



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 17 April 2018

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
12th Meeting 2018, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Donald Cameron (Highlands and Islands) (Con)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Alex Rowley (Mid Scotland and Fife) (Lab)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Johanna Dow (Business Stream)
Peter Farrer (Scottish Water)
Alex Kinninmonth (Scottish Environment LINK)
Councillor Norman MacDonald (Comhairle nan Eilean Siar)
Audrey MacIver (Highlands and Islands Enterprise)
Dr Calum MacLeod (Community Land Scotland)
Douglas Millican (Scottish Water)
Professor Simon Parsons (Scottish Water)
Dame Susan Rice (Scottish Water and Business Stream)
Andy Wells (Crown Estate Scotland)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 17 April 2018

[The Convener opened the meeting at 09:43]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning. Welcome to the 12th meeting in 2018 of the Environment, Climate Change and Land Reform Committee. I remind everyone present to switch off mobile phones and other electronic devices, as they might affect the broadcasting system.

Item 1 is a decision on whether to take items 4, 5 and 6 in private. Do we agree to do so?

Members *indicated agreement.*

Scottish Crown Estate Bill: Stage 1

09:44

The Convener: Item 2 is consideration of the Scottish Crown Estate Bill. We are joined by Alex Kinninmonth from the Royal Society for the Protection of Birds, representing Scottish Environment LINK; Councillor Norman MacDonald, from the Western Isles Council; Audrey MacIver from Highlands and Islands Enterprise; Dr Calum MacLeod from Community Land Scotland; and Andy Wells from Crown Estate Scotland. We have a number of questions for our panel, the first of which is from Stewart Stevenson.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Given the diversity of the panel, there is probably no better group of people to answer my question. The bill has a focus on good management. What makes a good manager?

I see that they are all dodging that one, convener.

Andy Wells (Crown Estate Scotland): Perhaps I should start, given that the question concerns one of the terms in the Crown Estate Act 1961. Obviously, the committee must consider how that term transfers into the new legislation.

The interpretation of the term “good management” in the act has involved the question of operating the business in such a way as to deliver growth in the business, to deliver capital growth in the assets and to turn that to account by delivering revenue—but doing so according to good management. That covers a wide range of different ways of doing things in terms of how you operate, collaborate and work in partnership. It is also about how you take into account a wider range of benefits that you can deliver as the result of any particular transaction or decision. The bill specifies that that should be interpreted more in terms of social, economic and environmental objectives, with more of a focus on a sustainable approach to management, but that is how the Crown Estate has historically interpreted “good management” in any case. It involves making decisions that are in the best interests of a range of different considerations, while, clearly, given the terms of the act, taking account of commercial factors.

Stewart Stevenson: Before I ask others to comment, I would like to clarify one point. You are saying that good management is about more than simply the measurable outcomes and that it is also about the process by which the Crown managers have to operate and the respect that they give to

those with whom they work. Am I correctly hearing what has been said?

Andy Wells: I think that that would be a fair interpretation.

Dr Calum MacLeod (Community Land Scotland): Thank you for that question, Mr Stevenson—it is an important one to start off with. There are various characteristics that make a good manager, such as the transparency of how you act and your accountability to the stakeholders for whom you are managing assets. It is important to have that process in place and to meet those best-value characteristics. In thinking about what constitutes a good manager in the context of the management of Crown Estate assets, I think that it is heartening that the bill contains a clear and unambiguous iteration of the fact that—as Andy Wells just mentioned—we are not thinking about managing assets only in relation to their financial components and that the focus on environmental and social aspects is fundamentally important, too.

Community Land Scotland would suggest that good management is very much to do with the focus on the broader considerations and on ensuring that the assets are managed in a way that ties into a wide array of public policy objectives, not least of which is community empowerment, and what that might mean in practice.

Stewart Stevenson: I have a question for Mr Kinninmonth in particular. In response to the consultation, 79 per cent of respondents said that environmental considerations should be part of good management. I take it that that is something that you and the organisations that you represent are particularly interested in.

Alex Kinninmonth (Scottish Environment LINK): Absolutely. I would also echo the comments that you have just heard about good management involving transparency and accountability for the wider public objectives, because the environment is a key consideration for Scotland in that regard.

Andy Wells mentioned the interpretation of the 1961 act. The Crown Estate Commissioners have taken that act as giving them a very narrow financial remit. Although they have had to operate under the principles of good management, it has always been up to the commissioners to define what good management is. There has been a lot of progress in recent years towards defining good management in terms of environmental wellbeing and in looking at approaches to widening what value means to include natural capital or the ecosystem services that can be got from natural assets.

It is encouraging that, as the responses to that consultation question note, the bill widens the

manager's duties to include other considerations and wider benefits. I can see the intention in the bill to bring those into play more. I am concerned, however, that section 7, on the duties of managers, still retains the primary duty to

“maintain and seek to enhance—

(a) the”

financial

“value of the assets, and

(b) the income arising from them”,

with the additional outcomes being seen as secondary or discretionary. There is room for improvement in the bill to make it clearer that financial gain and getting a good return from the assets are not necessarily in conflict with achieving wider societal aims.

Stewart Stevenson: Councillor MacDonald, your council area has some significant areas of community ownership, such as Stòras Uibhist. Do these provide a model for the relationship between those who are stakeholders and live in the area and the duties of managers on good management?

Councillor Norman MacDonald (Comhairle nan Eilean Siar): The principles of good management, as we have heard previously, are about collaboration and consultation with all interested parties and communities. Through consensus if not agreement, it should be possible to manage the assets in a way that is sustainable, both for the community and, importantly, for the environment.

The model of community land ownership is a good example of how collaboration can work positively across the Hebrides and parts of mainland Scotland. Along with community empowerment, that will drive the policy forward in a positive way, but it has to be done in collaboration, by consensus and taking account of the environment.

Local government is very conscious of that. For almost 30 years, we have been involved, on the marine environment in particular, with an international organisation called KIMO, or Kommunenes Internasjonale Miljøorganisasjon. We and other coastal communities call ourselves KIMO UK but in reality we are KIMO Scotland, because the communities that are part of it are in Scotland.

We have been involved in some of the things that, over the past year, are being seen as important for the marine environment, such as the Blue Ocean Network and the efforts of Sky News to take plastics out of the marine environment. We have been engaged, not because doing that will transform our communities but because managing

our marine assets, including the oceans, sustainably will prevent significant damage to our communities in the future.

The focus of the Scottish Crown Estate bill is much narrower, but I believe that the community land experience is a positive one and there is nothing to fear about the accountability that goes with it, either for community land owners or for those who work with them. We work in partnership with community land owners, including the Crown Estate, over major projects. There is nothing to fear from devolving that degree of control to local level, provided that it is managed in the way we have already discussed.

Stewart Stevenson: Does Highlands and Islands Enterprise consider that the bill as presently cast adequately describes the range of responsibilities that all witnesses have articulated, with which HIE might or might not agree?

Audrey Maclver (Highlands and Islands Enterprise): The bill provides a good framework around management in terms of the strategic plan requirement and the management plans that would need to be put in place. It would help ensure that there is forward planning, accountability and reporting back on that. Those are absolutely required from a governance point of view, whether you are managing a relatively modestly sized asset or a very large and complex asset.

To add to the point about what good management requires, it is essential to have the knowledge and expertise in the management outfit. It is a key requirement to recognise the diverse portfolio of the Crown Estate Scotland asset and the range of expertise that is required to manage it. Good governance is essential.

It is also about whole-life asset management and management for the longer term. Looking at the wider social and environmental considerations, and not just immediate financial gain, is a key part of that.

Stewart Stevenson: You have specifically said, in relation to the required management skills, that it is a “complex” and varied environment. Given that Crown Estate Scotland is a comparatively small organisation, does that lead you to say that you would expect the management to be delegated to experts in particular areas in some circumstances, without the Crown Estate necessarily being relieved of responsibility?

Audrey Maclver: With regard to the expertise required, the offshore environment in particular—which is what I am more familiar with, with my HIE energy hat on—is a very complex environment to operate in. It does not necessarily need lots of individuals, but it needs very knowledgeable individuals. It is not necessarily about numbers of

individuals or teams or resources; it is about having a strong understanding of the complexity of the environment and the due process that needs to be gone through. Having that understanding is possible at a local level, but expertise at a national level is also required in terms of the industry and the learning that the industry is undergoing, as the offshore renewables sector—if that is what we are talking about—is still in its infancy. That expertise can be quite close and modest in size, but it needs to be very well developed.

It is a case of horses for courses for the more modest assets. We in HIE have been advocating community ownership and community management for a number of years. We are very much working with partners to build the capacity and capability in communities to manage local assets very well and to realise the wider benefits from doing so.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): As a supplementary, Highlands and Islands Enterprise has highlighted the potential for conflict if a local authority is both the awardee of planning permission and the receiver of revenues when it comes to aquaculture. Do you think that the potential for such a conflict of interest goes beyond aquaculture? How do you propose that that could be mitigated?

Audrey Maclver: In our response, we highlighted that there is a potential for conflict when a landlord can also give consent. I acknowledge that that is already the case where local authorities own the land and can also consent to new housing developments. We wanted to highlight the potential for conflict and the need to ensure that in any structures there are clear remits and responsibilities and there is transparency around process.

I also acknowledge that at an early stage of leasing for the offshore energy market—round 3 of the Scottish territorial waters and Pentland Firth and Orkney waters leasing in 2008 and 2009, in particular—leasing activity may have been slightly ahead of the planning process, because in that case the marine spatial planning process had not been completed. There has been a lot of learning since that time, and I now see much greater integration of what we look at in terms of spatial and resource planning at a national level and future leasing activity. That alignment can facilitate a more successful planning outcome and having different organisations take that forward. Again, it is about scale. In certain circumstances, it will be fine to have both roles, but in others there might need to be a degree of separation.

10:00

Alex Kinninmonth: We have raised the matter in our submission and I see that it is highlighted across a number of other submissions. I do not think that it is insurmountable, but care needs to be taken. As Audrey MacIver stated, a number of organisations—not least local authorities—deal with it on a day-to-day basis, and they are well equipped to do so. It is essential that care is taken to ensure that there is adequate internal separation of decision making. The roles of landlord and regulator are very different and it is important that there is clear separation between those two functions within an organisation. In the not too distant past, the Crown Estate was the regulator for fish farming. That situation was untenable at the time and has since changed, but it is a useful recent example in which it was decided that something needed to change. There is no reason why that could not happen in the future. However, what is really important is the internal separation of decision making.

Mark Ruskell (Mid Scotland and Fife) (Green): Is there a potential conflict of interests with ports and harbours? There has been a lot of controversy over ship-to-ship oil transfers in terms of the statutory responsibilities of ports and harbours to the environment, but there are also commercial opportunities.

Alex Kinninmonth: Exactly. Ports and harbours must tackle those dual roles. Lessons can be learned: that is one example in which there is certainly risk. We need to establish how successfully ports and harbours discharge both those duties and learn from that.

Councillor MacDonald: There is a great deal of separation. In terms of the Crown estate historically, we know that the first that local authorities would have known about consent and a lease having been given would have been when a planning application for the associated onshore facilities came in. They had no say whatsoever in whether it was appropriate to have granted the lease in the first place. More local control of the Crown estate is one of the key drivers for the campaign that has been worked on for many years, and the United Kingdom Government has recognised that and has devolved powers to the Scottish Parliament. We are seeking further devolution of those powers to local communities, because they are where a lot of the expertise on, and understanding of, the impact on the marine environment lies.

Undoubtedly, situations arise every day in local government in which such conflicts of interests need to be dealt with. It is important that conflicts of interests are recognised at the earliest possible point, and that there is then separation in the decision-making process. Ultimately, that will lead

to the right decisions being taken. Local government is very well regulated in terms of its ability to do that, and it is something that it is quite accustomed to doing.

Local governments are harbour authorities, as well as being authorities that work with harbour trusts and others. You could not find better examples than those of Sullom Voe in Shetland and Scapa Flow in Orkney, where local authorities very ably manage facilities that are of great benefit to the whole UK.

The Convener: Given the topical and contentious nature of aquaculture consenting, do you feel that there is an additional perception of a conflict of interests, of which you might need to take account?

Councillor MacDonald: I am not sure whether there is a conflict of interests. There are interests: local authorities have a real interest in the continued existence of aquaculture, particularly for our coastal communities. Comhairle nan Eilean Siar has, with the aquaculture industry, entered into voluntary management agreements on the amount of biomass that is put into particular sites. The amount relates to the kind of site and whether there is a constant flow of water that effectively flushes out the area. I see no issue with extending such arrangements beyond that to ensure that where conflicts arise between the aquaculture industry and other industries that use the marine environment, they can come together and reach consensus on how to make the best sustainable use of that resource.

Andy Wells: I would like to clarify a point in relation to the process. Crown Estate Scotland would not normally grant a straightforward lease, but would grant an option to lease, prior to a developer or an aquaculture property going through the planning process. We would grant the lease only once all regulatory conditions had been met.

Dr MacLeod: There is broader issue that touches on the question that Kate Forbes asked about the connection and fit—or otherwise—between asset management, community empowerment and planning processes. As members will be aware, the Planning (Scotland) Bill is currently going through Parliament, and there is potentially a disconnect in respect of communities having their voices heard in planning. It is important that we make connections between the broader planning process, community empowerment and how communities interact in relation to asset management.

