

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 4 October 2006

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

28th Meeting 2006, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

*Rob Gibson (Highlands and Islands) (SNP)

*Richard Lochhead (Moray) (SNP)

*Maureen Macmillan (Highland and Islands) (Lab)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Trish Godman (West Renfrewshire) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Mr Mark Russell (Mid Scotland and Fife) (Green)

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE

Professor Sheila Crispin (Royal College of Veterinary Surgeons)

Andrew Grant (Fish Veterinary Society)

George Hamilton (Highland Council)

Doug MacLeod (Association of Scottish Shellfish Growers)

Angus MacMillan (West Minch Salmon Ltd)

Audrey Martin (Argyll and Bute Council)

Peter Middleton (Comhairle nan Eilean Siar)

Sid Patten (Scottish Salmon Producers Organisation)

Ian Pritchard (Crown Estate)

Andy Rosie (Scottish Environment Protection Agency)

Richard Slaski (Federation of Scottish Aquaculture Producers)

Dr Ron Stagg (Fisheries Research Services)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 6

Scottish Parliament

Environment and Rural Development Committee

Wednesday 4 October 2006

[THE CONVENER opened the meeting at 09:43]

Aquaculture and Fisheries (Scotland) Bill: Stage 1

The Convener (Sarah Boyack): I am sorry about the delayed start. I welcome members, the press and members of the public to our meeting and remind everyone to keep their mobile phones and BlackBerrys on silent mode. We have received no apologies.

Item 1 is the second of our evidence-taking sessions on the Aquaculture and Fisheries (Scotland) Bill at stage 1. This morning, we will examine primarily how the aquaculture industry will be affected by the bill. I welcome our first panel, which is composed of veterinary surgeons. We have with us Andrew Grant, who is an independent veterinary consultant with the Fish Veterinary Society, and Professor Sheila Crispin, who is the president of the Royal College of Veterinary Surgeons. I thank you both for coming and for giving us written submissions in advance, which have been extremely useful to us.

Eleanor Scott (Highlands and Islands) (Green): The Fish Veterinary Society's submission begins by stating:

"efforts should be directed at those areas which presently hamper best practice, namely lack of availability of a range of effective medicines".

Will you clarify what limits the availability of medicines?

Andrew Grant (Fish Veterinary Society): That is a big question. There are two issues. In global terms, the Scottish market for medicines for farmed fish is small and the regulatory barriers that control entry to that market are high. In a nutshell, those are the two main issues.

09:45

Eleanor Scott: Who puts in place those regulatory barriers?

Andrew Grant: The first regulatory barrier is the authorisation procedure, which is administered by the Veterinary Medicines Directorate. On the back of that, there is the completely separate issue of discharge consents. Many of the medicines are

put directly into the water after use or as part of their application. The Scottish Environment Protection Agency administers the Water Environment (Controlled Activities) (Scotland) Regulations 2005, which can prove quite a high barrier.

Eleanor Scott: You seem to suggest that there are medicines that you would use, had they overcome those barriers. Are those medicines in use in other countries?

Andrew Grant: Yes. There are two medicines that are in use at the moment, which are fully authorised as medicines for farmed fish. They have been assessed by SEPA and discharge consents are granted, although they may be limited, which, in turn, may limit the amount of medicine that a fish farmer could use. That could cause problems.

Eleanor Scott: But those medicines could be used.

Andrew Grant: Yes, but the number of medicines that are available is an issue. The fact that parasites become resistant to available medicines represents a major danger. The ideal strategy for parasite control is to have a range of medicines that are not chemically related so that should resistance arise—it always does because when we start to use a medicine against a parasite, we select for resistance—we can manage the problem by rotating their use. At the moment, there are only two medicines that are used significantly in Scotland, which is not enough.

Eleanor Scott: Do you envisage the use of medicines being co-ordinated so that everyone uses the same medicine at the same time?

Andrew Grant: Ideally, there would be a national strategy or plan for the use of medicines and the continuing assessment of resistance, but the pharmaceutical companies that market those products have commercial considerations. In terrestrial agriculture and plant protection, there are precedents for having a strategy on the use of available medicines that mitigates the development of resistance.

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

Mr Alasdair Morrison (Western Isles) (Lab): You mentioned regulatory barriers and commercial considerations. Which of those is the biggest impediment?

Andrew Grant: They are both equally important. Pharmaceutical companies want to make money, of course, and when they are deciding whether to invest in a new product, they must consider how long it will take to get a return and what that return will be. The treatment of farmed fish is a relatively

small area of veterinary medicine and it is an even smaller area of medicine overall. When a big pharmaceutical company thinks about whether to develop a medicine for farmed fish, there will be internal competition for resources. After weighing up the possible returns and the barriers to getting a product on to the market quickly, it may decline to enter the market. That is a major barrier.

In the United Kingdom, the regulatory barriers controlling the authorisation of medicines are high. Pharmaceutical companies must meet high standards to get marketing authorisation for a product. That is followed by a separate process in which SEPA must determine what level of use would be safe for the environment. A series of obstacles has to be overcome.

Mr Morrison: If the industry said today, with one voice, that it wanted to have a range of medicines, how long would it take to bring that about?

Andrew Grant: Five years is an optimistic estimate. A considerable amount of money would be required.

Mr Morrison: How much money?

Andrew Grant: It could take up to \$10 million to develop a novel active for farmed fish. Many actives are in use in other fish-farming countries.

Mr Morrison: So it would not be necessary to develop new medicines; it would be a case of making existing medicines compatible with UK regulation. For example, I hear that medicines are available in Chile that are not available here. Would it be a case of taking one of those medicines and transposing it to the British context?

Andrew Grant: It would be necessary to start again in the UK, because the data would have to be generated in this country to satisfy the regulators.

The Convener: We will continue with this line of questioning before we move on to new issues.

Nora Radcliffe (Gordon) (LD): Your submission states:

"Only three novel actives have reached the market since 1998".

Do you mean only three other than the two that are in use now?

Andrew Grant: Two of the three are in use now.

Nora Radcliffe: So there is really only one other prospective candidate.

Andrew Grant: No. One other medicine was authorised, but it was not used very much, because SEPA limited its use fairly dramatically, so it was not attractive in marketing terms. It is still authorised and I think that one company will

probably take it on and try to market it again, but it will have to satisfy SEPA's requirement to protect the environment.

Nora Radcliffe: I think that there are also two active controls for human head lice and that there is a protocol to rotate them.

Andrew Grant: Yes, it is very much the same. However, SEPA does not place a limit on the use of products for head lice. If we set up an ideal strategy, we would have to consider whether we would come up against a discharge consent limitation.

Nora Radcliffe: Could you tell us a wee bit more about the two medicines? Are we liable to get less environmental damage from one than from the other?

Andrew Grant: I do not think that it is fair to compare the two. They are completely different products. One is administered as a topical treatment and the other is put in the fish feed. They are chemically unrelated, which is a good thing, and they behave completely differently in the environment, so it would not be fair to say that one was better than the other.

Nora Radcliffe: That is a useful clarification.

Maureen Macmillan (Highlands and Islands) (Lab): Are there medicines that are used in Norway but which we do not use? Alasdair Morrison mentioned Chile, but is there an example nearer home?

Andrew Grant: There are two treatments that are used in Norway but which are not available here. There is the theoretical possibility of importing them under special authorisation, should that be absolutely necessary.

Maureen Macmillan: For it to be absolutely necessary, would the available medicines have to have failed?

Andrew Grant: Yes. They would have to be unavailable for one of a series of quite well-defined reasons.

Maureen Macmillan: Why are the medicines that are used in Norway not being used here? Are the regulations UK regulations or are they European Union regulations?

Andrew Grant: They are interpretations of an EU directive.

Maureen Macmillan: Do you have any quarrel with the interpretation?

Andrew Grant: The Veterinary Medicines Regulations 2005 are the UK regulations that determine the process of authorising medicines for animals. They have certain standards of data for quality, efficacy and safety, which might or might

not be considered overprecautionary, but the fact is that there are fewer medicines available here for fish farmers than there are in Norway. That creates competition difficulties for farmers.

Maureen Macmillan: You suggested that the Norwegian medicines could be imported under licence. Would that be a quicker procedure than what you spoke about earlier?

Andrew Grant: That would only be done on a one-off basis. There would not be a means of making those medicines available to the market on a regular basis. It would have to be done case by case. The vet would have to make a case to the VMD and to the relevant minister.

Maureen Macmillan: If those medicines were to be generally used in this country, would they have to go through the same procedure? Would the Norwegian data not satisfy the VMD?

Andrew Grant: Some of the data might satisfy the VMD and some of them might satisfy SEPA, but those bodies would have to review the data and decide whether any gaps had to be filled.

Maureen Macmillan: Do you think that that is being overprecautionary?

Andrew Grant: When SEPA was initially faced with the need to authorise the use of such medicines under the Control of Pollution Act 1974, its approach had to be precautionary. To be fair, as data have become available, SEPA has relaxed its stance on one of the medicines. If data can be provided and if SEPA is satisfied that the treatment still protects the environment, it will be prepared to be less precautionary.

Maureen Macmillan: Are any trials going on at the moment? Should we not already be trying to get data?

Andrew Grant: Only if the company that is marketing the medicine wants to do it. It is a commercial decision for a pharmaceutical company. If the company wants to do it, it will do it, and if it does not want to, nobody else can do it.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): My first question is on medicines, but I would like to ask about a couple of other points after that.

The Convener: We will hear your first question and come back to the others later.

Mr Brocklebank: Mr Grant, you appear to be sounding a warning about medicines in general. Your submission states:

“the ability to control lice remains in the balance since the development of resistance will jeopardise effective control.”

I am sure that you are not saying that we should just give up because the lice will build up a resistance to any medicine.

Andrew Grant: I am not saying anything new about parasite management in humans or animals. Resistance is an ever-present threat and when we start to use a medicine widely, resistance will inevitably develop. However, strategies are available that can be used to mitigate the effects of resistance. I have been saying the same thing for as long as I can remember and everyone knows it.

Elaine Smith (Coatbridge and Chryston) (Lab): You talked about the medicine being used in Norway and about European legislation being interpreted differently in different parts of Europe. Has it been interpreted differently in Ireland, for example?

Andrew Grant: Yes, there are different interpretations.

Elaine Smith: Of the same European legislation?

Andrew Grant: Yes.

Elaine Smith: So what is the situation in Ireland? Are the Irish using the medicine that is used in Norway?

Andrew Grant: The Irish have decided to make one medicine that is available in Norway available under regulation 16 of the Animal Remedies Regulations 2005.

