part of the environment and forestry directorate—will support and enable that. Looking forward to Brexit and all the changes that are

coming up, we want forestry to be at the heart of Government thinking and Government policy.

Forestry has been in a silo in the past and has struggled to break out of that to be seen as part of rural policy and wider Government delivery of policy across the board. If we hide it away again and set it up as an arm's-length organisation, we are missing an opportunity. We are very nervous about that. In policy terms, what is being proposed could be a win-win as long as we retain that forestry expertise, the remit that Willie McGhee talked about and those types of people.

12:15

**The Convener:** Jon, do you want to add anything? I urge you to be as brief as possible.

**Jon Hollingdale:** I will be very brief. It is difficult to see where any cost savings would come from in either the Forestry Commission part or the Forest Enterprise part unless the delivery of public benefits is cut. Both parts of the Forestry Commission have significant value to the public and I do not see how that can be trimmed.

As the other panel members have said, we are concerned about the costs of a rebranding exercise. We hear anecdotally figures for the costs of the rebranding and reorganisation in Wales, and we are concerned about where the money would be found for a rebranding here. If it came out of Forestry Commission budgets, that would be a major loss.

**Rodney Shearer:** We should look at the experience and what has happened down in England. There was a Forestry Commission in England and Wales, but it seems to have rebranded itself to the point of non-existence. It has managed to approve only 282 hectares of forestry. I think that there has been a bit of a failure down there. I would like the forestry expertise to be retained up here.

**The Convener:** Thank you. That is the end of our questions. If anyone wants to say very succinctly anything that they were not asked about relating to the coming budget or anything else that we should be considering, they may do so now.

**Willie McGhee:** Deer were mentioned earlier, and I note that there will be a meeting on that subject here in the Parliament on, I think, 8 December with the Environment, Climate Change and Land Reform Committee.

On the budget, I urge the committee to bear it in mind that the Forestry Commission has been one of the drivers of rural development and land reform in Scotland. A lot of the land that is now in community ownership has come through the Forestry Commission. I ask the committee to smile kindly on it.

**Stuart Goodall:** In that spirit, the main thing is to reiterate that the planting is one element of a wider budget. We would not like the planting budget to be increased at the expense of the other activities that the Forestry Commission undertakes. They include Scottish timber transport, the central Scotland green network and plant health. There are a lot of important things in its work.

We have seen reductions in the capacity of the Forestry Commission. Although we hope to see an increase in demand for the planting budget, we hope that it will be satisfied by looking at the budget as a whole and not by robbing Peter to pay Paul.

**The Convener:** Stuart, if that was succinct, you could be a good politician, but thank you for the points that you have made.

**Jon Hollingdale:** I will be absolutely succinct. Stuart Goodall said exactly what I would have said. We want to see woodland creation but not at the expense of the other budgets.

**Rodney Shearer:** We should not underestimate the industry's appreciation for the political support that it gets in Scotland. Compared with the position in the rest of the UK, forestry is a major industry, and you have decent aspirations.

**The Convener:** Thank you all for coming. When we sat down and worked out our work programme at the beginning of the current session of Parliament, forestry was right up there on the list of things that we wanted to look at, which is why we asked you to come and help us to consider the budget. I believe that the committee will look to you next year to see how the budget is delivering, because it is important to every single member of the committee. Thank you for sparing the time to come along.

I do not want to be rude, but we have one more item of business to consider. You might want to extricate yourselves quickly. I will suspend the meeting briefly.

12:19

*Meeting suspended.*

12:21

*On resuming—*

## Tenant Farming Commissioner

**The Convener:** Under item 5, we are to decide whether to appoint one of our members as a reporter to participate in the meeting of the Environment, Climate Change and Land Reform Committee at which the appointment of the tenant farming commissioner will be considered. Members have a paper that outlines the potential role of the nominated representative to be involved in that appointment and to represent the committee's interests at the meeting of the Environment, Climate Change and Land Reform Committee.

Does anyone have any comments? Are there any nominations?

**Stewart Stevenson:** It is probably important that we get involved. This is, of course, about selecting a person, so I hope that we choose someone with an appropriate background and expertise in man management. I am not looking at anyone in particular, convener.

**The Convener:** As there are no other comments, does anyone have any nominations or would anyone like to put their name forward?

**Gail Ross:** Stewart Stevenson is absolutely right. With your agreement, convener, I nominate Edward Mountain MSP.

**The Convener:** I have to ask whether anyone else would rather do it. I am happy to do it, but—

**Richard Lyle:** I second the appointment.

**Mike Rumbles:** You are appointed by acclamation, convener. [*Laughter.*]

**The Convener:** Okay. I am pleased to confirm that I have been appointed to attend the meeting of the Environment, Climate Change and Land Reform Committee on 29 November.

That concludes our formal business and our meeting, but I ask members to remain seated for a moment so that we can conclude one or two matters afterwards.

*Meeting closed at 12:23.*

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