Richard Lyle (Uddingston and Bellshill) (SNP): I want to raise a point that follows on from Stewart Stevenson's question, and that Alex

Kinninmonth touched on slightly. The Scottish Crown Estate Bill sets out that managers

“of ... assets must maintain and seek to enhance ... the value of assets, and ... the income arising”,

but

“may do so in a way that”

contributes to wider objectives including

“economic development ... regeneration ... social wellbeing ... environmental wellbeing”

and so on. Could interpretation of “value of assets” be about anything other than purely financial value? For example, could the phrase be interpreted in terms of the non-monetary value that the asset provides, such as ecosystem services or its recreational or health value?

Alex Kinninmonth: The short answer is yes.

Richard Lyle: I thought that you would say that.

Alex Kinninmonth: I touched on the issue earlier. From the evidence that the bill team has received so far, it seems that, as drafted, the bill interprets “value” and “income” derived from assets in purely financial terms. Perhaps Andy Wells can touch on this from his experience in Crown Estate Scotland. I know that in recent years there has been a big move—not just in Scotland, but globally—towards considering value in terms of natural capital and what we can receive from natural heritage assets that is of value to society in relation to ecosystem services. Clean water, clean air, provisioning of food and pollination are just a few examples.

The Crown Estate has been an early adopter of the natural-capital protocol and in its rural estates it has been piloting approaches on how to use ecosystem services in decision making about how land is managed. That is crucial. I ask whether the bill, as drafted, allows for such innovation to happen and continue. I hope that it does.

However, there needs to be clarity about how “value” is to be interpreted and how it relates to wider societal objectives and delivery of broader national outcomes, which go far wider than just having a strong economy, because that is fundamentally underpinned by the environment.

Andy Wells: Absolutely. Creation of value in addition to financial value in a wide variety of ways is something to which sustainable long-term businesses such as Crown Estate Scotland should aspire. The bill creates real opportunities for future managers—Crown Estate Scotland or any other manager—to consider how they can enhance value in a range of areas, and not just in terms of natural capital, but in terms of social capital. We see driving of economic benefits alongside social and environmental benefits as part of operating a sustainable business: they go hand in hand. Large

amounts of the Crown Estate assets in Scotland are in remote rural communities, and we need sustainable and viable businesses operating in those areas. We need communities there to be prosperous and we need the environment to support the businesses, so it is very much in the long-term interests of all managers and businesses to seek to enhance such value.

Audrey MacIver: Highlands and Islands Enterprise has a unique remit for economic and social development, so I very much welcome the move in the bill to consider value not just in a monetary or financial sense but in terms, too, of wider regeneration, and of environmental and social aspects. However, we have picked up on the fact that the bill states that managers “must ... enhance ... the value” but “may” take into consideration other factors. We want to understand whether either there is a hierarchy or all the factors that the bill mentions will be taken into account.

HIE wants to alert the committee to our concern about whether financial imperatives, as opposed to wider benefits, will become the drivers. Those can be at odds with one another. There could, for example, be a drive towards maximising value through new house building in order to get value up as quickly as possible, as opposed to there being thinking for the longer term about energy efficiency and other social developments that could support the community, and which might take a bit more capital investment and might not be at the heart of what the current manager is driving. Through the bill, we need to ensure that management is not seen as secondary to those wider aspects, which we believe are absolutely integral to the overall asset value.

Dr MacLeod: It is really important that the bill and subsequent management of assets make people think about value beyond assets’ simple financial value. That is tied to some aspects that colleagues around the table have mentioned.

Stewart Stevenson started by asking what makes a good manager. In thinking about value and management of assets, a good manager needs to think more widely than just about the financial or commercial aspects of the asset. If you want management of assets to contribute to the ways in which communities are empowered, that is not necessarily easy to do in practice, in terms of value being measurable. However, qualitative value can be shown in some ways—with regard to community confidence, and how social cohesion is increased within communities once they have more control over how they shape their natural and social environments, for example.

There are ways of doing that at grass-roots community level. There can be profound value in such processes in terms of what assets mean for

communities more qualitatively, rather than assets being the focus of naked financial valuation. That is important when we think about cohesion of communities and how managing and, in some respects, owning assets contribute to the communities and, more broadly, to Scotland.

Let us not forget that the national performance framework is to be reviewed imminently. Although the focus is on sustainable economic growth as its purpose, there is also the addition—a welcome addition, to be frank—of wellbeing, which is a rather amorphous but very important concept, when we are thinking about how our society and our communities function. The bill's broader concept of "value", not as a hierarchy but as something that is on a level playing field, is an important dimension that will contribute to that national purpose.

Councillor MacDonald: There is no doubt that the socioeconomic aspects of the transfer of an asset must be part of the equation, otherwise transfer just will not work. That is already happening when land is being made available for housing, as Audrey MacIver said. When local authorities are divesting themselves of assets, that has to be the subject of a rigorous business case, so that what is being transferred is actually an asset and not a liability. That should apply equally to Crown Estate assets; the asset should be an asset financially and socioeconomically. That is a vital part of the equation.

Richard Lyle: I am glad to know that it will not come down just to pounds and pence. Most of my other questions have been answered.

10:15

Claudia Beamish (South Scotland) (Lab): Good morning. I will pin the issue down with a final question on it—unless other members want to come in. All the witnesses have helped with a wide discussion of financial gain, sustainable development, community empowerment and a range of other issues. Professor Andrea Ross and Professor Colin Reid state in their written submission that section 7(1) of the bill has

"focus on narrow financial gain"

and

"may or may not be in the public interest".

Is the word "may" in section 7(2) enough to cover consideration of the other issues that we have been discussing, which go beyond the financial aspects that the managers of assets

"must maintain and seek to enhance",

or should the section say "must"? One-word answers will be great, but it will be fine for witnesses to qualify it.

The Convener: You do not all have to answer.

Alex Kinninmonth: Achievement of sustainable development should be a requirement. The submission that Claudia Beamish quoted is helpful and worthy of serious consideration by the committee.

Dr MacLeod: Achievement of sustainable development must be a requirement, although "sustainable development" is a slippery term that is used in a wide range of ways, and so becomes everything or nothing to everybody and anybody. It should provide the overarching framework for the bill.

John Scott (Ayr) (Con): I toss out the idea that widening the duties of managers and different responsibilities being given to others, such as local authorities and communities, will come at some cost. Will those things dilute the ability of the Crown Estate to yield revenues to the Scottish Government? Is there a balance to be struck? I see us charging down one road. Local authorities want very much to have the benefits of what were previously Crown Estate assets. Will not that ultimately lead to disintegration and fragmentation of the Crown Estate?

The Convener: I guess that that might dilute the Crown Estate's ability to cross-subsidise the agricultural estates—

John Scott: —or to work efficiently, at any rate.

Councillor MacDonald: That does not necessarily have to happen. If an organisation is taking responsibility for management of an asset, it should also be able to accrue some of the revenues. In all the discussions so far, we have spoken about the net revenues from the Crown Estate being transferred in order to support sustainability in management of the asset. However, Crown Estate Scotland will still have to retain responsibility for the land-based estate in particular, but not exclusively, and some kind of control over it. We welcome some of the recommendations that it has made and how it is changing from its historical position.

I do not see widening of managers' duties and giving of responsibilities to other bodies as threatening dilution of the Crown Estate. The fact that there is consensus on how to move forward on transfer of assets and the revenues that go along with them strengthens the Crown Estate's ability to do the work that it will do.

Andy Wells: I will respond to Claudia Beamish's question about whether section 7(2) should say "may" or "must". It could go different ways. To take a wider perspective, in transactions in which one might want to take a more commercial view, inclusion of "must" might result in challenges to decisions: it could be a judicial

challenge, which would impact on the business. I urge consideration of that.

Claudia Beamish: There could be a legal challenge to any bill. Why would there be a legal challenge if there was a “must” relating to the aspects in section 7(2) as well as to those in section 7(1)? We are talking about the new devolved settlement for the Crown estate, so I do not understand why you are saying that.

Andy Wells: I am thinking of decisions that may be made in relation to investments, for example. A challenge might be possible. I am not a legal expert, so I cannot comment on why one may be interpreted differently from another. I am not suggesting that it is either one way or the other, but there is a consideration there.

The Convener: Would the consenting of offshore wind farms perhaps be an example?

Andy Wells: That might be one.

Claudia Beamish: Surely that process must involve taking into consideration the contribution to the wider objectives of

“economic development ... regeneration ... social wellbeing, environmental wellbeing”

and “sustainable development”. I cannot see what the conflict would be in a Scotland that works for sustainable development for the people of Scotland. I do not understand.

Andy Wells: I do not disagree with that. It just may be a consideration—that is all that I am saying.

The Convener: What about John Scott’s point?

Andy Wells: Sorry, but can you remind me what that was?

John Scott: In essence, with all this devolution of responsibility and income to other bodies, what will be left for the Crown Estate to do? Will there be a body left? The bill will lead to disintegration and fragmentation, given all the devolution of responsibilities and accountability to other bodies and communities.

Andy Wells: Again, much will depend on the scale and nature of the assets that are under devolved management and the needs of those assets. The way that we currently work as a national body managing the estate as a whole, particularly in how investments are made, is to raise capital for reinvestment from within the whole portfolio. We may sell off assets in one part of the estate to fund investments in another part. A local manager will have less scope to do that, although obviously there is scope in the bill for a national framework and for ministers to direct one part of the estate to fund another. It could be workable, but there could be an issue in relation to some of

the opportunities to cross-subsidise across the estate.

The Convener: A lot of people want to get in, so I ask everybody to be concise.

Dr MacLeod: One perspective on the bill is that it might dilute the role of the Crown Estate; another perspective, which Community Land Scotland advocates, is that the concentration of attention on devolution is a good thing, as it adds to the democratic process by involving organisations and communities in managing assets, which is useful and adds value in the ways that we have already outlined.

Alex Kinninmonth: I have a supplementary comment on Claudia Beamish’s question. There is a sustainable development duty on ministers in other legislation, not least the Marine (Scotland) Act 2010, which places a general duty on ministers to act in the way that is calculated to best further the achievement of sustainable development, including the protection and, where appropriate, enhancement of the health of the Scottish marine area. The Climate Change (Scotland) Act 2009 places a similar duty on ministers to contribute to the achievement of sustainable development, and the land use strategy, which comes out of that act, must also contribute towards sustainable development. It is a very well-used term in Scottish legislation. The issue comes down to the principle that the national assets should be managed for wider public benefit, and primacy should be given to managing for intergenerational equity. The framework for sustainable development allows that to happen quite well.

Audrey Maclver: From an offshore energy and industry perspective, ease of doing business is absolutely critical in what is a very complex and, as I said, relatively young industry. The industry players are looking globally at opportunities. From our perspective of trying to derive economic value from supply chain development in the offshore energy sector, we believe that an approach to leasing at a national level must be maintained and that the approach should not be further fragmented.

Stewart Stevenson: I want to return briefly—with Mr Wells only, I suspect—to the issue of “may” versus “must”. If “must” is used, that will apply to every single decision, but I imagine that there will be essentially neutral decisions. A decision that was made in the past might have to be revisited, and it might properly be concluded that no change will be made. However, that would be a decision. If “may” is used, the decision can be made without opening up a particular hoop for legal challenge, but if “must” is used, every single decision—even on whether to move from 80 to 70 grams per square metre paper in the corporate

printers to save paper—could be open to challenge. Is that a fair characterisation? In other words, one needs to look at every specific instance of “may” and “must” to see the specific effects, and one must be extremely careful in legal drafting terms.

Andy Wells: Stewart Stevenson expressed that far more eloquently than I did.

Stewart Stevenson: I think that that will suffice.

Alex Rowley (Mid Scotland and Fife) (Lab): As was said earlier, Professor Ross and Professor Reid suggested in their submission that the bill should be amended to include a mandatory requirement for sustainable development to be taken into account. As somebody has said, around 10 per cent of the acts of the Scottish Parliament contain sustainable development provisions, even though there is no legal definition of sustainable development. Should sustainable development be defined in statute? Should consideration of environmental, social and economic wellbeing, as well as regeneration, be required as subsets of sustainable development?

Councillor MacDonald: It is absolutely right that that should be the case. If sustainable development “must” be taken into account, then clearly it is also about socioeconomic and wellbeing issues—it is about all those issues. The reality is that ministers have to do that in any event. If sustainable development is taken into account, that does not mean that there has to be a huge piece of work to do that, but it must be considered before a final decision is taken. That happens right across the spectrum. If sustainable development “must” be taken into account, then that has to be done. If the word “may” is used, people can choose not to take it into account, whether or not there are socioeconomic or sustainable development benefits.

Angus MacDonald (Falkirk East) (SNP): The issue of national or local management has already been touched on. We know that the Smith commission recommended that responsibility for the management of the Crown Estate’s economic assets in Scotland

“be further devolved to local authority areas”

in the northern isles and in the Western Isles.

Orkney Islands Council has said:

“While the Bill’s provisions in respect of management are deemed workable, they are not considered ‘appropriate’ when read alongside the Smith Commission recommendation.”