Elaine Smith: So the Irish have decided that they can do that under European legislation.

Andrew Grant: Yes, but on a limited basis.

Elaine Smith: But we have decided that we cannot.

Andrew Grant: SEPA has not been asked about that particular medicine, so I do not know what its reaction would be. It is up to the company that sponsors the product to take it to SEPA.

Elaine Smith: Has there been any interpretation in Scotland of the European legislation?

Andrew Grant: In terms of?

Elaine Smith: The use in Ireland of the medicine that is used in Norway.

Andrew Grant: Not officially, but SEPA would be able to tell you that better than I can.

The Convener: Professor Crispin, do you have any comments on these issues?

Professor Sheila Crispin (Royal College of Veterinary Surgeons): No. Andrew Grant has made the position perfectly clear.

Mr Brocklebank: Mr Grant, you appear to be fairly critical of the proposed regulator, the Fisheries Research Services, and you ask what expertise it will bring to the table that does not

already exist. How are its staff qualified to deliver advice on fish health and welfare? Will you expand on that and give us your views on the proposed regulations?

Andrew Grant: I think that I said in my submission that lice control has improved out of all recognition in the past 15 years, but there is still a big threat. That has been done without regulation but through good science, persistence and the availability of medicines. Regulation is not used for other parasite controls. It was tried with sheep scab, for example, but it failed for all sorts of reasons. I do not think that regulation is the way to do this. We need to bring as much science as possible to the understanding of lice, and there has to be some means of expediting the authorisation of effective medicine. Perhaps there should be a review of the precautionary principle that is adopted by SEPA to make the use of the medicines easier.

There is plenty of expertise out there dealing with fish health daily, as happens with any other livestock, and I am not sure what value will be added to lice control by the bill.

Mr Brocklebank: You also claim that the powers proposed in the bill duplicate the existing health service provision and would give no clear benefits to the conservation lobby.

Andrew Grant: Obviously, everyone wants lice to be controlled, but it is a complicated issue because all animals carry burdens of parasites, often without ill effect. We could accept a burden of sea lice on farmed Atlantic salmon and it would not matter because fish health and welfare and productivity would not be compromised. However, that level of lice on the fish would not be acceptable to the conservation lobby, so there is a tension there. If we treat the fish so much that we get down to very low levels of lice, we would be encouraging the development of resistance. There is a tension and it is not easy to resolve.

Mr Brocklebank: My final question is on compulsory slaughter. You do not appear to believe that the compensation proposals are workable or equitable.

Andrew Grant: Not in comparison with compensation for other livestock. I do not see why the position should be different for farmed fish. If there is going to be a policy of compensating farmers for compulsory slaughter, there should be a level playing field for fish farmers and terrestrial farmers.

Mr Brocklebank: In what way is the playing field not level? I thought that fish farmers were going to be compensated for compulsory slaughter.

Andrew Grant: As I understand it from the bill, compensation will be discretionary.

10:00

Rob Gibson (Highlands and Islands) (SNP): I want to move on to the issue of directing treatment and so on. The Executive told the committee that, in directing treatment, inspectors would not be able to override a company vet. Is that sufficient to satisfy the concerns that the witnesses have expressed?

Andrew Grant: Sorry, can you explain what you mean?

Rob Gibson: We are talking about the way in which inspectors would deal with the treatment for sea lice, for example. The Executive's position is that inspectors could not override a company vet. Does that satisfy your concerns about such matters?

Andrew Grant: That would have to be the way to proceed because the inspectors could not direct. A vet, in exercising his duty of care, cannot delegate the responsibility for prescribing to somebody else. The question is what additional value inspectors will bring to the decision-making process—I do not know. When dealing with sea lice or any other health issues for fish, the decision making is complicated. It does not depend on just one visit and looking at one set of circumstances. When anyone is deeply involved in caring for farmed fish, they are deeply involved in the management and operational detail of the company. We cannot go to a farm on just one occasion and look at some data.

Professor Crispin: Our specific concern is about how the existing regulations relate to section 6 of the bill, on the serving of enforcement notices. Section 6(4) states that you can serve an enforcement notice but that it

"may require ... the execution of such works"

as are outlined in section 6(2) and

"the taking of such other steps, as the ... Ministers consider necessary".

We are concerned about that provision because it could mean that you could override what a company's veterinary surgeon was doing, which would mean that the Executive might fall foul of the Veterinary Medicines Regulations 2005. Those regulations state clearly that when a vet prescribes treatment, particularly if it involves a so-called POM-V—prescription-only medicine-veterinarian—product, they can do so only if they have the animals under their care. That would not be the case with the provision in section 6.

Rob Gibson: The committee is scrutinising what the Executive is proposing in the bill, so we are not

the “you” whom you talk about. We note the point that you just made. How do vets work with the existing regulators?

Professor Crispin: The position works quite well because we stick very much to animals under our care. Although the regulations have changed, the position still holds and it works. What the bill proposes would move outside that.

Rob Gibson: I take that point on board. How will the regulatory framework that the bill will create be applied to new species for fish farming, such as cod and halibut?

Professor Crispin: It should work in exactly the same way.

Rob Gibson: It should do. The aquaculture industry is diversifying, so should the regulatory framework apply also to shellfish farms?

Professor Crispin: If any creature—fish or another animal—is under veterinary treatment, the regulations work in a specific way. We are talking about here not so much about the Royal College of Veterinary Surgeons as the Veterinary Medicine Regulations 2005, which still specify that the veterinary surgeon with animals under their care is the one who prescribes, particularly for POM-V products—full stop.

Rob Gibson: Right.

The Convener: I want to get a sense of how that works. There are individual vets on different fish farms. Presumably, the issue goes back to what Mr Grant said earlier about applying a range of medicines in a geographic area and the potential interaction between those medicines. Is that the issue, Mr Grant? You made the point that veterinary concerns should be uppermost. However, I presume that there is also an issue with the interaction of different types of medicines in the marine environment. I assume that both those issues must be considered.

Andrew Grant: I am not sure that I understand.

The Convener: The issue of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 came up previously. There could be a limit to the amount of medicine that can be used in a geographic area and the links between different fish farms could be an issue. It seems that we need a regulatory system that gives vets their head on different fish farms but also some way to have a wider strategic impact. I presume that that is where SEPA comes in.

Andrew Grant: I understand. A lot of effort has been made to that effect through area management agreements and the tripartite working group. There is an attempt to have some measure of joined-up thinking in terms of regions. However, we could devise the perfect strategy that

satisfied the fish farmer, the conservation lobby and the need to mitigate the risk of resistance only to find that we could not use the medicines as we had planned because the discharge consent did not allow that. That is part of the difficulty with the legislation that SEPA has to follow. We come up against some problem whichever way we look and there is always a reason why we cannot do what we would do in an ideal world.

The Convener: Is it reasonable to expect one set of those parties or regulators to be all-powerful? You are talking about the need for a degree of common sense to be reached between the different parties.

Andrew Grant: SEPA has to exercise its duties to protect the environment. It does not have any regard to parasites or fish health; it has to administer the Water Environment (Controlled Activities) (Scotland) Regulations 2005. We could say to SEPA, “A load of fish are going to die. Will you please let me use X plus two units?” and SEPA would probably have to say no, as that would exceed the discharge consent condition. The problem has been around for ever; it is not new.

The Convener: Is it possible to solve the problem, given that there are competing public policy objectives to protect the marine environment and to protect the health of fish?

Andrew Grant: That is a big question.

The Convener: I will return to it in questioning SEPA. It seems that there has to be a trade-off between the different public policy objectives in order to achieve a sensible discussion between the two sides of the argument.

Andrew Grant: Yes, that is what is needed very much. We need some way of joining up those two things. They are already joined to an extent in terms of marketing authorisations, for example. When the VMD considers marine environment safety, SEPA is now involved in those discussions. That did not use to happen. There is now much earlier input from SEPA into the authorisation process. However, when it comes to using product X on farm Y, there will be a discharge consent in place that will have conditions relating to the product and, if the consent condition is breached, the fish farmer will be liable for that.

The Convener: You criticise the idea of making spot checks. As I read it, the spot checks are a back-up to assuming that people are abiding by the guidelines and regulations. Are you suggesting that there should be a much more onerous set of checks? Does there not have to be a degree of trust between the operators and the regulators, with spot checks being used as a way of ensuring that standards are being maintained?

Andrew Grant: There is a very good industry code of good practice, which is going to be audited. Most fish farmers are signed up to the code of good practice, and I cannot see what the spot checks will add to the monitoring of the very few farmers who may not comply on a number of occasions.

The Convener: You do not think that it is wise to have some provision for spot checks as a back-up. If it is reported that somebody is concerned about a situation in a certain area, does it not make sense to have that properly investigated?

Andrew Grant: It seems to be quite a major exercise to achieve very little.

Nora Radcliffe: I want to explore the relationship between an individual fish farm's vet and the regulator. Is every fish farm required to have a nominated vet?

Andrew Grant: The code of good practice specifies that every fish farm should have a nominated vet who has the animals under their care.

Nora Radcliffe: Let us focus on the issue of the vet having the animals under their care. Could the regulator not be assumed to have the wider area under his or her care?

Professor Crispin: Not really. It is a difficult situation. Having the animals under their care means that the vet has examined the animals before they treat them. That is quite different from the regulator imposing an enforcement order and saying, "We will do this." By the very nature of that often rapid step, the regulator may not have had the animals under their care. It is critical that the vet has had the animals under their care, which means that they have taken some part in the diagnosis before deciding on the treatment.

Nora Radcliffe: Would the regulator not have done that?

Professor Crispin: Not under the terms of an enforcement notice, especially if a veterinary surgeon already had those animals under treatment. In theory, the regulator might want to countermand what the fish farm's vet had said. That is when the situation could become awkward.

Nora Radcliffe: Do you envisage that happening?

Professor Crispin: No. The situation has not arisen before, as that does not happen at present. What the bill proposes would be a new step.

Nora Radcliffe: Would the enforcement notice not be made at the end of an iterative process, as a long-stop last resort?

Professor Crispin: Not necessarily. The regulator might want some emergency or rapid

treatment to be undertaken because they felt that there was a welfare problem or something like that. In theory, that should not happen if the veterinary surgeon for the fish farm is doing their job, but if it did happen, there might be difficulties and conflicts of interest between the fish farm's vet and the regulator.

Nora Radcliffe: Would it be helpful if the regulator was a veterinary surgeon?