Comhairle nan Eilean Siar indicated that the bill should have devolved powers to island councils rather than set out a methodology to enable devolution and specifically considered the case for the devolution of lease management of offshore

wind out to 12 nautical miles and for aquaculture. HIE suggested that national management of wave, tidal and offshore wind energy—we have heard this again today—is

“the preferred option of project developers and will assist in achieving the potential of offshore renewables. It will also make for simpler industry engagement”.

Will the bill deliver the Smith commission’s recommendations? If not, what is required either through a change in the bill or other action?

Councillor MacDonald: We clearly believe that infrastructure within 12 nautical miles, whether that is offshore renewables or aquaculture infrastructure, is something that we and our communities would want some control of, because the reality is that it will be developments within 12 nautical miles that will be most likely to have an impact on the land-based infrastructure, including on our shoreline. We see that from time to time, due to adverse weather. I do not want to focus on aquaculture, but the breaking up of cages has to be dealt with.

10:30

There has to be some control of such assets, whether they be offshore renewables, aquaculture or other industries that we are currently not all that clear about. Communities should have a significant say as to whether a development should go ahead, because they will be most affected by it.

The Convener: What about the national interest?

Councillor MacDonald: The national interest can be part of the equation. As regards even onshore wind developments, the planning authority is not the local authority but the Government. However, local authorities treat every onshore application as though we were the determining authorities: we make our submissions to the Government on that basis and it takes them into account. As such authorities, we have a significant say in developments and we carry out wider consultations in the community, which enables the Government to make the ultimate decisions. It is therefore important to have local control up to the 12 nautical mile limit.

The Convener: With respect, the two positions that we have heard on this issue were probably fairly predictable, given where you are coming from, which is quite understandable. What views would other panellists articulate?

Dr MacLeod: Community Land Scotland is clearly in favour of mechanisms that will ensure that the power to manage such assets is devolved as far as possible in relation to levels of governance and of management. While we

broadly welcome the provisions in that respect that are contained in the bill, where there are opportunities for local communities to have an influence and a say in managing and shaping how such assets are used in the broader context of national interest considerations, as Norman MacDonald has mentioned, it is critically important that that actually happens and is made to happen in the legislative provisions that exist.

The committee will have seen from our submission that we make other wider points on aspects of how that might be managed with regard to foreshore elements and also—as I think has been mentioned in other evidence sessions—the ownership or otherwise of aspects of the sea bed. Bringing such matters into local consideration is paramount, from our perspective.

Alex Kinninmonth: We are neutral on the topic of management transfer to the local level versus retaining a national, geographic or functional level. For us, the key consideration is whether the transferee has sufficient capability to discharge the duties and liabilities that come with that role and whether it is subject to appropriate scrutiny. The case-by-case approach that is proposed in the bill seems to me to be appropriate—again, subject to there being sufficient transparency and scrutiny of ministerial decisions on that.

We often talk about two very different roles relating to development in the marine environment. One aspect that the bill deals with is the leasing of the sea bed. Of course, there is a parallel regulatory process about licensing what can happen on the sea bed. Those two issues are very different but are sometimes mixed up in discussion. It is worth noting that the Marine (Scotland) Act 2010 is often lost in discussion of community empowerment but is very much aimed at that, in that planning and decision making in coastal waters were to be developed through regional marine plans developed by marine planning partnerships.

We are a number of years down the line from the publication of the national marine plan in 2015, yet we are sitting without a single regional marine plan having been adopted in Scotland. Before we start talking about the transfer of assets in terms of leasing, we really need to commit to establishing regional marine plans around Scotland's coastline. We need to get the order right. We need to know what we want and what we aim to achieve from the use of and development and activity in our marine environment, then we can think about leasing and getting financial benefit from that. It cannot happen in the reverse order.

Claudia Beamish: I want to ask Calum MacLeod about Community Land Scotland's written submission in relation to the question that we have been exploring. The submission

suggested that land ownership is a key driver for sustainable development. How does that fit with the bill? Does it give opportunities for that in relation to the Crown estate? I understand of course that, if something is sold, there has to be a quid pro quo or whatever in terms of assets, as you cannot just sell off the Crown estates. It goes back to what Councillor Norman MacDonald highlighted about the importance of community ownership. I stress that as a member for the South Scotland region; it is important not only in the Highlands.

Dr MacLeod: Thank you very much for that really important question, which gets to the nub of the critical issue of the relationship between ownership of assets, whether land or other assets, and their management. You will hear two different views on that. One suggests that it does not really matter who owns the asset and that it is how it is managed and used that counts. That is important and I do not dismiss that perspective. However, ownership is a critical element in many instances with regard to how the asset is used and managed. It is critical to have and recognise the relationship between land and/or other asset ownership and the use of that asset, and the influence between the two.

If I understand the nub of your question correctly, you are asking about the importance of ownership as a driver for sustainable development.

Claudia Beamish: Yes, and particularly in relation to the bill, as that is what we are taking evidence on.

Dr MacLeod: We argue that ownership—where appropriate and on a case-by-case basis, but certainly with a pre-emptive right with regard to, for example, foreshore rights—is critical. Enabling communities to have ownership of particular assets allows them the autonomy and democratic process—when they are community land owners—to shape how the assets are used in practice. That is critically important in the context of how, bluntly, communities thrive, survive and prosper as, in many cases, they are quite fragile communities.

We are also thinking about the broader question whether the Crown estate will become fragmented and what its purpose will be in terms of the bill. That is not even a price that has to be paid—it is really important to follow that through. Enabling communities in appropriate circumstances to own Crown Estate assets will add value in various ways to how those communities make themselves sustainable.

I have an added comment in relation to that. We talked about the legal challenges to sustainable development issues. If we are not measuring or

addressing any of the assets and how they are managed on sustainable development grounds, what are we measuring them on?

Finlay Carson (Galloway and West Dumfries) (Con): HIE suggested:

“there is scope for the rural estates ... to be managed by communities where there is an aspiration ... a viable management plan ... and capacity to deliver.”

What is the case for communities managing rural estates in the objectives of the Smith commission and in the bill?

We have already heard that there is no appetite from current tenants for a change in the status quo and no desire to become a community group to manage their own estates. What is your response to that?

Audrey Maclver: The point around aspiration is key: it is about where there is indeed community aspiration, which is where Highlands and Islands Enterprise seeks, with partners, to support those communities and enable them to see that process through. The current consultation on pilots will highlight where there is appetite or otherwise, and I think that due attention will need to be paid to that.

The context in which we made that comment in our submission is that we see opportunities in particular communities for subsets of the estate to be taken into community management in order to derive the benefits that we have witnessed in other parts of the region. Again, however, there is a distinction between that context and the offshore context, where we believe that a national, strategic approach is required.

The Convener: What subsets do you have in mind?

Audrey Maclver: There could be community involvement in the management of assets such as small harbours or moorings, and in access to and management of land from the point of view of the creation of recreational facilities in the interests of tourism. That could bring about wider indirect benefits than would be the case if the assets were managed more remotely or at a national level.

Finlay Carson: In relation to the suggestion that communities could manage rural estates, is there a potential for conflict in a situation in which the current tenants have no desire to be managed by a community? How would that be resolved?

Dr MacLeod: The question suggests that tenants are separate from the community itself. I do not think that they are, and I do not think that that is the intention.

It is important not to lose sight of the fact that whether a community would take over the management or, indeed, the ownership of a rural

estate is a question not only of the community's appetite for that—which Audrey Maclver just mentioned—but, importantly, of the will of the broad community, of which the tenants are an equal and legitimate part. As the committee knows better than most, there are legal elements in relation to the community right to buy, but the broader principle concerns the fact that a community must state clearly why it wants to take on the management or ownership of an asset, and it must understand the collective benefits that are to be achieved, which might not otherwise be achieved.

Throughout the Highlands and Islands, and certainly in the Western Isles—this does not apply to quite the same extent in the south of Scotland, although that is coming on, too—large estates that have been taken over by communities have been revitalised in economic, financial, environmental and social terms. The idea that communities are too small or do not have enough capacity to take on such roles is misguided.

Having said that, I do not want to lose sight of your question. The central point that you make concerns how we work in relation to that dynamic. I think that the processes are there to enable such issues to be dealt with where there is a will to make that happen.

The Convener: In addition to the issue of resistance on the part of tenants to such a proposal, would it not be the case that a community that looked at the liabilities that are involved in a rural estate—for example, the backlog of repairs on tenant farms—would shy away from it?

Dr MacLeod: That can be the case, of course. I am wearing my Community Land Scotland hat today, but my other hat, as it were, is one that involves consulting communities on sustainable development issues. Part of that process concerns how people think about liabilities in relation to assets that they might manage and how they might manage them.

There are some important questions to be addressed around how we manage liabilities with regard to the public interest and the common good in terms of the sustainable development of communities and the sustainable management of assets.

As I was going through the previous evidence sessions, I noted that there was some discussion with Scottish Government officials about how the liability element might be managed. Something imaginative, or at least progressive, could be done there, which might help communities to engage with asset management in ways that contribute to their sustainability and add to the broader common good and the public good.

10:45

Councillor MacDonald: The reality is that, whether or not tenants are involved, if there is no appetite in a community, or even if there is an appetite but it turns out that, when people look at the business case, the asset is really a liability, the proposal just will not happen. As Calum MacLeod said, although many parts of the outer Hebrides are under community ownership, there are significant pockets that are not under community ownership for that very reason, so there is no imperative there—there is no forcing it. It is entirely down to the community.

John Scott: Do the witnesses think that within communities there would be the capacity, or indeed the expertise, to manage the land portfolio of the Crown Estate? For my part, I am not certain that there would be, but I am interested to hear what you think.

Dr MacLeod: It will clearly depend on the context of the particular estate and whether the community is in a position to manage that land. That is not to dismiss the examples of communities that have taken on very large estates and have managed them successfully. Stòras Uibhist is a classic example of that—it is a community landowner that is now involved in multi-million pound partnerships and regeneration schemes relating to that asset. Whether a community would wish to take on the management of one of the Crown Estate's rural estates would have to be determined in terms of its will and its capacity to do that, but to suggest that that is not feasible would be to dismiss the potential capacity and expertise that communities may have, which would enable that to happen. It will vary in different contexts, but I would certainly not rule it out on principle.

John Scott: I would be interested to hear the views of others.

Andy Wells: In the context of managing the assets as they stand, either as a whole portfolio or as part of a fragmented management structure in which different managers operated different parts of rural estates, there would clearly be challenges in accounting for capital investment. I have alluded to the fact that we often have to sell property on one estate so that we can invest in another, and there are a number of overall liabilities associated with the management of certain properties that are not attached to another and which we have to plan for and manage. That is not to say that it cannot be done, but there could be some practical issues in continuing that on-going investment.

Can I take the opportunity to answer a couple of questions that I did not get a chance to answer earlier?

The Convener: Briefly.

Andy Wells: In relation to the sale of assets, under the bill, any manager is able to sell and buy assets. The key thing is that the capital that is derived from those assets is reinvested in land and property. That is something that could happen in relation to the sale of foreshore, and is happening in certain circumstances in relation to asset sales to communities.

Going back to the strategic national infrastructure, there is clearly a case for ministers to have a strategic approach to offshore wind and marine environment cables and pipelines, but I highlight the views of tenants as also being critical, not only in relation to those assets but in relation to rural estates. We operate in a business environment and we have strong relationships with future business tenants as we work to unlock potential, so the importance of those tenants' views should not be underestimated.

Dr MacLeod: One of the central arguments for community land ownership is that it is responsive to the community's needs and helps to shape that community. The evidence from previous sessions suggests that it is not necessarily all milk and honey with the Crown Estate at the moment. I was very interested to hear Mr Brian Shaw from the Applegirth estate say that

"There are many underlying problems about which tenants are honestly frightened to go to the Crown Estate. There are some houses that need a lot of work."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 13 March; c 26-27.]

There are some capacity issues there, as well as issues around resolving some of the social conditions in which tenant farmers and other folk on such estates live.

One of the reasons why the Ulva buyout has been successful in getting approval from the Government is that it has a business plan and a real agenda to refurbish and renew the island's housing—its social fabric. There is no way in which it would be appropriate to dismiss the potential of communities to replicate such a process on a rural estate or elsewhere.

John Scott: Your point suggests that if the amount of money that is available to those communities was also available to the Crown Estate to carry out work for those admirable and necessary social purposes, it, too, would have the ability to refurbish housing. If it had the ability, the Crown Estate would do that work, would it not?

Dr MacLeod: It would potentially have the ability to carry the work out if it made the management decision to do so. However, at the community level you find a clear commitment to doing such things, and the grass-roots process also enables communities to make decisions on

such matters, which Community Land Scotland sees as invaluable.

Finlay Carson: Given that the well-performing rural estate currently subsidises the less well-performing parts of the Crown estate, if the community were to consider the economic viability of a good part of the estate, would recognition also need to be given to the impact of fragmentation on the less sustainable parts of the estate? Would the whole portfolio be recognised in any fragmentation or devolution of the viable parts of the estate to communities, including the impact on the less viable parts of the rural estate?

Dr MacLeod: Any such transfer of ownership would need a measured decision on value across the different elements that we have been discussing, such as whether community, economic, social and environmental benefits are associated with ownership of one aspect of the estate or several. On balance, that would create a public interest argument for that transfer.

We are not suggesting for one second that it is a straightforward process; we are suggesting that it would be a missed opportunity to dismiss the possibility of incorporating that as a principle.

The Convener: On that note, we will move on.