Professor Crispin: It would, but there would still be the problem of the phrase "under his care", as there would be a supersession of that care. The stumbling block is the Veterinary Medicines Regulations 2005, which use that phrase to specify the situation.

Nora Radcliffe: That is a defined term that carries weight.

Professor Crispin: Yes.

Andrew Grant: The phrase "under his care" is quite onerous and has implications of legal liability, professional indemnity and duty of care. It is not like a vet saying, "I am looking after these animals and I am going to treat them." We are talking about animals that may be worth millions of pounds, and it is not a responsibility that anyone takes lightly or without due consideration.

Maureen Macmillan: Are there any parallels with the situation that we had a few years back with infectious salmon anaemia, when a regulator could order slaughter without the company vet being in agreement with that? Was that not a similar situation?

Andrew Grant: No. It was part of the law that a slaughter policy was going to be implemented. It was nothing to do with the company vet; it was a similar situation to the outbreak of foot-and-mouth disease.

Maureen Macmillan: I know that fish having sea lice on them is not such a drastic situation, but you do not consider that a parallel situation.

Andrew Grant: No, I do not think that there is any comparison. The ISA situation was like the outbreak of foot-and-mouth disease in that there was a national policy to deal with it. At the moment, there is no medical intervention in the UK for foot-and-mouth disease—there is a debate on whether we should vaccinate. Similarly, there are no parallels between sea lice and ISA: the policy on ISA made clear what was going to happen.

Professor Crispin: Foot-and-mouth disease is a good parallel to ISA, which also is a notifiable list-A disease. The local veterinary surgeon may make the initial diagnosis, but what happens next is very much down to the state veterinary service. It is not comparable to the situation with sea lice.

Nora Radcliffe: I have one final question. What treatment may be given if a fish farm's discharge consent has been exceeded? Are there options for treating the fish in a contained environment—in a well boat, a bath, or something like that?

Andrew Grant: People do treat fish in well boats, but they still have to discharge the effluent. If they do that within a 3-mile limit, they still need a discharge consent. If they do it within 12 miles, they need a permit under the Food and Environment Protection Act 1985. They would have to sail off into the Minch for quite a long way to discharge the contents of the well boat, as it would still be a discharge of polluting material. Well boats are used, but people still need a discharge consent.

Nora Radcliffe: They cannot contain the effluent and store it.

Andrew Grant: That is not practical.

10:15

The Convener: Thank you for answering a set of detailed questions in follow-up to your written submissions: it has been very helpful. I invite you to step down from the table, but you are more than welcome to stay for the rest of the meeting. I invite the second panel of witnesses to come to the table.

I welcome our second panel. We have with us Andy Rosie from SEPA, who is the area manager for the Highlands and Islands, Argyll and Bute; Ian Pritchard, who is the head of the Scottish marine estate with the Crown Estate; and Dr Ron Stagg, who is deputy chief executive of Fisheries Research Services. Thank you all for your submissions, which we have been able to read in advance, which was helpful.

Rob Gibson: The Crown Estate's formal planning powers will be given to local authorities later this year. I know that planning is a secondary role for you, but it is important. Given that the Parliament has been in existence for seven years, it seems to have taken a long time to achieve that transfer. Can you explain that?

Ian Pritchard (Crown Estate): The timescale was not decided by the Crown Estate. We welcome the transfer of our regulatory role to local authorities and are working with the Executive to make it happen as soon as possible. The Scottish Executive Development Department planning division is responsible for putting the necessary measures in place, through the Parliament.

Rob Gibson: You are suggesting that that is what has caused the hold-up.

Your submission states:

"The Crown Estate has reinvested over £2.5 million of fish farming revenue into research, development and education-related projects since commercial rents were first introduced in 1987."

In the light of your experience, do you think that in that investment a good balance has been struck between salmon farms and shellfish farms?

Ian Pritchard: There have been a range of investments covering salmon, shellfish, halibut and other marine species in that period. The way in which the investment has been spread among the species has largely been led by the respective income or revenue from those sectors. To put it in context, the income from the salmon industry last year was about £2.2 million and the income from the shellfish industry throughout Scotland was about £120,000.

Rob Gibson: Indeed, but a lot more shellfish farms than salmon farms are affected; they are small businesses that need to take off. The bill will apply to salmon farms and all fin-fish farms as well as to shellfish farms. Do you think that the powers that are being invoked are equitable?

Ian Pritchard: The powers are broadly necessary as a long-stop measure and they are generally welcomed. The industry will rely on the code of good practice for the management of appropriate husbandry. If that practice is not maintained to the required standard, the measures in the bill will take effect.

Rob Gibson: In your submission you refer to banning the sale of monofilament gill nets. Where does that fit in with the bill as you see it?

Ian Pritchard: That is a secondary issue, which relates more to wider fisheries than to aquaculture.

Rob Gibson: So it is fairly peripheral to the bill, although it is important as an issue in itself.

Ian Pritchard: I believe so.

Rob Gibson: I must follow that up by asking who would be banned from buying such nets and how the ban would be enforced. Would that be a workable arrangement?

Ian Pritchard: I will have to take advice on that and get back to you.

Rob Gibson: As the issue is mentioned in your submission, I thought that I should probe what it is about.

Mr Morrison: I have questions for all the witnesses but, for the moment, I will stick with the Crown Estate. The first paragraph of Mr Pritchard's submission states:

"We lease areas of seabed and foreshore for commercial operations".

On aquaculture, the three issues that I have been dealing with for seven and a half years are

basically sea lice and disease, market stabilisation and site availability. We dealt with sea lice and disease earlier and market stabilisation is a peripheral issue. On site availability, how concerned are you about large areas of sea or sea lochs being sterilised—in a commercial sense—by companies to which you lease the sea bed?

Ian Pritchard: That is a difficult issue in that we have no available measure to ensure that consents are activated within a specific period of time. Our leases contain a requirement to develop within a specified period but, if development does not take place, the only action that we can take is under landlord and tenant legislation, not planning legislation. We can serve a notice to develop and give a reasonable period within which the site must be developed, but development in the legal sense means not to activate a site's full commercial potential, but simply to place some equipment on the site, which does not necessarily have to have stock in it. Therefore, serving such a notice can be counterproductive, as a single cage can be put on the site, but not farmed. We need appropriate legislation to ensure that, when consent is given, either the site is activated or, after a reasonable period, the consent is withdrawn.

Mr Morrison: Do you need legislation? As the landlord, cannot you specify the rules of engagement and say that X, Y or Z must be done on the site within six, 12 or 18 months?

Ian Pritchard: As I say, the only action that we can take is, first, to serve a notice to develop. If that notice is complied with and the company installs equipment, we cannot proceed to the next stage, which is to serve a final notice of termination.

Mr Morrison: That is the existing arrangement. My concern is how we can assist you to assist others, under the current proposals in the bill.

Ian Pritchard: The bill will not help with that situation.

Mr Morrison: Is there any way in which we could amend the bill logically? Every bill that comes through the Scottish Parliament and the Westminster Parliament rightly gets amended to address issues that are raised at various stages.

Ian Pritchard: The proposed statutory instrument that will transfer the planning powers to local authorities will improve the current arrangements on consents for new sites. The expectation—although this has not been confirmed—is that a period will be specified within which sites must be developed, as happens with terrestrial planning consents. If a developer fails to implement the development within the specified period, they will have to apply for the consent to be refreshed or it will lapse.

Mr Morrison: So your advice is that we keep a close eye on how that statutory instrument is framed.

Ian Pritchard: That is my advice. However, the instrument will not deal with existing consents.

Maureen Macmillan: What is SEPA's view on the regulation of sea lice treatments? The vets have told us that they feel under pressure because of environmental regulations. What balance should be struck on this matter?

Andy Rosie (Scottish Environment Protection Agency): SEPA controls the discharge into water of these highly toxic compounds—they are toxic at levels at which we have difficulty in even measuring them. They break down in the environment over a certain timeframe and have the potential to exert toxicity not just around a fish farm but some distance away from it.

Because they are discharged untreated, these compounds are quite unusual in the veterinary sphere. Many land farm medicines are discharged on to land and have a chance to break down in the soil. For fish farm medicines, we have to develop a methodology that can predict a concentration safe enough to protect the wider environment. The fish farm medicines target crustaceans—which is, after all, what sea lice are—and we need to bear in mind that important prawn and lobster fisheries might be located very close to fish farms. In that sense, we probably have a wider responsibility than the veterinary surgeons, because we need to take account of any impact that the medicines might have after they leave the animals in their care.

I have to disagree with our veterinary colleagues on a number of issues. When the Veterinary Products Committee sat in judgment on a marketing authorisation for the existing medicines, it had some significant concerns about their environmental impact and was, for a while, minded not to grant the authorisation. However, the VPC sought our advice and we attended its meetings to explain the site-specific nature of our controls. When the VPC heard that, although there were environmental risks in certain circumstances, another regulatory regime was in place to cope with them, the committee's mind was put at rest and it granted the marketing authorisation.

The vets' claim that discharge consents are an impediment to efficacious treatment shows that they are unaware of the process that I have outlined. This is not an either/or situation; both requirements have to be taken into account, and veterinary surgeons should try to find the best way of achieving efficacious treatment under such restrictions. It is certainly within their gift to tell the fish farmer that he has too many fish on the site

for the available medicine. I appreciate that they are also under commercial pressure. After all, some surgeons are employed by, and others are under contract to, the companies in question and might well find it difficult to give such advice.

SEPA accepts that efficacious treatments are needed and indeed has been working hard in trying to achieve them. When we first licensed the compounds, we did not know an awful lot about their behaviour and wider fate. However, last year, the Scottish Association for Marine Science published its report on its five-year post-authorisation assessment project, which indicated that the impact of these compounds under our initial regulatory regime seemed to be okay. That has pushed us to review some of our methodologies and to relax considerably the consenting regime, particularly with regard to synthetic pyrethroid bath treatments. We are now following that through into discharge consents.

We hope that fish farmers will be able to use these medicines better. Of course, they will not need to use any more of them, because they still only have to treat the whole farm. However, they will be able to use them faster, which will help the industry to produce more efficacious treatments. We are listening to and trying to address the vets' concerns.

Maureen Macmillan: Have all the sites now been looked at with regard to discharge consents? I believe that, in the past, there was a queue of sites waiting to find out whether they could use particular treatments.

Andy Rosie: Yes, all the sites have been looked at.

Maureen Macmillan: So we are now at the stage where you know what can be used in whatever site.

10:30

Andy Rosie: Yes. We had difficulties when the new medicine became available and got a marketing authorisation. Essentially, SEPA was required to license a whole industry and to do so very quickly. That was very challenging. We are not set up for an industry suddenly to come knocking on our door. We struggled to get the resource together, but we have got through that and improved our methodologies. The fish farmers can now do some of the assessment themselves and submit the results to us, which has helped greatly. There is now no difficulty in terms of a backlog for medicines.

Maureen Macmillan: What would happen if a new medicine had to be introduced? Current medicines can run out of steam. If sea lice were to become resistant to them, how long would it take to get to a similar stage with a new medicine?

Andy Rosie: We have had dealings and discussions with the companies that licensed compounds in Norway. In fact, those discussions date back about three years. We explained exactly what we wanted, they were quite happy to provide that information and we went away, but we have not received any information from them since then. I appreciate that legal constraints—including the issue of patent—have delayed things. We still await the toxicological data that we need to set a safe environmental standard. No such standard has been set in other countries, so we cannot simply look at another country's assessment of what a safe environmental standard is. In view of the toxicity of the compounds and the way in which they are used in the Scottish context, we feel that we have to establish a safe standard.

If we can get the information we require and set the methodology for our predictive modelling of how the compounds behave in the environment once they move out from a fish farm, I hope that we can move quickly to getting out the discharge consents. It is inevitable that when a whole industry wants the same compound, we will be faced with the short-term challenge of how to resource that process.

Maureen Macmillan: When you say fairly quickly, what do you mean? A year? Two years? Six months?

Andy Rosie: If we get everything we want from the companies, I hope that we can have a regulatory regime and a methodology in place within about six months. Thereafter, we have to go through the licensing process, which takes some time. It will also depend on the rate of application and whether we have to advertise publicly, in accordance with the regulations. There is a due process to go through. It is laid down in statute; we cannot short circuit it. We will do our best to get these things done as quickly as possible.

Maureen Macmillan: Thank you.

Eleanor Scott: My question is also for SEPA. What popped out from your submission—for which I thank you—is that

“SEPA is currently considering the implications of the new European Fish Health Directive”.

Will you give us an overview of that? It seems odd for the Scottish Parliament to pass a piece of legislation only to have to modify it in light of a directive from Europe. Is the directive relevant to our consideration of the bill?

Andy Rosie: I do not see it as hugely relevant to the argument that we are dealing with today. Obviously, a licensing process is involved in the fish health directive and that has to be taken care of. The Executive is working on how best to bring that forward and SEPA may have a role in that.

We do not see ourselves as the regulating body under the directive, but we may have a consultative job to do.

Eleanor Scott: For the avoidance of confusion, is it possible to give us a one-sentence summary of the directive?

Andy Rosie: I would struggle to do that.

Dr Ron Stagg (Fisheries Research Services): It is a directive in relation to listed diseases: it considers exotic diseases such as ISA and viral haemorrhagic septicaemia and contains authorisation processes. It appeared rather more quickly than we expected, but it is mainly to do with listed diseases and does not cover problems such as sea lice or escapes, which are addressed in the bill.

Eleanor Scott: In its submission, SEPA said that conditions in a licence issued under the Water Environment (Controlled Activities) (Scotland) Regulations 2005

“may need to be set aside on a temporary basis”.

In what circumstances might that happen?

Andy Rosie: We hope that a fish farmer will have sufficient medicine to treat his fish under the terms of the discharge licence, but there might be more fish on the site than can efficaciously be treated under the terms of the discharge licence. A fish farmer might be faced with an enforcement notice from the proposed regulator, but in carrying out treatment the farmer might breach their water use licence under the controlled activities regulations.

SEPA accepts that such a breach might be necessary for the greater good, given the need for efficacious treatment and given the potential impact on wild fish in the wider environment. If the situation arose again and again, we might address how the fish farm was licensed. We would have a difficulty in that there could be an infraction of the dangerous substances directive if a fish farm were permitted to breach the consent, which is set at a level that achieves the safe environmental standard—that is a requirement of the dangerous substances directive. SEPA may have to revisit the fish farm licence and throttle back the biomass that was permitted, so that efficacious treatment could be achieved with the licensed medicine. However, we would be pragmatic and accept the greater need to carry out efficacious treatments under the proposed enforcement notices.

Eleanor Scott: Are you saying that you envisage adherence to licence conditions being set aside as a one-off, but that if there were serial applications you would reconsider the licence?

Andy Rosie: Yes. I hope that such cases would be the exception rather than the rule, particularly

in view of the recent relaxation of our consented limits, which I mentioned. Fish farmers who are served with an enforcement notice will have a significant problem with lice and might not be following the industry code of good practice. The bill proposes a hands-off approach. The good fish farmers, who adopt best practice, will never see an enforcement notice because the voluntary approach will work. However, the few fish farmers who do not adopt best practice and have a higher lice count on their fish will be subject to visits from the fish health inspectorate and follow-up enforcement action.

Because the industry has moved considerably as a result of the introduction of the code of practice, we are talking about an exceptional, but appropriate, use of regulatory power.

The Convener: I put this question to the vets on our first panel of witnesses. To what extent is the issue to do with individual farms, such as the ones you mentioned, that do not follow the code of practice?

You said that small levels of toxicity can have an impact on a wider area. I presume that there is a trade-off between individual fish farms and the impact on other fish farms, aquaculture and human health in the area. How do you weigh up such issues and how often do problems kick in, in SEPA's experience?

Andy Rosie: You raise a number of issues. Various compounds exert their toxicity in different areas.

Medicine residue that is linked with organic particulate waste—faecal matter and waste food—often settles closely round the fish farm. SEPA's consents are essentially about trying to limit the impact of that to an allowable zone of effect. We accept that the standard may be exceeded in the immediate area, but we do not want the whole basin of a sea loch, for example, to be blanketed with a level of toxicity that would start to affect the wider environment and possibly other legitimate water users.

Other compounds may exert their toxicity over a wider area, particularly if they stay in solution, move away with the tide and take several days to break down. We must accept that there could well be a risk at least of toxicity perhaps several miles away. That is what drives SEPA's risk assessment and therefore its controls on the discharge rate. We want to limit the impact of those compounds. They are discharged untreated, and the farmer is unable to remove them before release, so we rely on the environment's capability to break down quite toxic materials. That is the important thing—and we have to think about the wider area. It is difficult to swap medicine quantities around between fish farms in an area because we must

still assess the impact of each individual fish farm on its immediate surroundings—the other interests and habitats that are close by. The limits still apply on a site-specific basis because we are obliged to do that to protect the environment. However, we will consider any proposal flexibly to see whether we can live with it and still protect the environment.

The Convener: Did the post-authorisation analysis that you have done over the past five years consider both the impact of authorisations on individual fish farms and the cumulative impact on a slightly wider area?

Andy Rosie: Because of the way in which the post-authorisation assessment project was set up, there would be an element of that. It considered the impact of those compounds on a wide range of habitats. It considered the sedimentary sea bed, the fauna that live in the mud and sand, the rocky shores along the side of the sea lochs, the seaweeds and the barnacles. It also considered the small fauna—the meiofauna. It considered all sorts of different environmental compartments, such as the phytoplankton and the zooplankton, over a wide area. It was keen to look for any effect, not just locally but over a wide area. It was quite a comprehensive study, which gave us some comfort that our initial regulatory approach was successful in not causing severe damage.

The Convener: So you are quite comfortable about the balance between the different regulators. It was suggested earlier that it is not appropriate for a vet to take a decision on an individual fish farm. Effectively, SEPA overrides such a decision if, in your view, there have already been too many discharges, or consents for discharges, in the area.

Andy Rosie: We work closely with the FRS and the Scottish Executive. We collaborate a lot on all aspects; we are in fact working on data gathering now. There will be a good dialogue between agencies. I do not see that as a problem. We are all quite happy to debate the issues and come to a sensible and reasonable solution.

Richard Lochhead (Moray) (SNP): I have a couple of questions for the Crown Estate, the first of which refers to what its submission says about the freshwater fisheries part of the bill. It says that

“there is concern that legitimising the use of four rods by anglers when fishing for species other than salmonids has the potential to create problems where anglers may claim to be attempting to catch coarse fish but in fact are not.”

Do you have any examples of that happening? Is it a common practice?

Ian Pritchard: I cannot say whether it is common practice, but it is practice of which we are aware on occasion.

Richard Lochhead: Will you elaborate?

Ian Pritchard: I would not wish to give specifics, but we have had examples of fishing activity that, when those involved have been apprehended by bailiffs, they have claimed not to be fishing for salmon, but it is believed to have been otherwise.

10:45

Richard Lochhead: Secondly, I want to return to the part of the bill that we were originally discussing. Your submission states:

“The powers that will enable the inspection of fish farms are welcome. However, this section of the legislation will only be effective if penalties for infringement of notices are sufficient to act as a deterrent.”

What do you feel the penalties should be, so that they are sufficient?

Ian Pritchard: That is a matter for the committee but we feel that, in the circumstances, £2,500 is probably lower than the level that would have a significant effect.

Richard Lochhead: Do you have any ideas about what would constitute a sufficient level of fine?

Ian Pritchard: It would perhaps be better related to the scale of value of the stock. As was mentioned earlier, that can amount to millions of pounds on a site.

Richard Lochhead: Your submission states:

“The Crown Estate has reinvested over £2.5 million of fish farming revenue into research, development and education-related projects since commercial rents were first introduced in 1987.”

What percentage of your income since 1987 does that represent?

Ian Pritchard: On average, it represents about 10 per cent of our income per annum.

Richard Lochhead: What about the other 90 per cent?

Ian Pritchard: That is submitted to the Westminster Parliament—the revenue of the Crown Estate goes to the Chancellor of the Exchequer.

Nora Radcliffe: The submission from the Fish Veterinary Society says:

“The relationship between lice burdens on farmed fish and the risk to wild salmonids has not been established let alone quantified.”

Will you comment on that, Dr Stagg?

Dr Stagg: That is a very difficult scientific issue to prove categorically. The amount of evidence that indicates such an impact has been increasing over the years, but it is still difficult to show that sea lice on farms have had a detrimental impact

on sea trout populations, for example. There is now more evidence that the infectious pressure in sea lochs can be increased by fish farms. In response to treatments in recent years, the lice problems on farms have diminished. That is now much less of an issue than it has been in the past.

Nora Radcliffe: So we do not need to worry about that.

Mr Pritchard, you commented that you did not see protection orders and the proposed amendments to the current arrangements having a marked impact on access to fishing. You indicated that there appears to be an element of misunderstanding about the present arrangements, which have sometimes been criticised without justification. Could you expand a bit on the matter of protection orders and their implications?