Donald Cameron (Highlands and Islands) (Con): I refer to my entry in the register of interests as a landowner in the Highlands. I want to ask about pilot projects. The various island authorities that I have spoken to have expressed a real enthusiasm for pilot projects. They are very keen to get on with it—they have been for quite some time. Is the panel satisfied that sufficient progress has been made on pilot projects?

Councillor MacDonald: The three island authorities are very clear about wishing to progress with the pilots. The consultation on the pilot process has only just concluded and it will be some time before we get to see the submissions that were made to it. It is really important to take pilot projects forward. The discussions that we have had with our colleagues in Orkney and Shetland make it clear that their pilot projects will be different from ours. We are quite clear about what we want our pilot project to be about, which is Crown Estate assets out to 12 nautical miles and working with the capacity that the community can bear, which, as Calum MacLeod has already said, we have very clear evidence of through community land ownership.

There is no great difference between community land ownership in principle and ownership of the marine assets that already contribute a significant amount to those communities. It is about having local management and control, with local revenues that can be reinvested in facilities that enable things to go further. We hope that our pilot projects

will be our starter for 10, because we will be able to demonstrate through them that we have the capacity and will to undertake them and that safeguards are in place for taking the process forward in a regulatory framework and—importantly—with local management. That is where the biggest gains will come from in relation to the Crown estate.

Andy Wells: I can comment on the financing in terms of progress. Clearly, it is something that Crown Estate Scotland and the board have been keen to pursue. However, we must bear in mind that we are only a year old and that we have had a huge focus this year on getting the business up and running following the transfer from the Crown Estate. Immediate financial cash-flow difficulties were a huge priority and we had to get a corporate plan in place, which has been done. The board had to settle in and understand the assets, and the drive to develop the pilot programme was taken forward as soon as was practicable. The board and staff have visited many councils to understand their aspirations. As has been said, the consultation process has just been completed and the first pilot applications are expected to come through in June this year. It is a two-stage process and, following the responses to the consultation, we hope to refine it and get up and running as soon as possible.

Mark Ruskell: On the retention of net revenues by asset managers and reinvestment in the asset, you will probably be aware of the evidence that we have had on the 9 per cent figure. I do not fully understand the methodological basis of that. However, you have all submitted strong views on that point, which I want to explore. In particular, what are your views on what the redistribution methodology should be? How do we calculate that redistribution?

Andy Wells: I can clarify that.

Mark Ruskell: It would be useful to have that clarification before hearing other panel members' views.

Andy Wells: It comes back to the way in which Crown Estate Scotland has to separate its revenue account from its capital account. The capital is part of the ownership, under the Crown, of the asset itself and is retained as such. As I mentioned, any capital raised from sales is reinvested in the estate. Under the terms of the Crown Estate Act 1961 and of the Scottish Crown Estate Bill, any manager needs to turn that capital into account through generating revenue from it. That revenue, minus the costs of securing it, is then surrendered to the Scottish Government. Before doing so, under the terms of existing legislation, 9 per cent of that revenue can be moved into the capital account, and that is normally calculated on the basis of the previous

year's turnover. So, 9 per cent of gross turnover can be moved into the capital account, which creates an opportunity for the business to use that capital for reinvestment in the asset. In the current year, because we do not have operating accounts for last year—we were not Crown Estate Scotland then—we are having on-going discussions with the Scottish Government as to how that 9 per cent will be determined.

Audrey Maclver: I, too, admit to not being clear about how the 9 per cent is derived, but I thank Andy Wells for that clarification. In our submission, we went as far as suggesting a top-up of that 9 per cent, particularly for community organisations. We do not necessarily advocate a specific number, but we are mindful of the financial incentive. Taking on board all other comments on the issue, we have said that, although the incentive is not only about the financial aspect, we wonder whether 9 per cent is sufficient for community organisations to have good and proper management of the asset. We are flagging up the need to understand whether that is the case. Perhaps we will get more understanding of that from the pilot process.

Mark Ruskell: In measuring and evaluating that incentive, do we again come back to sustainable development? If so, is it therefore about having clear objectives for reinvestment and delivery for communities?

Audrey Maclver: Yes.

Mark Ruskell: Can I get some more views, please?

11:00

Councillor MacDonald: There is no doubt that we would prefer to refer to the First Minister's statement in, I think, 2015, when she stated that 100 per cent of the net revenues would be returned to the communities in which they were generated. I recognise that there is still quite a lot of complexity about the distribution and there needs to be a major focus on that in the near future otherwise it will be difficult to set parameters for how the pilot schemes can be taken forward. That will have to be resolved with much greater clarity than we have at the moment before things can move forward. It is key for us to address that, for the communities who aspire to take control of the management of the assets and for the Crown Estate. There are fundamental issues around distribution that need to be resolved in the near future.

Mark Ruskell: Do you see part of that reinvestment as being reinvestment in your capacity as a council to manage assets? To come back to Audrey Maclver's point about ensuring consistency and professionalism among asset managers when it comes to renewable energy

development and leasing, I presume that councils have gaps in that regard. Do you therefore see that reinvestment as reinvestment in your council teams so that they can deliver or is it about community benefit?

Councillor MacDonald: We do not necessarily see it as reinvestment in council teams. As you have just stated, we already have teams in the local authority that manage marine assets of different types. We want the net revenue that comes from the management of those assets to go back into the communities and for them to decide, to a large extent, whether that investment is for onshore infrastructure or managing the asset through persuading those who are involved, such as aquaculture organisations, to manage their processes in a sustainable way within the local context.

If the net revenues from the Crown estate go to local government, we will not be interested in using that to deliver services. We are looking for investment in the Crown estate, which has not happened in the past. Communities are crying out for that. We need to be clear about distribution.

Mark Ruskell: Are you saying that that will be the case even if the devolution of management puts pressure on your teams?

Councillor MacDonald: The greatest pressure on our teams is their inability to deliver on the aspirations of local communities because of the financial resource that they have.

Dr MacLeod: The 9 per cent figure is curious and intriguing in some respects. Although it has not quite been plucked out of the air, it is a historical figure. I am not clear about the rationale for it.

Andy Wells: It is because the Crown Estate cannot borrow money. There has to be a method by which it can generate capital for reinvestment other than through sales of land.

Dr MacLeod: Thank you for that helpful clarification.

That being the case, there is nevertheless an issue around the incentivising of communities to become managers of assets and whether there is scope to change that figure. We do not have a figure in mind either, but it should certainly help to do that. When David Mallon gave evidence to the committee on 20 February 2018, he said that 9 per cent is "a game changer" for communities. Perhaps it is, and I do not want to dismiss that, but it could be even more of a game changer if it was a larger figure.

There is also an interesting question about what happens to the 91 per cent that goes back into the Scottish consolidated fund. From Mr Mallon's evidence, I gathered that there is some ambiguity

around whether there is scope to redirect that money from the fund back into communities. If that is the case, we would be interested to hear how it might happen in practice.

The Convener: I have a wrap-up question that I would like to pose to all the witnesses. I am looking for brief answers. Do you have any views on potential omissions from the bill or suggestions for how it should be amended, other than the ones that we have already discussed?

Dr MacLeod: We have a couple of suggestions in areas in which we think that there are opportunities. One suggestion relates to an automatic right of ownership of the foreshore. When communities are not in a position to take on ownership, the right would go to local authorities, which would enable communities then to take that on. In our written evidence, we also made a suggestion relating to the scope for community ownership of areas of the sea bed that are in the proximity of foreshore rights. I will not rehearse all the arguments that we have heard already, but that suggestion relates to sustainability and community cohesion.

The Convener: In real terms, what would be the benefits of both those options?

Dr MacLeod: They would give communities more control and more say in what they might want to do with the assets for the benefit of the communities. There would be potential economic benefits and other broader sustainable development benefits in terms of social cohesion, community confidence and helping communities to thrive.

The Convener: Mr Wells, how would you see that happening in practical terms, given your inside knowledge of the Crown Estate?

Andy Wells: It is about balance. From our perspective, we think that the bill offers a real opportunity for people and communities to have more opportunities to get involved and have a say in how assets are managed. It is a matter of striking the right balance between empowering communities and ensuring that there is accountability and that the right systems are in place.

The Convener: I will not be unfair and ask you whether the bill can be improved, given that you are here to represent the Crown Estate. That would perhaps be unkind.

Alex Kinninmonth: On sea bed ownership, it is recognised that Scotland's territorial sea bed is of national importance, which is why we are happy to support the presumption against the disposal of that asset without safeguards. Given that there is quite a strong consensus on that presumption, there is scope to make the bill slightly stronger. As

the bill is drafted, it is at the discretion of ministers to consent to disposal of the sea bed against an unknown set of criteria. We should either be clearer about what the set of criteria is or we should make the sea bed in effect inalienable—it should be unable to be sold or Parliament should have a greater role in deciding when and where it should be sold.

Audrey MacIver: From an industry and sector development perspective, as well as the further devolution, the bill should illustrate how Crown Estate Scotland can continue to play a vital role in stimulating innovation and supporting technology and development, whether in offshore energy or aquaculture.

Councillor MacDonald: On the point that Alex Kinninmonth raised about ministerial discretion, it would, I hope, be reassuring if there was some clarity on the criteria that are to be used. No community will take on the management of Crown estate assets if there is no benefit to it in doing so. Nobody will take on the management of an asset if it is not an asset but a liability. We should ensure that safeguards are in place so that the process, whereby people take control of the management of assets and the revenues that go with them is very clear and regulated at different levels.

The Convener: Thank you all for your evidence, which has been very useful.

I suspend the meeting for a couple of minutes before we move to the next item.

11:08

Meeting suspended.

11:15

On resuming—

Scottish Water Annual Report and Accounts 2016-17

The Convener: The third item of business on our agenda this morning is to hear from Scottish Water and Business Stream on the “Annual Report & Accounts 2016-17”.

We have been joined by Johanna Dow, who is the chief executive of Business Stream. Peter Farrer is Scottish Water’s chief operating officer, Douglas Millican is its chief executive and Professor Simon Parsons is its director of strategic customer service planning. Dame Susan Rice is the chair of Scottish Water and of Business Stream.

John Scott: Good morning and welcome. What measures have been taken to improve Scottish Water’s customer service record in recent years, and how can it be sustained?

Douglas Millican (Scottish Water): I will give the committee an overview and then ask Peter Farrer to comment.

We focus on two key things: the physical service and our performance on quality of water, environmental protection, minimising interruptions to supply and minimising instances of sewer flooding; and the experiences of customers—how they feel about the service. I am pleased to be able to say that, having completed 2017-18, as well as the year that is under review today, we have continued our forward positive trajectory.

Peter Farrer (Scottish Water): For physical measures of customer service, there is a measure that is known as the overall performance assessment, which covers 17 individual measures. The measures are weighted to reflect their importance to customers. As Douglas Millican said, they cover various things including water quality, environmental performance, flooding, pressure, interruptions to water supply, leakage and so on.

In our “Business Plan 2015-21”, we set a target to reach more than 382.5 points on the OPA on average. That level represents the threshold above which a score is recognised as leading performance in the UK. In 2016-17, we achieved 390 points on the OPA measure, which was a notable improvement on the target. This year, the improvement is continuing. Although numbers have not been finalised, it looks as though the total will be more than 400 points.

As an indication of the journey that we have been on, I will say that when the OPA measure was introduced 10 years ago, we were

benchmarked as the worst-performing company in the UK. We are now recognised as one of the leading companies.

The second customer service measure—the more experiential one that Douglas Millican talked about—is the household customer experience measure. It is a combination of qualitative and quantitative measures that represent what is important to customers. It includes the number of contacts that we get from customers, abandoned calls in our contact centre, complaints—both first-tier complaints and second-tier complaints from the Scottish Public Services Ombudsman—customer experience scores and perception measures from customers who do not transact with us on a regular basis.

When we started on it two years ago, we had a target of 82.6 points for that measure. In 2016-17, we achieved 85.8 points, which represents a 20 per cent improvement in performance against the measure since we implemented it two years ago. This year, we are on a similar trajectory to improve performance further against the measure such that, over the three years since implementation, a 22 to 25 per cent improvement will have been achieved.

I want to pick up on a couple of the important measures within that.

The Convener: Be brief, please.

Peter Farrer: Complaints are an important element of the household customer experience measure. In 2016-17, there was a 20 per cent reduction in the number of complaints from the number previous year. This year, it looks as though a 40 per cent reduction will have been achieved over a two-year period.

John Scott: Thank you. That was very helpful.

What is Scottish Water’s approach to handling the sensitive community matters to which the chief executive referred?

Douglas Millican: In its daily operations and services, Scottish Water operates in communities the length and breadth of the country. The most intrusive aspect of our work in communities is when we go about our capital investment programme. At any point in time, there will probably be 200 or 300 projects running live in Scotland. It is an area in which we have made enormous strides, but we can still do more.

When we embark on a project, we now work actively with communities to consider how we can maximise community involvement in what we do, and in how and when we do things. For example, if we want to do an infrastructure project around a primary school, we will look at how we can arrange traffic flows so that the impact on people

going to and from school is minimal. That is our general position.

Given the amount of work that we do, we do not always get it right. When we create sensitivity in communities, we must recognise that and consider what we need to do to recover the situation and make progress. It is crucial that we always ask what insights we can obtain from such situations so that we can learn from them and build into our processes measures to improve what we do.