Ian Pritchard: My understanding is that the current arrangements have had only a limited effect and that not many systems have such orders in place. The provisions appear clear, however. They open up access to clubs and associations. Although the possibility of putting such orders in place has been around for a number of years, greater willingness is perhaps needed on both sides to put them in place and make them work. The opportunity is there, but there has perhaps not been the will to make it happen.

Nora Radcliffe: My next question, on escaped fish, is for SEPA. Your submission mentions

“additional requirements such as the marking or tagging of fish”.

How feasible is that? How costly might it be?

Andy Rosie: At that stage, we were considering the strict liability part of the consultation. If incidents get followed up, proof would be required that the fish in question came from a certain fish farm. However, the bill has moved on, so that comment is perhaps less relevant now.

A considerable amount of work has been done on tagging and marking fish, and reports are available on the feasibility and costs of doing so. Obviously, costs to the industry are a considerable consideration. Under a regulatory regime, tagging or marking would be a very good way of tracking fish and dealing with fish farmers who are potentially risking the wider environment by using equipment that is not quite up to the job. They would be an effective tool, but we are not moving in that direction at the moment.

Mr Morrison: I have a serious question for Dr Stagg. Your submission, which is useful, says that FRS has

“more than 300 staff in scientific, technical, professional and support roles.”

What is FRS’s budget?

Dr Stagg: It is £24 million.

Mr Morrison: I suspect that you have seen the submission from Andrew Grant of the Fish Veterinary Society, which is scathing about FRS’s ability to add value as a regulator. How would you respond to what he has said? I suspect that you do not agree with him.

Dr Stagg: I do not think that I do. In evidence this morning, you heard that most fish farms have vets. However, not all fish farms have vets. Furthermore, most fish farms have signed up to the code of practice, but not all of them have done so. That is the nub of the issue.

Mr Morrison: What is the shortfall between “all fish farms” and “most fish farms”?

Dr Stagg: The submission from the Scottish Salmon Producers Organisation states that 95 per cent of salmon farmers have signed up to the code of practice. Therefore, we are looking at a shortfall of 5 per cent. The purpose of regulation is essentially to catch people who are not complying with the code of practice or meeting high standards, which are important matters because they affect the industry’s reputation. To return to an earlier question, there is the issue of whether there are impacts on wild fish. Those important issues must be addressed.

Mr Morrison: So you think that FRS’s job as regulator will be to sweep up and tidy up the practices of the 5 per cent of fish farmers in question. Basically you will say that 95 per cent of fish farmers are fine, tick a couple of boxes once or twice a year and that will be it.

Dr Stagg: A little more than that would be involved. The inspector’s role would be to collect data and other intelligence in the first instance so that we have an intelligence-led inspection capability. There would also be a random sample of most farms on a yearly rolling basis. That is the basis of the inspections that we have proposed in the light of the costs that have been proposed.

You asked about added value and expertise. Our inspectorate is highly trained and has a good track record in managing diseases—I refer in particular to the ISA outbreak in 1998, when it geared up very quickly to deal with that exotic disease. The inspectorate has an on-going professional development programme that involves the University of Stirling, which provides the principal training to vets who are involved in fish health work and a quality standard in inspection services.

Mr Morrison: Okay. I do not want to come between Mr Grant and Dr Stagg.

Last week, we had a useful session with the bill team in which we were assured that the proposals have no cost implications for businesses. However, it is obvious that they will not be resource neutral for FRS if it has to take on additional responsibilities and regulatory powers. Will you go to the Scottish Executive Environment and Rural Affairs Department and ask the politicians to give you more, or will you tell the 5 per cent of fish farmers whom you want to get into order and shape that they should pay?

Dr Stagg: I do not think that the bill contains provisions for the recovery of inspection costs. I think that it is envisaged that those costs would be carried by SEERAD. The normal process for agreeing our programme of work is an annual negotiation with SEERAD so, if it wants us to do more work, we will have to find the resources or stop doing something else that we do.

Maureen Macmillan: The vets from whom we took evidence were concerned about FRS prescribing medicines. They said that you cannot do that and that, even if you had vets within FRS, it would be against practice or protocol for you to prescribe a medicine if the fish were under another vet's charge. How will you deal with that situation?

Dr Stagg: It is not our intention to overrule vets or take over the care of the animals in the way that was described. That does not happen in other areas. I cannot imagine that, if a farmer was not treating his sheep for sheep scab, the state veterinary service would do nothing about it. That is the same as the situation that we are discussing, and we would require the farmer to do something about it. I imagine that FRS might prescribe medicines in circumstances in which the fish are not under veterinary supervision, as we might require the farmer to take the step of treating them.

The Convener: The committee has no further questions. I thank the three witnesses for giving us their written submissions in advance and for answering our questions.

One of the witnesses from panel 3 is en route on a train. With the committee's permission, I ask panel 4—the industry representatives—to come to the table next. I hope that we will get our third witness for panel 3 but, if not, that is unfortunate.

We will suspend for a couple of minutes to allow a comfort break for everybody.

10:57

Meeting suspended.

11:03

On resuming—

The Deputy Convener (Eleanor Scott): Our convener Sarah Boyack will have to disappear at some point during this part of the meeting, so I have taken over for the rest of the morning.

Our next panel comprises representatives from the aquaculture industry. I welcome Doug MacLeod, chairman of the Association of Scottish Shellfish Growers; Sid Patten, chief executive of the Scottish Salmon Producers Organisation; Richard Slaski, executive director of the Federation of Scottish Aquaculture Producers; and Angus MacMillan, an organic salmon producer from West Minch Salmon Ltd. I thank you all for your helpful written submissions, which have been circulated.

Mr Brocklebank: We have heard contradictory reports about whether production costs will increase as a result of the proposals in the bill. Perhaps Mr Patten will begin: will your members incur further costs?

Sid Patten (Scottish Salmon Producers Organisation): That is an open question. It is difficult to believe that there will be no additional costs to companies. We are concerned about that.

Some areas, such as data provision, might attract additional costs. There seems to be a discretionary element in the bill about what kind of data will be required. As we said in our submission, a great deal of data is already available. We hope that that data can be used to circumvent any additional information being required. We are concerned that because the bill is vague about the kind of data that will be required, companies will be put to additional administrative costs. Other aspects of the bill, such as the restriction on fish movements, could seriously affect the cost of managing individual farms.

Although we heard from the previous panel that the costs of having additional inspectors will be covered by the department, additional inspections might be required, particularly on a random basis, and we are not sure how those costs will be recovered.

Most of the costs of complying with the legislation are probably already covered in the code of good practice that the industry took on itself before the bill was introduced. However, we feel that the legislation will perhaps create further costs that will be payable by the industry.

Mr Brocklebank: Mr MacMillan represents the organic salmon farming industry. Do you see the bill as a possible deterrent to your competitiveness?

Angus MacMillan (West Minch Salmon Ltd): It is difficult to say at the moment, given how little information we have on the bill. Guidance has not been published and we do not know what the implications will be. We heard today from SEPA about the additional work that will have to be done.

Apart from what Sid Patten described, the organic sector would not experience any additional costs.

Mr Brocklebank: What about the proposals for escapees, as they are sometimes referred to? Is the situation improving? Are you managing to sort it out on your own or will the proposals in the bill help to alleviate the problem? In any case, how serious are concerns about escapees breeding with wild stock?

Sid Patten: The proposed containment measures in the bill are not unhelpful, but they merely reflect the practices and protocols that the industry has had in place for some time, particularly since the code of good practice was introduced. The proposals complement the provisions in the code of good practice.

Containment seriously concerns the industry, not least because no farmer wants to lose any of his or her stock. Losing stock never happens deliberately and safeguards are in place to prevent it from happening. There have been reports of escapes in recent times, but overall, the record shows that containment is much more successful now than it has ever been. As I said, that is because of the protocols that have been undertaken by the industry.

The science is unclear about interbreeding. I am not a scientist, so that is all I will say on the matter.

Mr Brocklebank: Do the other panel members want to comment on either of those matters?

Richard Slaski (Federation of Scottish Aquaculture Producers): I will give the view from the marine species sector, which is small but which we hope is growing. Containment issues are important for our members, because the fish are in effect in caged farms. As members know, the only incident that we have had in living memory was the regrettable occurrence a few weeks ago at Kames fish farm, which was nothing to do with a lack of good containment by the farmer.

I echo the point that my colleagues from the salmon sector made. The containment provisions in the bill are not unhelpful, but the code of good practice has been robustly thought through in all the sectors, which have worked together closely on it.

The science on breeding by escapees of marine species is very unclear. There are no halibut in Scottish coastal waters, so that is by and large not an issue.

Mr Morrison: As I said to previous witnesses, three interests for me are market stabilisation, site availability and sea lice and disease. I think that the Shetland Islands Council submission said that the price tag to the industry for sea lice and disease measures was about £35 million. What does the panel make of what is proposed for sea lice and disease? Is it helpful? What positive or negative impact will it have on you?

Angus MacMillan: The proposal of having an authorised inspector or regulator—it is unclear which will be used—is a sledgehammer to crack a nut. We have heard this morning from several speakers that the proposals are likely to affect a small number of people.

Mr Morrison: I take it that you are not part of the 5 per cent.

Angus MacMillan: I am not.

Mr Morrison: That is okay—that is on the record now.

Angus MacMillan: If FRS is to have a £24 million budget, that is welcome, but it would be far more sensible to focus that on the concerns. It would be a far better use of public money to direct that towards obtaining products for the industry, so that the industry can combat sea-lice problems. In addition, it would be useful to do work on the availability of additional vaccines that are available in other countries, including EU countries, as we have heard. On sea lice and disease control, far more effective ways of improving and adding value to the aquaculture industry exist than additional regulation, whose costs to the Executive and the industry are unclear.

Sid Patten: On the salmon sector's behalf, I say that the bill is not unhelpful. However, the management of sea lice has been a priority for the industry for many years. As members have heard, the record is excellent on the treatment and management of sea lice. As we have heard many times, the bill provides the correct backstop for people who do not apply the proper regimes and protocols that are important to manage the problem but, other than that, it is a little heavy handed. However, as long as the inspection service is complementary to the existing service that FRS or any other organisation provides, the industry is happy to live with that.

Richard Slaski: It may be premature to talk about the matter, but not all fish health controls are in the bill—other fish health controls exist. One positive aspect of the bill for smaller companies that are starting up—in new-species farming, companies are small and financially vulnerable—is the prospect of payments for problems that might occur under various pieces of fish health legislation.

In that regard, the bill is extremely positive, and our sector is not ungrateful for that step forward. As you will have noted in our submission, there are potentially other steps to make, but we might want to cover them another time.

11:15

Mr Morrison: We know that good work has been done between the Executive and UK ministers on market stabilisation in the past couple of years. The next issue is site availability. How exercised is the panel about that? We heard from the Crown Estate that it is almost powerless and can do little in terms of sanction, and we know that large swathes of the coast are effectively sterilised from commercial development. How concerned are you about companies outwith Scotland exercising powers negatively?

Sid Patten: Clearly, it has to be a concern of the industry that there is a serious limitation on the availability of sites. We acknowledge that there has to be control and management of sites and where they are placed, but looking around Scotland it seems somewhat ridiculous that there is such a restriction on the availability of sites and the size of sites that are made available on certain parts of the coastline. For a sustainable industry, which we are all interested in creating, we need to compete in the global marketplace. There are regulation and cost burdens on the industry, with many regulatory organisations on top of the industry, although we are not necessarily complaining.

Mr Morrison: On site availability, I contend that it is equally ridiculous for major companies to have leases on sites and not use them.

Sid Patten: I do not disagree. The Crown Estate dealt with that this morning, and its recent review will tighten up on the non-use of sites over a lengthy period. That is happening and is under management.

Mr Morrison: So when we come to discuss the statutory instrument and the powers are transferred from the Crown Estate to local authorities, we can rely on your support, and we will see a changed atmosphere and climate for everyone.

Sid Patten: You can certainly rely on our support on the non-use of sites, but you will continue to get pressure from the industry to make more sites available in more parts of the country.

Mr Morrison: And there will be equal pressure to release sites that exist but are not being used.

Sid Patten: Indeed.

Mr Morrison: Do the rest of the panel have any views on site availability?

Angus MacMillan: It is an issue, particularly for smaller indigenous producers. There are sites in Scotland that are leased but are not being used. The cost of acquiring a site that has already been leased to another company is in the region of £500 to £1,000 per tonne. Just to acquire a small site of, say, 500 tonnes would cost someone up to £500,000. Leases tend to be for a duration of 25 years. For anybody starting off on a new species or going into conventional salmon, organic or anything, the start is to acquire a site. If it is already leased by a company that is not using it, the cost could be in the region of £500,000—and that is for a small site.

From what I heard earlier, the Crown Estate is equally unhappy with the situation, and I really think that the bill should take the opportunity to legislate on the use of sites. That would be far more beneficial in growing the aquaculture industry in Scotland than some of the elements that we might see in regulation.

If we think about where we want the aquaculture industry to be in 20 or 30 years, we consider matters such as what we want to happen with shellfish, what new species we want and whether we want differentiated products coming from Scotland. However, that will not happen without sites. The new legislation should make available sites that are tied up by companies.

Richard Slaski: I stress that the Federation of Scottish Aquaculture Producers also represents the trout sector. We have a good opportunity to grow trout up to large sizes in full-strength sea water. That is a good market proposition and the sector is doing well for Scotland. However, an issue arises about sites for that sector and for the cod and halibut sectors. On the positive side, we have been able to use some of the smaller, older salmon sites that were less appropriate for salmon but which are more appropriate for new species. I do not disagree with anything that my colleagues said about site availability being a key matter for the future for all of us.

Doug MacLeod (Association of Scottish Shellfish Growers): Site availability is a key issue for shellfish cultivation, too. We have been concerned for a number of years about what is known as the sterilisation of areas by people who take out leases and then never develop the area. The Crown Estate has said several times that it would like to be able to enforce the built-in condition in its leases that, if no development occurs after X number of years, the lease must be returned. The Crown Estate has had a lot of difficulty implementing those conditions, although in one example a lease was returned to the Crown Estate and released for re-leasing.

We hope that, as sites that are unsuitable for salmon, such as those that are near the mouths of

rivers that are used by migratory fish, are released, shellfish cultivation will have preferential access to those sites, as the species will not affect migratory salmonids.

Rob Gibson: The submission of the Association of Scottish Shellfish Growers states:

“The major concerns of the shellfish cultivation sector are to ensure that obligations, constraints and responsibilities designed for the salmon industry do not, inadvertently, ensnare our operations.”

Will you expand on that?

Doug MacLeod: The bill may contain what are described as submarines, which are provisions that are clearly intended to apply to fin-fish farming but which we might suddenly find being applied inappropriately to shellfish cultivation in five years' time. The problem with submarines is that you cannot always see them, and although I can see a lot of them, I may be missing some. Our worry is that we may not spot some constraints that will suddenly pop up in several years' time. I would prefer the term “aquaculture” not to be used when the bill is not specifically addressing shellfish cultivation. It could talk about fin-fish farming or it could use the term “fish farming” and define somewhere in a glossary that that means fin-fish farming. The term “aquaculture” has been utilised throughout the bill. However, in several instances, the reference is clearly not to aquaculture as a multi-species activity, but specifically to fin-fish farming operations. That is the difficulty that I worry about in the back of my mind.

Rob Gibson: That is one of the difficulties that we will take on board.

Your submission mentions

“difficulties in securing planning permission for depuration facilities”.

As local authorities take more control of planning, do you envisage securing planning permission becoming easier?

Doug MacLeod: Historically, because the west coast and the islands are important for tourism and are scenically sensitive, in many cases, significant difficulties have arisen in getting planning permission for depuration facilities, which are basically just sheds. I do not intend to suggest that we try to be sneaky, but one way of avoiding that difficulty in the past has been to create floating depuration plants. Floating depuration also takes place in France, Italy, Greece and Spain, so it is not really an issue. However, if the planners who have caused us problems on land become our planners for inshore waters, too, I can see us having difficulty there. That is the issue to which I was referring.

The Deputy Convener: Can you explain what depuration means? Some of us—including me—are not familiar with the term.

Doug MacLeod: Depuration is an EU term—it is Eurospeak. I think that it comes from French, rather than English. It is defined as purification under controlled environmental conditions. One can purify shellfish by putting them in clean water—in the sea. Equally, one can purify them in a tank if one controls the quality of the water that goes into it and the clarification of bacteria, for example, in the exit water.

Rob Gibson: I know that there are very clean waters on the north coast, where depuration is something of a disincentive to the production of top-class oysters.

If we had discussed Highland Council's submission earlier, an issue related to the definition of “parasite” would have been raised, because I would have raised it. Highland Council thinks that the definition in the bill should not be restricted to two parasites, because

“Parasites of shellfish can have an important impact on population as evidenced by the recent *Bonamia* outbreak in the west Highlands.”

Would you like to comment on that?

Doug MacLeod: Yes. We refer to the issue in our written submission. We are in favour of controls on movements of shellfish from one area to another. In our submission, we suggest five or six distinct hydrographic areas in Scotland where there should at least be a requirement for FRS to observe and report on the presence of pests and parasites. At the moment, *Bonamia* falls under disease legislation, even though it is caused by a parasite. It is a fine example of the fact that, without some control over the translocation of shellfish, clean, disease-free waters in an approved zone can be turned into a closed area where movements are restricted. Loch Sunart is a case in point.

Richard Lochhead: One recurring theme is the amount of bureaucracy and the number of regulatory bodies with which the industry has to deal. In recent years, there have been calls from the industry for streamlining and a one-stop shop. How much closer does the bill take us to that objective?

Doug MacLeod: For me, the bill is largely on the margins. It is focused mainly on the fin-fish sector. From the shellfish perspective, I do not think that the bill will move us towards a one-stop shop operation. Such a move would be positive, if it could be achieved. The problem is that there is still a dichotomy between those who regulate operations and the regulation that deals with gaining and identifying sites and the scale and mode of operation of sites. As long as that

dichotomy exists, I do not see how the system can really be streamlined. That is an observation from an outsider's perspective, because most of the controls are directed at the fin-fish sector.

Sid Patten: I do not think that the bill moves forward to a great extent towards having a one-stop-shop approach. As we speak, the industry is governed by 10 statutory bodies, 63 pieces of legislation and 43 directives. The bill does not cut into that significantly. However, that is not the reason why it was originally conceived. It provides the industry with the underpinning of the code of good practice that the industry sees as important. As long as it operates in that way and does not become yet another encumbrance on the industry, we can look forward with some confidence to it saving us from some of the misinformed criticism that has been directed at us in past years.

11:30

Richard Slaski: I totally agree with what my colleagues have said. The bill is neutral with regard to the one-stop-shop concept. I would like to expand on that a little. Doug MacLeod has touched on the fact that we have locational regulation, in the sense that there is, effectively, a requirement for planning permission. That is one large part of the regulatory burden. The other part is operational, which might involve SEPA from an environmental protection point of view and FRS from a fish health point of view. It is difficult to envisage how we can pull the various regulations together, so it is quite a challenge to consider how a one-stop shop would actually operate, given the different statutory obligations that exist for various groups at the moment.

Maureen Macmillan: I return to sea lice again, I am afraid. What do organic salmon farmers do about sea lice? Presumably, an organic farm will have a different regime from a non-organic farm.

Angus MacMillan: There are a number of important differences between an organic site and a conventional site. An organic site would be selected because of historically low levels of lice, and it would probably not be situated in a migratory estuary. The stock densities for organic farms are usually half those of non-organic farms, so the number of fish is much smaller. Other things that are brought into play include the natural use of wrasse, which would be in the cages from an early age to eat the lice. That approach has proved successful in both Scotland and Norway. It is also possible to operate with other companies on strategic treatments, and the Soil Association has in the past month approved standards that will permit strategic chemical treatments at specific times. A number of things can be done.

Maureen Macmillan: I am interested to hear that you are using wrasse. Their use was being tried some years ago, when our predecessor committee was conducting an inquiry into salmon farming. I was told then that the problem was that wrasse ate the salmon as well as the lice.

Angus MacMillan: That is not true.

Maureen Macmillan: I am glad to hear that.

Richard Slaski flagged up a problem with sea lice and halibut. Is that serious, or was it just an aside?

Richard Slaski: It was not entirely an aside. We have just come from the British Marine Finfish Association's annual general meeting in Shetland, where we debated the issue again. The bill names the other sea louse, *Caligus elongatus*, which is a non-specific sea louse, in that it not only attacks salmon, but latches on to a whole variety of wild fish. It is totally endemic in our environment. The bill includes that parasite and therefore the regulator will have the power to ask for numbers and, potentially, to instruct a treatment. However, as far as we are aware after some years of experience, it affects halibut only seasonally and has no effect on the fish at all. Therefore, from a welfare point of view, an affected farm's vet would not consider that a treatment was appropriate. There was just a little bit of concern about the detail of those provisions in the bill and about what might happen to an individual farmer who was suddenly faced with a requirement to treat and to use the chemicals that we have heard about—treatments that we should be saving for when we really need them.