I will give a live example that relates to the capital city. We are doing a significant project in the Haymarket area of Edinburgh, just opposite Haymarket station. We are expanding the size of the sewer there to take away the risk of sewer flooding for some businesses on Haymarket Terrace. In that area alone, we have had to engage with half a dozen different communities, including businesses, households in the area and in the adjacent area to which traffic has been diverted, people who use the train station and cyclists. Community engagement is a multifaceted activity at which we are seeking to get better all the time.

The Convener: Another example that could be cited is the massive infrastructure project in Glasgow that Angus MacDonald and I visited some time ago. Was not there a delay in completion of that project, which led to inconvenience for businesses in the area?

Douglas Millican: I would like to tease out a few points in that regard. I think that you are referring to the Shieldhall tunnel project, which is the largest project that we are running at the moment. An investment of £120 million has been provided to put in a new three-mile underground sewer of nearly 5m in diameter. It is a huge project that affects many communities.

I have noticed in my many visits to the project how close the physical infrastructure comes to people's properties. For example, piling rigs as high as the ceiling were only feet away from people's houses. I saw for myself the constructive way in which the team had engaged with the local community and kept it on board, which was tremendous.

I think that the issue to which the convener referred was in an area where businesses were affected by traffic diversions. We can say—with the benefit of glorious hindsight—that we were, in our great enthusiasm, probably too quick to give a commitment on the date by which we would be out of the area. As we do more and more complex infrastructure work in city areas, our understanding is growing that projects are often more complex than our ambitious engineers first estimate or hope.

Sometimes, the issue is what we find when we go underground. To take my Haymarket example, as we went in, we found old tram tracks for trams that had ceased in the 1950s, and we found other uncharted services. You get surprises when you go underground. Therefore, we can say with hindsight that we promised businesses there that we would be out on a date that was too early.

I will give a contrast with that. One of the other aspects of the project to which the convener referred was the closure of Aikenhead Road in Glasgow in order to do major sewer work. I was absolutely delighted that we could announce last week that we were out of there early. That is a good example of how we have tried to learn from aspects on which we had overpromised earlier.

To come back to the original question, I say that overall the project is running ahead of schedule, and we hope that the tunnel will be operational early in the summer.

The Convener: That is all well and good, but did you compensate businesses on which your work had a negative impact?

Douglas Millican: As a matter of principle, recognising that we are a public body and that all our money comes from households and business customers throughout the country, we do not compensate customers for delay. Our challenge is to minimise interruptions for customers and to give businesses as much notification as possible of any impact. If our business model was to compensate businesses that are affected throughout the country, that would have an upward impact on the charges that everybody in Scotland would have to pay. Therefore, it is a matter of policy that we do not compensate.

The Convener: This is perhaps an obvious question, but I want to get it on the record. Your written evidence says that "Written customer complaints" fell by "30% ... in 2016/17". Do "Written customer complaints" include emails?

Peter Farrer: Yes, they do.

The Convener: One would not have been surprised to see the number of letters falling by that amount in this day and age. It is good to get that on the record.

Richard Lyle: I have two questions. Page 13 of "Shaping the future of your water and wastewater services" says:

"We support the continued use of council tax bands as the basis for setting household customer charges as it is simple, cost effective and also provides a level of fairness."

Are water charges the same for every household in council tax bands A and H?

Douglas Millican: I am sorry, but I am not quite sure that I understood the final bit of the question.

Richard Lyle: Right. I will be very precise. Are the charges for each house in bands A through to H the same?

Douglas Millican: Okay. I will give a bit of the context behind the question and then discuss the specifics.

I think that Richard Lyle is referring to our consultation document on the long-term future for Scottish Water and the services that we provide to our customers. That will be available in hard document form and online for consultation and customer views over the next six months. We are going all round the country to try to engage customers and to get their views about what they want from Scottish Water in the future.

On the specific question, the council tax charges are the same in any individual band irrespective of where one lives in Scotland, so if a person lives in—

Richard Lyle: That is not what I asked you.

Douglas Millican: I am just coming on to that. In band A it is the same wherever you are in Scotland, and in band H it is the same wherever you are in Scotland. That goes for all points in between. The relationship of the charging structure between bands A to band H is exactly the same as the historical basis that was used for council tax in Scotland until the change was made recently to increase the council tax bands E to H.

Richard Lyle: That is not what I asked you. If I pay—I will take a figure out of the air—£300 in band A, is it £300 for every house in the country or is it £300 for band A and, say, £370 for band H?

Douglas Millican: It is £300 for every—

I will give you the actual figures.

Richard Lyle: I am sorry. Can I stop you? I want a precise answer to a precise question. Is the water charge for every house in Scotland the same?

Douglas Millican: No.

Richard Lyle: Thank you. I thought that, but I wanted to make sure.

Scottish Water is publicly owned. We, the public, are in effect your shareholders. Is that the case?

Douglas Millican: Yes.

11:30

Richard Lyle: Given that Scottish Water has made £94.2 million in its current financial situation, is there scope to reduce the charges and to have every house in Scotland pay the same, so that, if I live in a band A house, I would pay £300, and if I live in a band H house, I would pay £300? We are

all drinking the same water and using the same facilities, so why is there a difference? If you take on board that you have made that profit—I know that you are going to say that you have projects to do and that you have to pay for this and that—can you reduce your fees to local councils and local households so that everybody pays the same? As most councils collect water charges through household bills, dare I say—councils will love this—that you could increase their fees?

Douglas Millican: There are a number of different elements. First, the principles by which we charge are set by ministers for every six-year regulatory period. The charging structure that links to council tax bands was set in late 2014 to apply for 2015-21. Scottish Water implements ministers' policy on charging.

My second point is on our activities and how we finance them. We do two things: first, we deliver the day-to-day services of providing clear, fresh drinking water, and taking away waste water, treating it safely and returning it to the natural environment. There is a cost for that. The second cost is for all our investment, which falls into two categories: repair of infrastructure and assets and replacement of infrastructure and assets that have come to the end of their lives; and enhancement and extension of our networks.

In very simple terms, the cash cost of delivering all our operations and our investment is more than the revenue that we generate. That is why we borrow from the Scottish Government to part-finance our investment programme. If we were to drop the charge levels, borrowing would need to go up.

Those are not our decisions. They are made through an independent regulatory process that is a reflection of the Water Services etc (Scotland) Act 2005, under which the economic regulator has a duty to set our charges at what is termed

“the lowest reasonable overall cost”

for us to deliver our services.

Richard Lyle: Yes—but every company in the world has to make a loss or a profit and has expenditures and so on. I used to work for the Royal Bank of Scotland and was a shareholder in the Royal Bank of Scotland. I sold the shares before their value crashed, by the way.

The physical situation is that, from a shareholder's perspective, you have made a profit. Even with all your costs and your spending, you made a profit of £94 million. As a shareholder, should I not get some of that back, as shareholders do with other companies when they get a dividend?

Douglas Millican: In the model that we have, customers get the profit back in the form of its

being reinvested in infrastructure so that we can keep delivering services for the future.

Richard Lyle: So, my dividend is paying for future projects.

Douglas Millican: It is used to keep on delivering services effectively into the future.

Richard Lyle: Thank you very much.

Mark Ruskell: Further to that question, I say that local government tax reform is always sitting waiting in the wings. How closely linked to it is the charging methodology? Do you see it as being completely separate from the debate on where we go as regards council tax, or do you anticipate that a review of the charging methodology would take place automatically if there were to be a review of council tax and consideration of its potential replacements?

Douglas Millican: I have two or three thoughts on that. That is, fundamentally, an issue for ministers. I guess that it is clear that, to the extent that they think about changes in local government taxation, there is a flow through to thinking about what happens with water.

One of the great benefits of the current system is how efficient it is for billing and collection. The costs of billing and collection activity are shared between the local authorities and Scottish Water, which effectively helps to keep down council tax and water charges.

Alex Rowley: I want to talk about investment and new development. We have the Planning (Scotland) Bill going through Parliament just now and there is a need for major investment in housing. Take the example of a proposed housing estate of 900 houses. Does Scottish Water claim some of its investment in infrastructure back from the developer, or do you have to make that investment yourselves? Is the level of investment that you put in keeping up with the level of demand for investment in infrastructure, or are we storing up problems for the future?

Douglas Millican: I will take those questions in reverse order. We endeavour to be what we term ready just ahead of need. We do not want to create infrastructure that ultimately might not be required, because that would be what we call a stranded asset. It would be a sunk cost for us as a business. However, we do not want to be late and to hold up new development, so our strategic aim is to be ready just ahead of need. We have made a lot of progress in the past few years by working with developers and local authorities to try to get ourselves ready and, generally, we are in that position.

On the question of who pays for what, there is a model at the moment, which, in very simple terms, is a shared-cost model. We pay part of it and

developers pay part of it. There is quite a bit of intricacy as to precisely how that works, but one of the questions that we pose in our consultation is whether that balance is right for the future. Do we have the right balance between what existing customers pay and what developers and new customers pay for the cost of new investment?

Alex Rowley: I come back to the point of whether we are storing up problems for the future. Are you satisfied that the level of investment in infrastructure and repairing it is meeting the pressure on the infrastructure?

Douglas Millican: That is a very topical question, because we are spending a lot of time with our regulators at the moment thinking about the next price review for 2021 and beyond. Probably the biggest issue that we are grappling with is the asset replacement challenge. We have spent a lot of time in Scotland over the past 20 to 25 years investing very significantly in upgraded infrastructure and assets, and putting in place waste water treatment plants where there were none before. As we look into the decades ahead, the big question for us is when we will need to replace that infrastructure. At one level, the challenge for us is how we can sweat the assets and make them last as long as possible. Equally, we need a good understanding of when we will need to replace them so that we have the financial capacity to do so. That is a live issue that is under review as we go through and work on our 2021 price review.

The Convener: Let us move on to Business Stream. When you were last in front of the committee, we had a discussion about the concerns that some members had about your 14-day billing period for customers when you had a longer period for paying your own creditors. An undertaking was subsequently given that that would be looked at and that a 21-day period would be introduced for new customers. Has that been done? If so, what impact has that had?

Johanna Dow (Business Stream): When I wrote to the committee to provide additional evidence after the meeting, we made a commitment that we would move to 21-day payment terms, not just for new customers but for any customer who was not on a contract with us. We endeavoured to do that while undertaking a wider review of our debt recovery practices. We have subsequently done that, completed the review and implemented a range of changes, and our default position for payment terms for our customers is now 21 days unless they contract to do it differently. We have reviewed all our debt recovery practices and, for the majority of our customers, the first interaction that they would have with Business Stream would be 10 days after the 21-day period has elapsed.

The Convener: To be clear, does that now also cover the customers you had at that earlier point?

Johanna Dow: It does. It covers any customer who is not on a separate contract with us. There are some customers who opt to have shorter payment terms in return for a discount, but any customer who is not on a contract will have the 21-day payment terms in place.

The Convener: What has the feedback been on that?

Johanna Dow: It has been really positive. We do not get a huge amount of direct feedback from customers, but we have had feedback through some of the consumer bodies, and that suggests that it has been welcomed.

The Convener: That is good news.

Finlay Carson: The committee has previously heard about a number of complaints about leakages, particularly on agricultural land. We have pursued the issue of how Business Stream is dealing with some of those cases. Has Business Stream seen a reduction in the number of complaints from businesses with regard to charging for leakages on agricultural land?

Johanna Dow: I cannot comment specifically on the number of complaints that relate to leakage, although I can get back to you with additional information. At a high level, I can say that, following our entry into the English market, the number of customers we serve has more than doubled from this time last year but the number of complaints that we have had in the past 12 months has been about 1,300, which is the same as the figure 12 months ago. That shows that we are definitely seeing a downward trend in the number of complaints that we are getting from customers overall.

With regard to the particular issues around leakage and the complaints that were raised by NFU Scotland in a meeting of this committee 18 months ago, I can say that we have worked through each of those cases systematically and have sought resolution for each of the customers. We have also been quite proactive with the NFUS, and have produced “how to” guides for its members in relation to a few common themes including leakage and shared supplies.

Finlay Carson: I do not believe that we have got the balance right with regard to the water industry. The stock excuse that we seem to hear is, “It’s taxpayers’ money.” That was the case with the answer that the convener got in reply to his question about compensating businesses. I could give you a list of complaints that I have received from constituents on issues such as sewage works being only part completed and farmers hitting water pipes that have not been buried to the

prescribed depth and having to pay the subsequent bill. People often get the stock response, “Computer says no—we’re not going to deal with that and you are not going to get any compensation.” Do we have the right balance with regard to Scottish Water’s duty of care to its customers? Surely there cannot just be a rush to the bottom to reduce water charges, given that there is obviously an impact on some businesses as a result of some actions that Scottish Water has taken or has not taken.

The Convener: Who wants to answer that? The question concerns both sides of the issue.

Douglas Millican: The first thing to say is that you should pass any constituency concerns to us, and we will look into them.

In general terms, I would say that we have got the right balance. The exception to that, which I mentioned to the committee last year, concerns the issue of a sewer bursting on farmland—it is something that we need to look at as we move into the next period. The reason why I think that the current practice in that regard is not up to date is that it reflects 1968 legislation, under which the liability on us is extremely restricted. This is my personal view, but my instinct is that we should be seeking to provide a level of compensation when we get a sewage issue on a farm that is similar to the level of compensation that we provide when there is a burst pipe on a farm. When I spoke to the committee last year, I gave a commitment to work with the Government to take that forward as part of the planning for the 2021 price review.

However, as I said, aside from that issue, I think that we have got the balance right. That is shown by the huge reduction in the level of complaints that we are getting and the fact that, when we get challenged on issues, we think hard about what is in the interests of the specific customer and of customers in general.

As we go into a period of consultation on our strategic projections, there is a great opportunity for you, your constituents and our customers to raise with us issues that we and the Scottish Government should think about in framing policy for the 2020s.

Finlay Carson: In a nutshell, do you have enough flexibility to offer the compensation that people would generally expect? I am talking about people whose houses have been flooded because the waste-water drains needed to be updated. The answer that we receive is, “Well, we don’t have the budget for that.” We are told, “Well, it’s public money, and we don’t think that that is value for money.” Do you have enough flexibility in your budget to address such individual concerns?

11:45

Douglas Millican: There are two different issues there. I am pleased to put something on the record. When sewage gets into somebody's house—fortunately, that happens very rarely—that is quite the worst impact that Scottish Water's activities can have. As much as anything, that is a function of our growing urban areas, more paving over and more intense storms. When that rain lands in sewers, it has to go somewhere. We have made a huge priority with the Scottish Government because of that. For this regulatory period, we have trebled our level of investment to deal with sewer flooding issues. We have prioritised areas, people and properties at risk of having repeat sewer flooding inside their premises. It is clear that external sewer flooding issues—which could be in a driveway, a garden or a road—have a real impact on people's lives but, relatively speaking, have less impact than flooding inside houses has. Therefore, that has not been prioritised for investment in this period.

When we look at the period of 2021 and beyond, we and our regulator and the Scottish Government will need to look at all the relative levels of priorities. However, I give an absolute assurance that, whenever anybody suffers a sewer flooding event, we will always go along and ensure that it is fully cleaned up.

The Convener: I want to let in Angus MacDonald on sewage floods, but I will ask Johanna Dow a question first. We have moved away from the original question to Business Stream. Do you record data at the level of the number of your agricultural customers in Scotland? I ask that question because I understand that the NFUS has an arrangement with a rival provider that offers a metering service. Is there any evidence that you have been losing customers to it because of that?

Johanna Dow: We hold some information that would allow us to categorise the nature of the customer's business, but it is not 100 per cent accurate, as it is based on the standard industrial classification codes that Her Majesty's Revenue and Customs uses. I could not sit here and give members the number of farms that we supply, for example. However, from looking at recent trends in customer switching activity, I do not see a significant reduction in the number of farms that we supply. I can see information on who is transferring out to somewhere else on a monthly basis.

Angus MacDonald: I want to pick up on the issue of sewage spills on farmland. I should declare an interest: I have a family member who is currently in dispute with Scottish Water at the Court of Session over alleged arsenic poisoning of a herd of cattle due to sewage spills on nearby

land. Perhaps I should also declare that I am a customer of Business Stream on a non-domestic property in the Western Isles.

At the previous session with Scottish Water, I raised the issue of sewage sludge spills on farmland in general and highlighted the concerns of the NFUS, which had identified numerous incidents of sewage spilling on to farmland. Douglas Millican has referred to the comments that he made in December 2016, when he previously appeared before the committee. As I said then, the NFUS had

"flagged up the fact that current law puts the onus on the farmer to prove that Scottish Water is liable for any damage that is caused by sewage spills rather than on Scottish Water to prove that it is not liable ... The NFUS feels that that should be changed in law as it is the wrong way around."

Mr Millican said in response to that:

"We have some sympathy for that."

You have said today that you are still looking at that. That is disappointing, because you stated in 2016:

"the law, which was written nearly 50 years ago, is out of step with current customer service expectations and practice. We need to look at that with the Scottish Government either to consider formalising a change in approach for the next period or to decide whether such a change should be accompanied by a change in legislation. It is on our radar."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 6 December 2016; c 37-8.]

However, a year and a half later, we do not seem to be any further forward.

What progress has been made on sewage spills on farmland? Is that still on your radar and what progress has been made on the discussions with the Scottish Government on formalising a change of approach?

Douglas Millican: I hope that the answer that I gave a few moments ago echoed the one that you have recalled from December 2016.

Angus MacDonald: Yes, but we are now a year and a half down the line.

Douglas Millican: We are in a process of considering all the factors for the next strategic review of charges, which will come to a conclusion over the next 18 months or so. Only as it reaches a conclusion will we come to a definite position on what is agreed, what the priorities are for the future and whether there should be any changes in policy position. I hope that what you got from the sentiment behind my comments in December 2016 and today is that I believe that it is an issue that we should consider and therefore if it is not addressed through legislation, it would be in our gift, subject to Government support, to address that through our policy position.

Mark Ruskell: I want to drill down into the pollution figures in more detail. There has been a slight decrease in minor category 3 incidents in the past year and there has been a slight increase in the small number—thankfully—of more serious category 1 and category 2 incidents. Can you tell us a little more about the consequences of those more serious incidents and, in particular, how your investment programme is ensuring that such incidents continue to decrease over time?

Peter Farrer: You refer to the environmental pollution incidents, for which categories 1 and 2 are the most serious and category 3 is more minor. You are right to say that the number of category 1 and category 2 incidents increased a bit this year. When something is categorised as a 1 or a 2, that means that it could lead to fish kill or other environmental impacts on rivers and so on. If the incident is really serious, the environmental regulator can take us to court and prosecute us in respect of the severity of the impact.

Mark Ruskell: Could you pick one serious incident and tell us about that?

Peter Farrer: We had a prosecution at Dunswood. It is the only incident for which we have been prosecuted and it was down to the fact that one of our treatment works had a problem over the weekend: a large piece of electrical cable went down the sewer, blocked up some of the equipment and caused an untreated discharge into the river—the discharge had not gone through the works for proper treatment. At the same time, because of power issues, our telemetry unit failed, so we did not know about the discharge until the next morning when the operator arrived at the site at 7 am and the discharge had been running for a number of hours on the Sunday. That was classed as a serious incident.

Fortunately, incidents are not often as serious as that. We have looked at the impact of that incident in relation to our equipment and telemetry and we have made alterations to ensure that it does not happen again.

Mark Ruskell: How does your investment programme address those particular issues? Is it a common theme for more serious incidents that there is a mechanical failure or some other unexpected failure that you have to go away and think about the reasons for before making reinvestments, or is such failure predictable? Is there something about asset management that Scottish Water needs to consider?

Peter Farrer: I will give a general answer. We have been focusing on pollution incidents for quite a while. Back in 2010, there were 825 pollution incidents and you will see from the document that that figure is now down to about 200, which is a significant improvement. We have achieved that

by focusing on the whole network and on treatment works and what we can do to improve their controls.

If we look at the number of pollution incidents across the network, we can see that 70 per cent are caused by blockages in the sewer pipework. The committee has probably seen the campaigns that we have been running to engage with customers by telling them not to put inappropriate things down toilets, which can lead to such blockages. We have been working very hard over the years and are doing a number of things to minimise those incidents.

Douglas Millican: An inherently challenging area is that, at the moment, we do not always know when a discharge might be going out of a combined sewer overflow. Committee members might imagine the situation. Such overflows are designed to relieve excess surface water in times of storm. However, if there should be a blockage because of inappropriate material having been put down in dry weather, we might not know that that overflow is discharging. Therefore one of the things that we have agreed as a priority in our investment review for 2018 is to look at where we need to install greater sensors in our networks to give us insights into what is happening in our waste water system. For example, if there is a discharge from a combined sewer overflow on a sunny day, that would indicate that something is wrong and we need to get out there and attend to it. Over the years to come, we will have quite a bit more to do, where it is cost effective and environmentally worth while, so that we can get further real-time insight into what is happening in our sewer network.

Mark Ruskell: I want to ask about longer-term pollution issues. I give the example of Kinghorn in Fife, where, last year, there was bacterial loading at the harbour. Again, that relates to overtopping and combined sewage getting into the storm water system and then into bathing water. Is that picked up in these figures? Are longer-term, low-level pollution problems—and, more so, dispersed pollution problems—picked up, acted on and fed back into the investment programme?

Professor Simon Parsons (Scottish Water): Yes—very much so.

Mark Ruskell: I know that that happens in the case of Kinghorn, but I am interested in how you report and monitor that kind of stuff.

Professor Parsons: All pollution incidents, such as the one at Kinghorn, are reported to the Scottish Environment Protection Agency and then categorised. Kinghorn is a good example: we are working with SEPA, first, to make sure that we understand how that network works, what all its contributory parts are and how it impacts on

bathing water, and then to work out what investment we will need to put in place. At Kinghorn, we are already working to put in investment that will control the discharges from that network into the bathing water.

In the longer term, by far one of our bigger challenges is controlling the amount of surface water or storm water that gets into our sewers. It is very much a case of making sure that the sewers are used for what they have been designed for. For example, we minimise wash-off from roads and paved areas and try to slow down that water to allow the sewer networks to work as they have been designed to do.

Mark Ruskell: Finally, what is your planning horizon? Is the timescale adequate to make long-term changes in the system? The committee had a submission from Consumer Futures, which said that Scottish Water needs to adopt a 50-year strategic review. That might be difficult to do, given climate change, but—you know what—that is coming anyway. Are the current timescales for investment adequate for us to really look at where we want to be in 50 years' time?

Douglas Millican: That is a really great provocation from the Consumer Futures unit. When we have pulled together all the work that has informed our shaping the future consultation, we have tried to look as far ahead as can reasonably be done. In some areas, we can have reasonable confidence as to how things might be decades down the track. In other areas, we might ask who knows what the world will be like in the 2020s, never mind the 2030s or 2040s. Therefore, quite intentionally, we have not put a date on it. We have not said, "This is 25 years ahead", but we have tried to look as far ahead as we practically can. If there were to be an anchor, I guess that it would be 2050, but it is not limited to that. We are trying to stretch our thinking and planning as far ahead as we can. Even in active dialogues with Government and our regulators, looking at the next period, we are absolutely rooting our thinking in that—not just for even six years but trying to do the right things to make sure that the industry and our service to customers will be in the right place in the decades beyond that.

Mark Ruskell: Does that assume regulatory alignment with European Union directives, even though we will be out of the European Union?

12:00

Douglas Millican: In effect, it assumes that there will be a continuation of the standards that we currently have to achieve. We are already looking at possible changes in EU legislation. For example, there is a proposed new EU drinking

water directive, and we are absolutely considering what we might need to do to comply with that.

The Convener: I want to develop the climate change point, but I will let Alex Rowley in first.

Alex Rowley: I will take the liberty of homing in on a specific Fife question relating to a sewage treatment plant. You will be aware that the new Queensferry crossing is near a sewage treatment plant and that there have been real problems with smells coming from that site over a number of years. Given that the local communities in places such as North Queensferry and Rosyth want to take advantage of the iconic bridges, where are you at in trying to address those issues?

Peter Farrer: We had problems in the past with odour, which were to do with the way that the treatment was carried out. We carry out a treatment called lime stabilisation. Because of restrictions on the site, some of that had to be done outside, which led to odour issues. However, we have now changed that practice and we are doing treatment within a building, which has odour control, and the sludge is then removed from the site. We have changed the way that we do the treatment in order to minimise the odours that come from the site.

John Scott: I will move on to climate change mitigation and adaptation. Douglas Millican has highlighted three key areas in that regard, which are the capacity of our sewerage systems, assessing the flood risk to some of our critical assets and what we need to do from a drought resilience angle. What further progress has Scottish Water made on energy efficiency and climate change mitigation?

Peter Farrer: I will deal with the energy part of that. We have a number of approaches to renewable energy in our business. We already have a number of large wind schemes on our catchments, and we also have a number of hydro installations, small wind schemes and photovoltaic installations. Of course, we have recently started heat-from-sewage schemes. Over the years, we have increased our self-generation capacity and we now generate about 13 per cent of the electricity that we need each year. We use a significant amount of energy every year. The figure is about 440 gigawatt hours, which is a huge amount, and we self-generate 13 per cent of that. In March 2017, we reached a milestone when we announced that we were generating or hosting on our assets more renewable energy than we consume in a year.

We have continued with that programme. We are continuing to build renewable assets and we hope to announce more achievements in that area very soon.

Douglas Millican: As well as the renewable generation, we have a focus on reducing the amount of energy that we need to consume in our operations. A lot of that comes down to optimising our treatment technologies. We are on track to deliver 11GWh of energy efficiency savings by the end of this period.

John Scott: Do you still consider capacity of the sewerage system, flood risk to critical assets and drought resilience to be the key issues arising from climate change?

Professor Parsons: Very much so. For example, there are issues about how we deal with storm water in our sewers, which are a very fixed asset, and about ensuring that we can always provide an adequate supply of drinking water, in terms of quantity and quality. Some of the biggest risks that we see from climate change relate to those issues.

One area on the list that is slightly different concerns the changing quality of some of our waters. A lot of our waters come from upland and very peaty sources, and we are seeing an increase in the amount of organic material in those waters. There are predictions that, given climate change, that situation could become worse for us. There is therefore a challenge for us over a very long term in ensuring that we are able to provide both the quantity and the quality of water.