Maureen Macmillan: Yet, if the halibut farm was in an estuary where there were migrating salmon, it might be not a veterinary issue but another kind of issue.

Richard Slaski: I do not disagree with that at all. In fact, we have had discussions with the bill team and with the appropriate officials about that. Once again, the devil will be in the detail of the guidance that will be prepared on the individual provisions in the bill, which is, to a large degree, an enabling bill. We have come to an understanding with the officials that we will talk about the detail of how the guidance will apply in specific situations.

For example, if there was a material threat from the *Caligus elongatus* population on a halibut farm to a migratory route for salmon or sea trout, we would be pragmatic about how to tackle it. This is about the detail of how we roll out the management procedure. We are talking about only a few farms.

Maureen Macmillan: Sid Patten referred to uninformed comments about fish farming. Panel

members might have noticed what I considered to be uninformed comments in the Sunday papers at the weekend. How would you respond to those comments?

Sid Patten: We are not in Canada, so we have no comment to make.

Nora Radcliffe: Will you comment on the fact that the bill provides that compensation for the slaughter of fish to control disease is at ministers' discretion?

Sid Patten: Compensation to allow farms to continue to manage and compete is an important element of the bill. It is difficult to put a figure on that, but I heard earlier that the arrangements for compensation for fish farms should certainly be no different from the arrangements that are made for terrestrial farms. I have to agree with that approach, but it is important that clarity about ministerial discretion is provided as soon as possible.

Richard Slaski: That is a very important area for the marine species sector and the trout sector, which has asked me to refer to it. The provision in the bill is for payments, rather than compensation, at the discretion of ministers. It is a state-aid situation. In the past, when we have had to try to apply some sort of state-aid package in a crisis, we have discovered that that has to be approved through the Commission, which takes time. Cash flow is tight for indigenous, smaller companies, and they do not have time to wait. We hope that ministerial discretion will be applied positively with regard to those small companies when such situations occur. We also hope that we will have an action plan in place to move in quickly and reassure companies and their banks and creditors.

There is a disparity in the bill with regard to compensation or payment for *Gyrodactylus salaris* incidents. The clearance—in other words, slaughtering out—of an infected farm is provided for in payments, as is the consequential damage to other businesses from movement restrictions. The same is not true for other fish diseases that we might face. The bill suggests that, with ministers' discretion, payments might be made for slaughtered out fish. However, although all the surrounding farms of whatever species might be clinically fine, given the movement restrictions, the damage to their business might be far greater than the damage to the farm where the fish were slaughtered. That is a serious concern for the industry, which the bill does not address.

Angus MacMillan: Disease is one of the four major problems that we have had over the years. We are seeing a significant improvement in the health of salmon in particular through the use of vaccines. However, vaccines are available in other

countries that are not available in the UK. That should be pursued with vigour.

The best way to control diseases is to ensure that they do not come here in the first place. I am slightly concerned that the importation of eggs and live fish from outwith Scotland would introduce diseases that we do not want here. In addition to there being a risk assessment, I would like importation to be further reviewed. Given that eggs that have been disinfected on the outside can still carry disease on the inside, a quarantine procedure might be appropriate. Although quarantine would not be appropriate for smolts—that is, live fish—we should be extremely careful to ensure that any smolts that are imported into Scotland are subject to a vigorous risk assessment that is also independently checked.

Maureen Macmillan: Are smolts and eggs imported at the moment?

Angus MacMillan: Yes.

Maureen Macmillan: Where from?

Angus MacMillan: Norway.

Maureen Macmillan: When I asked about that last week, I think that I was told—if I am not misremembering—that smolts were not imported from Norway because of freshwater *Gyrodactylus salaris*. However, do you feel that there is the possibility of disease with the salmon smolts and eggs that are currently being imported from Norway?

Angus MacMillan: There is no question about that. We need to ensure that risk assessments do not just involve the exporting company and importing company but are subject to independent verification.

Maureen Macmillan: We need to sort out that issue.

Sid Patten: I should clarify that, yes, eggs are being imported at the present time but the importation of eggs and live fish is covered comprehensively by the code of good practice, which requires the quarantining of live fish. Whether imported eggs should also be quarantined is currently being considered by a scientific group. However, there is no scientific evidence that vertical transmission through imported eggs is a problem.

Mr Morrison: We have heard a lot about the much maligned 5 per cent who have not signed up to the code of good practice. Are any of those 5 per cent involved in the importation of eggs or smolts?

Sid Patten: Although I cannot say for sure, it is highly unlikely that any of the companies that are not signed up to the code of good practice are involved in the importation of eggs or live fish. In

fact, the 5 per cent is now something like 3 per cent because, in the course of this week, one of the last of the larger companies signed up to the code of good practice. We probably now have something like 97.5 per cent of the industry signed up to the code.

Mr Morrison: Finally, what is the position with the 3 per cent who have not signed up to the code of good practice? How many are there? It would be useful to have that on the record.

Sid Patten: In operating terms, 3 per cent probably represents two or three companies.

Mr Morrison: Who are they?

Sid Patten: I could not possibly say.

Mr Morrison: Yes you can.

Sid Patten: Perhaps in another forum. We have details of those companies and we are pursuing them, both independently and through the independent inspection organisation, to bring them into the code. We have every confidence that the code of good practice and the bill will ensure that that happens.

The Deputy Convener: As we have no more questions, I invite the panel to stand down. Like the previous panels, they are welcome to stay for the rest of the morning. We will now go back to panel 3, although I am not sure whether the person who was stuck on a train has arrived.

Rob Gibson: She has arrived.

The Deputy Convener: That is good. I will suspend the meeting for a couple of minutes while the panels change over.

11:44

Meeting suspended.

11:46

On resuming—

The Deputy Convener: Panel 3 consists of witnesses from various councils that have aquaculture interests in their areas. Unfortunately, a representative from Shetland Islands Council was unable to come, but the council sent written evidence that has been circulated to members.

I welcome George Hamilton, natural resources manager with Highland Council; Peter Middleton, fisheries and marine resources officer with Western Isles Council; and Audrey Martin, senior planning and development officer with Argyll and Bute Council. Thank you for your helpful written submissions, which have been circulated to members. We will go straight to members for questions.

Rob Gibson: I want to talk about freshwater fisheries. Highland Council's submission refers to problems with the system of protection orders. What local experience of protection orders can the panel share with the committee?

George Hamilton (Highland Council): I have no particular experience of protection orders, but I understand that experience in parts of the Highlands—mainly the Lochaber area, as I recollect—suggests that some orders do not achieve what is intended, which is to open up freshwater fisheries to the wider public and put in place conservation objectives and liaison committees.

Rob Gibson: I will come to that in a moment. Your submission states:

"The Council has long been concerned that the current system ... does little more than protect individual rights to fish and contributes very little by way of increasing affordable access to fishing."

Do you think that the bill is in any way geared up to extend the range of people who can fish?

George Hamilton: I did not notice that in the bill.

Rob Gibson: Do other panel members have a comment on that?

Peter Middleton (Comhairle nan Eilean Siar): I do not think that there was an intention to do what Mr Gibson said. Working with local angling groups and local organisations is how we are undertaking development in the Western Isles, particularly in relation to the Western Isles Fisheries Trust. Developing small groups and contributing to employing a development officer is how we are trying to encourage greater participation in freshwater fishing and angling.

Audrey Martin (Argyll and Bute Council): I have no direct experience of protection orders in Argyll and Bute. Certainly, when I read through the bill, it did not come across that the aim was to increase access on the freshwater side.

Rob Gibson: How do you respond to the Executive's evidence that protection order liaison committees would create 14 new non-departmental public bodies, given that further freshwater fisheries management is still up for debate?

George Hamilton: That is a fair point. We are aware that the freshwater fisheries management issue is being dealt with separately. Highland Council has contributed to that process. It would probably be poor timing to do deal with one issue but not the other.

Rob Gibson: Would explicit conservation objectives or protection orders have resource implications?

George Hamilton: They may have.

Rob Gibson: These issues may be outwith the bill's main focus, but there would be implications that we perhaps ought to pursue.

Deputy convener, may I change topic and ask about the marine side now?

The Deputy Convener: Maureen, did you want to follow up on any freshwater issues?

Maureen Macmillan: No, I wanted to ask about marine planning.

The Deputy Convener: Anybody else?

Elaine Smith: I apologise for having had to nip out; Rob Gibson may already have asked this question. Highland Council has said that it is concerned about the mandatory liaison committee not being in the bill. Is there room in the bill? It seemed to me that there was room to make regulations to do with protection orders and freshwater fisheries.

George Hamilton: There is room, but I would be concerned about the mixing up of two issues—the POs and the freshwater fisheries management regime. The bill could deal with them separately.

Nora Radcliffe: My question is about freshwater fisheries and the mandatory disinfection of recreation equipment at ports of entry. How important would that be, and how easy would it be to put in place?

Peter Middleton: It would not be easy to put in place, but there would have been an opportunity to take the lead in publicising the risks involved. An opportunity has been lost to publicise what might happen, to establish good practice and to undertake disinfection. Not all areas would be covered and not everyone would be affected, but it would have been good to make people more aware of the risks.

Nora Radcliffe: Are you thinking about travellers from identified high-risk areas?

Peter Middleton: Yes.

Nora Radcliffe: The measures would therefore be quite narrow.

Would there be a better point of enforcement for such measures on the actual fishings for which people had a licence?

Peter Middleton: That might be more difficult to enforce; it would be better to concentrate on the higher-profile areas.

George Hamilton: At the moment, many proprietors ask for a statement that people do not have any contaminated equipment and that they have not fished abroad in the previous 12 months.

Nora Radcliffe: So an informal regime is in place.

Rob Gibson: Moving on to the marine side—I have a question in relation to the sequence of questions on shellfish that we heard earlier. With councils receiving more planning powers, will it be easier for you to deal with issues such as depuration regulations and sites, or available sites for fish farms? In council activities, will there be any conflict of interests between the side that supports wildlife and the side that deals with planning?

George Hamilton: Things should become easier. Local authorities with interests in coasts and aquaculture are now preparing what we in Highland Council call framework plans—non-statutory strategic guidance for developers. Such plans should come more to the fore, and I hope that that will make it easier to process things. Plans should take account of coastal requirements, and depuration might well be a case in point.

Peter Middleton: The development control side is quite heavily involved with any application at the moment, so I do not think that the process will get more difficult. I would like to think that the communication that already exists between the different departments would at least take into account the issues that each side faces.

Audrey Martin: It is really about harnessing the productive capacity of your coastal marine area, while balancing that with environmental issues. Like Highland Council, Argyll and Bute Council is considering integrated coastal zone management plans. That is a way of looking at all those who are involved in the coastal marine environment, the capacity that is there and the issues that arise, to try to resolve the issues and plan positively for the future. That way, there will be plans in place that show where aquaculture industry development could take place, taking into account all the other users in that environment. That is not easy to do. The marine coastal environment is multidimensional, so planning for it is more difficult than for the terrestrial side. There is also an issue about training in development control and raising awareness of the issues. Once there has been a full transfer of powers, the regulator will need to liaise with the planning authority on issues such as containment, the size of nets, and so on, on which Argyll and Bute Council does not have specialist in-house knowledge.

Rob Gibson: Is there likely to be an increased cost to local authorities from the developments that you are talking about? If aquaculture, in its widest sense, is to be developed, will the costs be greater than those that you face at present?

Audrey Martin: There could be resource implications. Argyll and Bute Council is working on the policy development side, as we would like to have the policies in place to respond to the growth that the aquaculture industry wants to happen. That will take quite a large resource, and the development of integrated coastal zone management plans is resource intensive. There will certainly be financial implications for Argyll and Bute Council.

George Hamilton: I agree with that. There will need to be strong links between planning authorities and regulators such as the FRS regarding their activities under the bill. I hope that there will be linkage between strategic guidance and the code of good practice that was discussed earlier.

Maureen Macmillan: What contact do you have with each other and with Orkney Islands Council and Shetland Islands Council? I am concerned that a different regime might be developed in each local authority area. Is there close contact between planning departments on aquaculture?

George Hamilton: We are in touch regularly but we do not work together. We apply our own strategic guidance that we have developed in our own way. We are involved in projects in other areas that are linked to the sustainable marine environment initiative, which the Executive is running to promote coastal zone management. We liaise, but we do not work together on planning applications.

Maureen Macmillan: I wondered about the extent to which you have common goals and priorities. Does one council prioritise visual impact while another council prioritises economic good, or whatever?

Peter Middleton: There are different characteristics in each of the areas. I cannot speak from the planning side of things, but I can speak from the economic development side. I have contact with other operators for the local councils in order to get an idea of how they are approaching the issue, so that we are not all coming at it from different angles. I know from the liaison meetings that we have that, if a totally different approach was being taken in another area, we would know about it quite quickly.

Maureen Macmillan: There is obviously a balance to be struck between local democracy and councils' not entering into a bidding war about who can provide what for the aquaculture companies. I would like to see some basic similarity in what is happening in the councils.

Audrey Martin: Argyll and Bute Council's integrated coastal zone management plans came about through the structure plan and filtered down to the local plan policies. Each council will have its

own specific policies against which it will assess planning applications; however, as you say, it is important that an overarching view is taken about what is important in the coastal marine environment. The Highlands and Islands aquaculture forum is a useful tool for that. That is facilitated by Highland Council.

12:00

Maureen Macmillan: Who does that forum include? Does it include representatives from the northern islands as well?

George Hamilton: It includes all the Highlands and Islands local authorities, industry representatives and others who are interested, such as members of AMAs, the tripartite working group and the wild-fish interests. It is worth remembering that we have locational guidance and that we expect to have planning policy guidance once the powers are transferred.

Maureen Macmillan: That is the back-stop. Thank you.

Mr Morrison: I appreciate that it may be difficult for you to quantify this at this stage, but how many sites are there within your areas for which consents exist that are not being used?

Peter Middleton: I have no specific information on that at the moment. We have heard this morning from the aquaculture industry that site availability is an issue. There are different ways of approaching that. Good practice and best site availability issues can be addressed through site optimisation plans and area management agreements. That is done on an informal basis at the moment. Working one to one with the players in an area can also help. Site availability is, undoubtedly, an issue.

George Hamilton: I agree with that. I cannot give you figures today, but I can do some research and come up with a figure for how many sites for which consent has been granted are not being used. We need to work with the Crown Estate to ensure that we get the details of where the sites are and what their capacities are.

Audrey Martin: The issue of data collection has come up when we have drafted our coastal zone management plans. We are seeking to determine what is happening at the moment in the marine coastal environment. We can get information about sites for which consent has been granted; however, it is more difficult to find out what has happened with those and how many are in operation. Quite a bit of work is needed to find that out, and we need to speak to SEPA about who has consent notices, and so on.

Mr Morrison: You may have heard Mr Pritchard from the Crown Estate say that there is no

available measure to activate consents. I presume that you will not want to be in that position when local authorities, rightly, have powers over locational issues. Will you?

George Hamilton: No.

Peter Middleton: No.

Mr Morrison: I just wanted that on the record. Shaking your head does not go on the record. Is Argyll and Bute Council also saying no?

Audrey Martin: Yes.

The Deputy Convener: I have a brief question that has been partly answered. You have taken over some of the regulatory functions of the Crown Estate, although the powers have not been fully handed over. Are the councils ready to take on that role? Does the expertise for that exist within our councils?

Peter Middleton: I do not think that the expertise exists at the moment; however, the involvement of the different departments, especially on the development control side, is getting better all the time. That will help to focus attention on exactly what is involved before the powers are transferred. The expertise is being built up all the time, and the different contacts within local authorities can help that.

George Hamilton: The planning expertise exists in development control and strategic planning; however, I am not convinced that the expertise exists in interpreting environmental impact assessments. That remains to be developed. Work is under way at the moment to standardise the approach to EIAs, which should simplify their interpretation and standardise their quality and content. It is hoped that that will help.

Audrey Martin: Argyll and Bute Council does not have the resources to appoint a specific aquaculture officer. The development control officers deal with all types of planning applications, including aquaculture applications under the interim measures. There is a resource issue for the council in addressing how we deal with some of the complex issues that arise in assessing aquaculture applications. That is where having a close working relationship with the different stakeholders and statutory bodies that are involved in the process will be key.

The Deputy Convener: As there are no more questions, I invite the panel to stand down. Thank you very much for coming, especially those of you who I gather had a fraught journey here.

That completes our second evidence-taking session on the bill. Our next evidence session will be on 24 October, which is in three weeks' time, after the October recess. Please note that that is a Tuesday. The reason for that is that there will be a

plenary meeting all day on the Wednesday because there is a lot of parliamentary business to get through before we go into purdah next spring. On Tuesday 24 October, we will hear from various organisations that use water resources for recreational and business reasons and from conservation and animal welfare organisations.

I suspend the meeting briefly to allow the witnesses to leave. People who are interested in subordinate legislation can stay.

12:05

Meeting suspended.

12:06

On resuming—

Subordinate Legislation

Water Services and Sewerage Services Licences (Scotland) Order 2006 (SSI 2006/464)

Environmental Noise (Scotland) Regulations 2006 (SSI 2006/465)

The Deputy Convener: Agenda item 2 is consideration of two instruments of subordinate legislation that are subject to the negative procedure. The Subordinate Legislation Committee has considered the instruments and has made a brief comment on SSI 2006/465. An extract of its report is in the papers. Do members have any comments on the instruments?

Elaine Smith: There are several questions that we could ask about SSI 2006/465 because, as I have confirmed through discussion with the convener and other members of the committee, it is not clear in a number of regards. We do not know what will happen once the maps and the action plans have been produced and it is not clear whether trunk roads will be covered by the definition of "strategic". It is stated that the provisions will apply to major roads and agglomerations, but we do not know whether trunk roads will be covered. There is also uncertainty about which rail routes the requirements will apply to. Will that be determined by the noisiness of trains or will it depend on the urban areas that trains go through, for example? Such issues are not clear.

It is not at all clear how regulation 17 on airport action plans will work. All the costs that are mentioned seem to relate to the production of maps rather than to the longer-term costs and benefits. We require some answers on those issues before we agree to the regulations.

The regulatory impact assessment focuses on the costs of mapping and who deals with such issues. Paragraph 4.7 of the RIA is about policies that can be developed, but it is not obvious how it relates to paragraph 8.5. I do not know how we should approach matters. Perhaps we could ask for written answers to our questions.

The Deputy Convener: Before the convener left, she shared with me some concerns about the explanatory note, which she felt did not say enough about the impact of the measures, what the actions plans would achieve and what enforcement would be carried out. Several questions need to be answered. The lead committee's report is due on 30 October, so there

is enough time for us to seek clarification from the Executive on the relevant points.

Mr Morrison: That would be appropriate, given the concerns that you and Elaine Smith have raised.

The Deputy Convener: We can put the matter on the agenda for our meeting on 24 October.

Mr Morrison: That will give us seven days to address the issues.

The Deputy Convener: Although SSI 2006/464 and SSI 2006/465 are ticked as being affirmative instruments on the accompanying documentation, those are typos, because they are both negative instruments. However, that is anorak stuff.

Are members content with SSI 2006/464?

Members indicated agreement.

The Deputy Convener: We will seek further clarification on SSI 2006/465.

The convener has considered arrangements for stage 2 of the Crofting Reform etc Bill. As members know, stage 2 amendments can now be lodged. The convener has decided that the first day of consideration of stage 2 amendments will be our meeting on 15 November. Our target will be to consider sections 1 to 10 on that day. That means that the deadline for lodging amendments to sections 1 to 10 of the bill, and the accompanying schedule 1, will be 12 noon on Friday 10 November. Targets for the sections that will be considered at subsequent meetings will be announced after day 1. Members who wish to lodge amendments are invited to speak to the clerks as soon as possible.

Mr Morrison: Will that helpful information be e-mailed to us?

The Deputy Convener: Yes.

Mr Morrison: Good.

The Deputy Convener: Our next meeting will be after the October recess, on Tuesday 24 October at 2 pm. As you know, we will not meet in our usual Wednesday morning slot because plenary business has been scheduled for that time.

Maureen Macmillan: I may have to submit my apologies for that meeting, because I will be attending a meeting of the Justice 2 Committee, which will be considering the Legal Profession and Legal Aid (Scotland) Bill at stage 2.

The Deputy Convener: I hope that you are the only member who will not be able to come. Any member who has a problem should talk to Mark Brough.

Meeting closed at 12:11.

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