John Scott: Are you talking about increased turbidity?

Professor Parsons: We tend to see increased turbidity, but it is primarily about the colour of such water. Among other characteristics of Scottish waters, we are seeing increases in that colour. We do not want that to come through to the high-quality water that we provide.

John Scott: Can you say a bit about external sewer flooding in Prestwick, in my constituency? Have you made any progress on that issue? Are you considering a pilot? How are you working with the local authority on it? Will it be 2021 before you get a resolution? My constituents are still very anxious about it.

Douglas Millican: A number of areas are firmly on my radar, including Prestwick, where we have particularly concerned customers because of the issue of repeated external sewer flooding. We are actively looking at what else we could do in the meantime short of formal investment. I cannot offer you specific solutions today, but I can reassure you that we are looking at whether we can do other things in the meantime. That is not a promise that there are other things that we can do, but we are certainly looking at whether there are. It is distressing for me that there is a big issue that impacts on people's lives and that, apparently, we can do little about. For a business that prides itself

on putting its customers at the heart of what it does, that is not a great place to be. I therefore want to make sure that we do all that we credibly can in that respect. Equally, however, we always operate in a world of constrained finance because there is ultimately a limit to how much our customers will be willing and able to pay. There will therefore always be difficult choices in any investment review as to what gets promoted and what we just have to manage as best we can.

The Convener: Thank you. We move on to the issue of chloraminated water, on which a number of colleagues want to come in.

Kate Forbes: The witnesses might be aware that a petition on chloramination that is in front of this committee—it was referred to us by the Public Petitions Committee—was sparked by the situation of the water supplied from Aviemore to the Badenoch and Strathspey area. However, my first question is a general one. Why has Scottish Water decided to increase the number of areas that are being supplied with chloraminated water?

Douglas Millican: I will provide a bit of context. We draw water from many different sources across Scotland. We sometimes draw water from rivers and underground aquifers, but we predominantly draw it from upland lochs and reservoirs. We then need to get that water into a high-quality condition and deliver it safely to customers' properties. The two main challenges for us are the nature or characteristics of that water from lochs and reservoirs and the nature of its distribution—the length and material of the pipes—from where we collect it to where we deliver it to customers' premises. Those are the two main factors that drive our water treatment activities that ensure that the water that gets to customers' premises across the network is of a high quality and safe to drink.

On chloramination, I will make a general point that does not deal specifically with the Badenoch and Strathspey issue. Over a quarter of Scotland's water, including the water that we drink here in the Parliament, is now being chloraminated because, as Simon Parsons referenced earlier, a lot of our natural source waters come from upland areas where the soil is quite rich in organics and peat—more so than in most other places in Europe. When that organic material reacts with chlorine, water is produced that is safe to drink. However, there is always a risk that water from an area that is rich in organics might breach the regulatory standards that we are required to achieve.

The context is that the standards that we need to achieve are broadly three times more demanding than the World Health Organization's guidelines for appropriate health parameters. When water that is rich in organic or peaty material is combined with chlorine, we are at risk

of breaching one of those regulatory standards. However, a treatment of chloramine—a combination of chlorine and ammonia—means that that element is way below the regulatory standards and is even safer for people to drink.

Kate Forbes: When Scottish Water decides to chloramine water in an area, does it engage with consumers prior to the introduction and during the initial phase? How far in advance are consumers notified, and is there a regulatory requirement to notify consumers about changes to their water?

Douglas Millican: Our principal engagement has been with the drinking water quality regulator and local health boards. Both the regulator and NHS Scotland recognise chloramination as very safe and appropriate for water treatment in Scotland. Typically, we engage with the NHS a year ahead of chloramination to make sure that, for any patients who have kidney issues, adjustments can be made to dialysis machines to deal with chloraminated water as opposed to chlorinated water.

Rightly or wrongly, we have intentionally taken a low-key approach to informing customers. The drinking water quality regulator said in evidence to the Public Petitions Committee that

“using a treatment process which involves the addition of ammonium sulphate to the water may sound alarming, but this is ... recognised,”

approved and safe. We have been low key about it because a person who gets a postcard about the addition of ammonium sulphate might be very anxious.

Most customers rely on the whole infrastructure of the national health service to protect public health. The Scottish drinking water quality regulator and Scottish Water work together to give the assurance that water is absolutely safe to drink and of a high quality. We do not alarm customers. Historically, we have restricted information to the organisations and people that need to do something about the change: the NHS, for dialysis, and people who keep fish as pets. However, whether that approach is right is an open question. Recently, in East and South Ayrshire, we had kick-back—for the first time—about why we did not do more to inform people in the area, which struck me and posed the question whether we should work with the drinking water quality regulator and Citizens Advice Scotland to look at the pros and cons of different approaches to the provision of information for customers.

On the issue of timing, information is provided a year ahead to the health board and three or four weeks' ahead to customers. That is far enough ahead for them to take action, such as by getting the right filter for a pet fish, but not so far ahead

that they may have forgotten about it by the time the change comes along.

The Convener: How do you identify which customers keep fish as pets?

Douglas Millican: We do not try to identify them. We send out A5 postcards to draw the issue to the attention of people who have fish, asking them to look at what to do and to speak to someone at a pet shop or fish shop. The postcard makes it clear that the change is chloramination and includes links to a website with a question-and-answer section on all the issues.

The Convener: Thank you for clarifying that point.

12:15

Kate Forbes: You mentioned that a quarter of customers are drinking chloraminated water, which means that three quarters of customers are not. Do you plan a further roll-out of the process, or do you decide whether to use it on an area-by-area basis? What might be the challenges for areas that do not have chloraminated water?

Douglas Millican: Let us work back the way. Our approach is driven entirely by data on the quality of water at the premises of customers across Scotland. We do 140,000 tests a year on the water supply at customers' premises and, in more than 99.9 per cent of those cases, the supply meets all the standards. When there is an area in which there is a fail or there might be a trend towards fail, we consider what more we need to do by way of operational practice or through investment to keep the water absolutely pure.

Interestingly, the major driver for chloramination is what are called trihalomethanes, which are one of the parameters that we test for. They are caused by the combination of chlorine with organic material. If there is an area in which, historically, the trihalomethanes standard has occasionally been exceeded or in which there might be a risk of that happening in the future—perhaps because of climate change, which, as Simon Parsons explained, leads to more storms, which in turn cause more organic material to run off—we will consider whether we might need to change our method of treatment from chlorination to chloramination, to make sure that we are always within the prescribed limit for trihalomethanes.

Kate Forbes: That is done on an area-by-area basis.

Douglas Millican: Yes. For example, later this year, we will turn on chloramination in the Oban area, where we are building a new treatment plant. One of the major drivers for doing that is the need to deal with this issue.

The Convener: A number of colleagues want to come in on the same issue.

Finlay Carson: I have a very simple question: can other methods be used to make heavily peated water safe? Are decisions on whether to chloramine the water taken on the ground of cost effectiveness? Are there alternatives? Could there be heavier screening or filtering of the water, which would remove the requirement to chloramine?

Professor Parsons: Yes. We can look at a range of different options for the treatment of water and for the distribution part of the process, and we consider different approaches for removing such organic material from the water before we add the chlorine. Most of our water treatment works seek to remove 80 to 90-plus per cent of it, but many of our source waters contain such high levels of organic material that even removing 80 to 90 per cent of it is still not enough to enable us to guarantee that, when a customer turns on the tap, the water will be free from the by-products that we are talking about.

We always look at the range of options that exist. We actively engage in research and innovation that looks at new technologies, new approaches and new ways of controlling our processes. In the end, we will make a decision that is based on the best way of ensuring that the water is always of a high quality and great to drink. In doing so, we take a long-term view of the whole-life cost.

John Scott: I am impressed by the fact that you carry out more than 400 tests a day to make sure that our water is safe. However, how many complaints have you received about the chloramination process in south and east Ayrshire? What action have you taken to address those complaints, some of which have been made by my constituents?

Douglas Millican: I do not have a figure for the number of complaints about chloramination, but I do not think that there have been many of them. We introduced chloramination a week past Monday, and it has taken a number of days to get right through the system. I think that, at the absolute peak, we had 20 contacts a day about issues to do with the taste or the smell of water. That figure has now dropped down to four or five a day in an area in which we serve more than 300,000 people.

I would say that it is a negligible level of inquiry. We get inquiries about water taste issues every day from customers across Scotland, so the fact that we are down to a handful of inquiries a day in an area of more than 300,000 people, just one week after putting in the supply, suggests that we have a so-far, so-good situation.

John Scott: If possible, could you supply us with those figures?

Douglas Millican: I would be happy to do so.

John Scott: When a decision is taken to change a water source or alter a customer's supply, how do you ensure that you do not inadvertently create further problems?

Professor Parsons: All the approaches, processes, chemicals and treatment options that we use are highly regulated. That means that their impacts are well understood. A huge amount of sampling, in addition to the 400 samples a day that you mentioned, takes place as part of the commissioning of any new treatment process or putting any new chemical into the supply. That sampling analysis and science goes on in the background to ensure that, before the water goes into the supply, we fully understand that it is safe and of a high quality—and, we hope, that it tastes good. We then look at the impact that the chemical has as it travels through our networks.

There are definitely things that we can improve. Some of the learning from a treatment works that was put in this year has helped us to understand more about the interaction between certain types of water and our networks. We use pilot rigs and test methods to understand what any change in treatment or chemicals will have on customers' supply.

John Scott: Finally, is chloramination universally regarded as good practice worldwide?

Professor Parsons: The chloramination process is supported by the World Health Organization, and it is used widely across the United States, Canada, Australia and various places in Europe. It is one of a number of disinfection methods that we can select from and use, and it is widely acknowledged as being a suitable process.

Richard Lyle: You say that you

"Deliver high quality, great tasting drinking water, every minute of the day."

What right do you have to change my water? I have noticed that water taste has changed in the 60 years that I have been on the planet. In Strathclyde, you tried to put in fluoridation. I do not know whether that has happened yet, but you have changed our water.

What scientific evidence do you have that what you have done in the new input into our water does not affect people? People have concerns and are putting in petitions that ask the simple question about the costs of water filters. I remind you that Scottish Water made £94 million profit in one year. If someone does not want their water to be affected, given that you have made the change,

why should you not pay the cost to ensure that the water that they are drinking is to their taste?

Douglas Millican: I will let Simon Parsons deal with most of the question, but the first thing to say is that filters can give customers a superficial confidence. To be clear, it is absolutely the customer's choice whether to put in a filter. Our concern is that, unless those filters are changed regularly, there is a risk of bacterial growth inside a customer's property and that would undermine the safe, high-quality water that we supply.

Professor Parsons: The improvements in water quality since the formation of Scottish Water have been fairly significant. That improvement in water quality has been proven both from a scientific point of view and in the number of contacts and people's concerns about the quality and taste of the water. We have had a tenfold decrease in the number of failures to meet drinking water standards and a significant reduction in the number of contacts from customers.

There is no doubt that the quality of the water that customers get across Scotland today is significantly better than it was 10 or 15 years ago, which is the result of significant investment in treatment processes, operations, skills and capabilities and science. There has been a significant improvement in the quality, from the perspective of safety and that of consistency across Scotland.

There is no doubt that the taste of water is affected by where it comes from. Anywhere else in the UK, the water tastes very different from the phenomenally good-tasting water that we have here today. The taste of water is affected by the source. We always look for the most sustainable source that can provide water for the long term.

The water in Scotland today is of an incredibly high standard and it is safe. I hope that we achieve the statement in the strategic projections that it is good to drink.

Richard Lyle: I agree that Scottish water is the best, but I have noticed a change in the taste over the years that I have been on the planet. In London, my goodness, the water down there is—well, I will leave it at that.

I will go back to my point, which is to address the petitions that are in front of us. There are products out there—I will not mention the brand name—that you put in your fridge to filter water, although those come at an extreme cost. If Scottish Water is changing people's water and they do not want that because they are fearful of skin allergies, for their children or because of their dialysis, but it would cost them £2,000 to buy a filter and they do not have that, why can you not pay for that?

Douglas Millican: In very simple terms, it is because our obligation is to provide safe high-quality drinking water. There is a risk that providing filters would undermine the safety of the water because of the risk of bacterial formation on the filters.

Richard Lyle: I do not accept that. If I go to a doctor, I can get a prescription every so often. If I go to a pharmacy or a company that supplies me with something, they can send it to me every so often. If I get a filter from Scottish Water, you could supply me with a new filter. The operative word is a four-letter one: safe. Scottish Water says that it will deliver safe water to me. If I do not believe that that is happening, I should be safeguarded by your providing me with a means to get safe water.

Douglas Millican: I absolutely agree, and that is why it is so important that we have an independent drinking water quality regulator who gives that assurance to people across Scotland that the water, not just in aggregate but area by area, is safe to drink.

Richard Lyle: I will leave it there.

The Convener: There are people who have concerns about the process, and we hear suggestions that difficulties arise in relation to skin conditions and breathing difficulties. Do you accept any of those claims as appropriate and accurate?

12:30

Douglas Millican: Potentially, there are lots of complex issues. The area that probably caused me most distress was Badenoch and Strathspey, where there were issues for a whole bunch of reasons. Historically, we did not handle that situation well and we took too long to get on top of it.

The skin issue was a particular concern there. We had changed the source water from a loch in the Cairngorms to an aquifer under the River Spey. Undoubtedly, there were people who presented as having skin issues that they had not had before. The only way that we could deal with that properly was to engage NHS Highland, which looked really hard at the data. It spoke to all the local general practitioners in the area and compared the data on skin issues after the new supply came in with the data under the old supply and at the instance of skin issues in Badenoch and Strathspey compared with that elsewhere in the Highlands.

NHS Highland's two key conclusions were that there was a negligible difference between the instance of skin issues under the new and old supplies and that, overall, the instance of issues was about 20 to 30 per cent lower in Badenoch

and Strathspey than in the Highlands as a whole. That was part of the evidence that NHS Highland gave to the Public Petitions Committee in July 2017, and that is the area where we have looked hardest at the issue.

I was struck by the part of the evidence that showed the significant percentage of the population that suffers from skin issues. NHS Highland highlighted the complex interaction of factors that can give rise to such issues. It is very much a matter for the health services rather than for us.

The Convener: What about the breathing issues?

Douglas Millican: I must say that that is not an issue that I have heard of.

Professor Parsons: The science behind chloramination is really well understood. There is a huge amount of academic research, as well as research by organisations such as the drinking water quality regulator and other health boards. There is a huge amount of data and information that gives us the confidence that the process is safe for us to use. I am not aware of specific concerns about breathing, but I take a lot from the research that was undertaken by NHS Highland that talks about the underlying science that says that monochloramine and chloramination are safe to use.

Mark Ruskell: Is the need to chloramine waters from a particular catchment in any way related to land management practices? For example, at Loch Katrine, which is a major drinking water supply for Glasgow, you took the sheep off the hills a number of years ago and you are reforesting the area. I understand that that is not just about biodiversity or economics; it is about improving drinking water quality. I am interested to know whether there is a link with the chloramination issue.

Professor Parsons: There is less of a link with chloramination; the specific issue that it is associated with is cryptosporidium, which is another thing that we have to control in the water and which is ubiquitous across landscapes in the UK. Those measures allow us to manage that catchment better.

Elsewhere, we look at the impact of peatland, for example, and whether the peat in the source has been deteriorated by sheep or other uses. That can lead to more organic material coming into the water, which means a different treatment challenge for us and, as such, we might consider how we control that. However, the measures at Loch Katrine are primarily driven by cryptosporidium rather than other issues.

Douglas Millican: We are very active in the whole area of land management. As much as anything, it is about trying to improve the source water, but it is also about stabilising it from further deterioration as the climate changes. A really good example is the super peatland restoration job that we did in the past year with the local community around our loch supplying Lerwick in Shetland.

The Convener: Do you put money directly into peatland restoration?

Douglas Millican: Yes, we do that where it will deliver benefit to the source waters.

The Convener: Could you write to us with the details of that?

Douglas Millican: Do you mean on the example in Shetland?

The Convener: Yes, and on any other peat restoration projects that you are involved in, because they obviously have climate change benefits, too.

Douglas Millican: Absolutely—we can do that.

Donald Cameron: I have two questions. One is on Scottish Water Horizons, and the other is a local question.

Scottish Water Horizons had slightly lower profits in 2016-17 than in previous years. Will you explain why and say what is next for Scottish Water Horizons and Scottish Water International?

Douglas Millican: The profitability of Scottish Water Horizons and International moves about from year to year. Although, at one level, we set them up to be profitable, we ask them to be quite entrepreneurial and innovative, and to do things that benefit Scottish Water and the water sector as a whole. Maximising profit per se is not the primary driver for the business.

Scottish Water Horizons does a lot of work in supporting the development community with, for example, impact assessments and helping to construct new infrastructure for developers. It exports water offshore into the oil sector in the North Sea. It does quite a bit of work on waste management and it has its own food waste recycling facility at Cumbernauld. It is active in bringing waste from third parties into some of the waste water treatment plants. We look to bleed that waste in alongside the sewage. As long as we can manage that within our discharge licence standards, that is a great win-win situation—it is about getting more value out of our assets.

Increasingly, quite a lot of what Horizons does is around supporting other Scottish businesses. We have set up two innovation test centres—one is at Gorthleck in the Highlands doing water testing and the other is a waste water testing facility at Bo'ness. We typically work with Scottish small and

medium-sized enterprises that want to test potentially innovative products. That is a great example of something that does not feed through to the bottom line particularly but is really good in relation to supporting the Scottish economy generally.

Donald Cameron: I will move on to a local question, on Gairloch in Wester Ross, which I am sure that you will be cognisant of. Scottish Water is currently reviewing the controversial planned changes to waste water treatment there in light of the serious concerns expressed by the local community. Do you accept that the local community's concerns are justified?

Douglas Millican: I will start by referencing one of my earlier answers, which is that we work in hundreds of communities across Scotland and occasionally we do not get it right. I would put Gairloch in that category—we did not get it right.

The fundamental thing that we got wrong in Gairloch was that we approached it from our own technical and logical perspective about the required level of treatment to protect the sea around Gairloch and we did not understand sufficiently how it looked and felt from a community perspective.

In Gairloch, we have a bit of a Rolls-Royce waste water treatment plant. It is built to a far higher spec than is needed for that area but it is so advanced that it does not work as well as it needs to. That is why we were looking to replace it. Unfortunately if you say to the owner of a Rolls-Royce—even if it is a rather malfunctioning Rolls-Royce—that you want to replace it with a Ford Fiesta because that is what is appropriate, there is a feeling of loss.

Any person's feelings are absolutely valid. If that is what the community feels, whether or not the basis for that feeling is right, we have failed to properly engage people and take them with us when looking at all the whys and wherefores around our proposed changes.

Alex Rowley: I have a couple of questions on gender and diversity. First, the Gender Representation on Public Boards (Scotland) Act 2018 now has royal assent. It requires boards to have representation of at least 50:50 by 2020. How are you getting on with that—are you on your way to achieving that?

Secondly, as an employer—as a public body—do you have proactive policies in place to encourage more girls in particular to look at a career with Scottish Water? Historically, in Britain—but not in Europe—it seems to be that trades such as engineering are predominantly seen as jobs for men or as jobs for the boys.

Are you doing anything to change that attitude? Can you demonstrate that women can have a good career within Scottish Water and encourage more women? I think that in terms of the balance between the men and women you employ, 27 per cent of your employees are women. What are you doing to address that? Are you encouraging support for women at every level, in all the jobs within your organisation?

Dame Susan Rice (Scottish Water and Business Stream): I will start, because you asked about the board. I can tell you that, as the chair, I am very attuned to the issue, as I have been throughout my career in lots of different spaces, and particularly here.

When we have had searches for new board members, we have been very proactive in spelling out at the beginning of the search the kinds of diversity that we would like on the board. Diversity is more than gender. I realise that gender is the area that has been crystallised just now, but diversity of thought, background and experience is what makes a really strong board.

However—and I have no hesitation about doing this at any stage in a search—I have looked particularly at candidates who are female, and I have pushed and spoken to panel members or whoever is considering the candidates to see whether we have missed anything. I know, as a woman, that women often have quite different career paths than men do, so we need to be open-minded when we look at somebody's experiences on a CV to see what value they might bring.

In recent searches, we have appointed two very strong women to our board—Samantha Barber and Deirdre Michie—who have very different backgrounds and they are contributing a good deal. I would love to get 50:50 representation. The thing about a board is that members cannot be changed at will; they have terms, so you change people when the time comes, but it is hard to have an instantaneous impact.

Douglas Millican can speak to encouraging younger women up through the organisation, but at board level, we talk about issues such as the gender mix and about what programmes the organisation has to encourage women to not only start but continue their careers, right through the decades of their lives, so that they have that chance to rise up.

There are women's networks and I have spoken to one about being professional for my entire life and how to balance that with family matters and other factors.

There are a lot of things that one can do, but Alex Rowley is right that, at the end of the day, it should be a goal to have very senior women in the organisation. We are beginning to see that

happen. Some of our strongest up-and-coming women have come and talked to us on the board, and as we become familiar with them, we give them exposure to us. Perhaps that is enough said from the board level.

Douglas Millican: The short answer to Alex Rowley's question is yes. I know many different examples. In the interest of time, I will share just two.

We are bringing lots of new apprentices into business and, in our promotional work, we very consciously showcase female apprentices in technical roles as a way of showing that Scottish Water is a place where no matter what gender you are, you can come and have a great career in a technical area as well as anyone else can.

Secondly, I want to highlight that, on our operational side, which Peter Farrer runs, we have in the past year gone up to having eight female operational managers, whereas I think that a year ago there were two.

If you look at our whole future leadership programme, it is broadly 50:50. I had a succession planning discussion with the board in March, and of those whom we see as having the potential to be in executive-level positions 10 years out, three quarters are women.

The Convener: Johanna Dow, I will allow you the opportunity to comment on that because, prior to your time in this post, I visited the Business Stream premises and was struck by the youthful nature of the staff. That seemed to be an emphasis in the early days. Is it still an emphasis?

Johanna Dow: Yes, that is still the case.

The Convener: Moving on to the subject at hand, what work are you doing to encourage more women into Business Stream?

Johanna Dow: We are also doing a lot. Mirroring what Douglas Millican and Susan Rice said, we have a real focus on family-friendly policies. We try to encourage not only working women with children but working men who have families. We try to provide support for them.

Looking at our reported gender pay gap statistics for 2016-17, I think that we were one of the very few organisations in the United Kingdom that had a 50:50 balance for that year across both our board and our executive leadership team. Those statistics also showed that we were one of the very few organisations in which the mean pay gap was actually in favour of women, in our case by 1 per cent.

We are consciously trying to do as much as we can to provide family-friendly policies to try to keep women in the workforce throughout their careers.

Alex Rowley: I want to move on from that and ask about the customer forum. What work is the customer forum doing? How representative is it of customers? What are the future priorities for the customer forum in engaging with your shareholders, who are the public?

12:45

Professor Parsons: The customer forum was a successful part of our previous price review. It was an innovative way of getting customer representation and views right at the centre of our price review. It was deemed to be successful and is now being mirrored elsewhere across the world. Douglas Millican and I met some people from Australia who are mirroring the process in the power industry. It was a successful model.

The new forum's membership is about 50 per cent different from the previous version. We are working extensively with them on our next price review. Their focus is on the service that customers will receive now and into the future, how we will monitor our performance, what the prices and charges will be, and the range of different services and how we interact with our customers.

I am spending a significant amount of time with the forum members. The questions that they are asking are a welcome challenge and stimulation to us, and they make us really think about different types of customer, whether they are urban or rural, or whether the environment is a customer, or domestic customers versus business customers. We are getting a range of different challenges.

Douglas Millican: The key thing is that the forum works with us to try to understand the views of customers as a whole across the country. It is not about them bringing their own views as customers or representatives; it is about us wrestling with what matters to 5 million people across Scotland. We need to reflect that and the diversity of views within that as well as we can, and hopefully we can agree a business plan with them for the next regulatory period.

The Convener: We have a final question from Mark Ruskell.

Mark Ruskell: I will end on an easy question about private finance initiatives. Where do you go with those? I am aware that the first contracts will expire from 2021 and that you are going through a process of review and analysis. Where are you with that? Do you have any conclusions on whether PFI has a role in future?

Douglas Millican: To put the question into context, we have nine PFI contracts, and the one that I think that you are referring to is the one for Inverness and Fort William, which expires in

December 2021. We have looked at the different options and are in discussion with the PFI company about the way forward.

What I am about to say is an expectation and not a commitment. If we are here in a year, I expect that I will be able to say definitively where we will be on PFI. However, if I was to give you a basic presumption, it would be against them all. Waste water treatment, which eight of the nine PFI contracts cover, is a core competence of Scottish Water so I expect that, over time, those projects will be absorbed back into our core waste water activities. Whether that happens on the date of contract expiry or whether we negotiate a small extension might vary from contract to contract but, in principle, eight of the nine will come back to us.

The biggest question is around the contract that we have in Glasgow for sludge treatment and disposal. It handles 50 per cent of Scotland's sludge. That contract expires in 2026 and there is a much more open question about the right way forward. I am not saying that that will mean another PFI contract, but it is a much more open question because we have less core competence in that area and at that level.

Mark Ruskell: Thank you for that clarification. What are the key reasons why you wish to effectively abandon PFI as quickly as possible and move services back in-house? Is that about core delivery, the core objective, or price?

Douglas Millican: There are many reasons. PFI has brought some benefits, but one of the downsides is that the works are all run as stand-alone works. The manning levels on any of those contracts are typically much higher than, for example, Peter Farrer would have in his operations, which manage assets on a portfolio basis.

Another aspect is that our finance costs are much lower than if we use private markets to pay for assets.

The Convener: The witnesses have undertaken to write to the committee on a number of points and I want to make an observation. Members have raised a number of points about issues that were discussed a year ago but there has been no great movement on them, and you have indicated that there might be some movement on them. Please do not wait until a year from now. If there is some movement on the issues that members have seen fit to raise, please write to the committee and keep us updated. Thank you for your time.

At its next meeting on 24 April, the committee will take evidence on the Scottish Government's national outcomes and the Scottish Crown Estate Bill from the Cabinet Secretary for Environment, Climate Change and Land Reform. As agreed earlier, the committee will now move into private.

12:50

Meeting continued in private until 13:16.

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