

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Tuesday 24 October 2006

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

29th 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)

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

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

*attended

THE FOLLOWING GAVE EVIDENCE

Libby Anderson (Advocates for Animals)

Colin Bayes (Scottish Environment Protection Agency)

Mike Dales (Scottish Canoe Association)

John Ford (Scottish Environment Protection Agency)

Campbell Gemmell (Scottish Environment Protection Agency)

Graham Hutcheon (Malt Distillers Association of Scotland)

Calum MacDonald (Scottish Environment Protection Agency)

Dawn Purchase (Marine Conservation Society)

William Shearer (Salmon Net Fishing Association of Scotland)

Dr Alastair Stephen (Association of Electricity Producers)

John Thomson (Scottish Natural Heritage)

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

Tuesday 24 October 2006

[THE CONVENER *opened the meeting at 14:05*]

Aquaculture and Fisheries (Scotland) Bill: Stage 1

The Convener (Sarah Boyack): Good afternoon. I welcome members, the press, the public and, in particular, our witnesses to the Environment and Rural Development Committee's 29th meeting in 2006. I remind people to switch their mobile phones and BlackBerrys to silent, please. We have apologies from Maureen Macmillan, who is attending a Justice 2 Committee meeting, from Richard Lochhead, who is on a train that has broken down or stopped somewhere near Inverkeithing, and from me, as I will leave for about 10 minutes at half past 2, although I will return. Those are all the apologies of which I am aware; I also apologise for starting slightly late.

Agenda item 1 is the third of our evidence sessions on the Aquaculture and Fisheries (Scotland) Bill. Today, we will consider how the bill affects other water users and the conservation and welfare issues that are associated with the aquaculture industry and freshwater fisheries.

I welcome our first panel, which comprises organisations that represent users of water resources for recreational and business purposes. I thank the witnesses for providing submissions in advance, which helps us. I will not take opening statements—I noticed that one submission was entitled "Opening General Statement" and it is guaranteed that we have read it in full.

The panel comprises Graham Hutcheon, who is the chairperson of the environment committee of the Malt Distillers Association of Scotland; Dr Alastair Stephen, who is the ecological adviser to the Association of Electricity Producers; Mike Dales, who is the access and environment officer of the Scottish Canoe Association; and William Shearer, who is a consultant to the Salmon Net Fishing Association of Scotland.

Rob Gibson (Highlands and Islands) (SNP): With a previous panel, we started to consider the impacts of dealing with *Gyrodactylus salaris* by flushing river systems. I am keen to follow that up with the panel as users of Scotland's water environment. How much are panel members

involved in the GS task force and in the exercise that will take place next February?

Graham Hutcheon (Malt Distillers Association of Scotland): We are involved quite heavily and will be involved in the contingency assessment in February. That is as much as we can say at the moment. The work is under way.

Rob Gibson: Is everyone in the same position of waiting to see what happens?

Dr Alastair Stephen (Association of Electricity Producers): We are waiting to see what happens.

Mike Dales (Scottish Canoe Association): I became aware of the contingency exercise only out in the lobby 10 or 15 minutes ago. An issue arises with retaining the close involvement of a group of people in the matter.

William Shearer (Salmon Net Fishing Association of Scotland): I have not been involved at all. The association that I represent is not mentioned as a stakeholder in the plans that have been drawn up to deal with *Gyrodactylus*.

Rob Gibson: Perhaps the Scottish Executive's tests ought to involve all your organisations. I hope that the evidence today will establish that.

I am interested in the uses of water for human consumption, such as making whisky, because they could conflict with the aim of protecting wild salmon stocks. How much would the flushing of a river system affect the physical business of making whisky?

Graham Hutcheon: That question obviously lands on my desk. There are a few unknowns, but I have three or four points that are relevant to your question.

If a malt distillery—if not a number of malt distilleries—sat on a watercourse that was treated chemically, it is unlikely that the distillery would be able to operate for the period of time in which the chemical was residual in the water. Whether the chemical was rotenone or aluminium sulphate, it might not be successful because of the geography of our watercourses, so several treatments might be required, which may mean that a watercourse was unavailable for use for some time. That gives us a short-term issue.

If a distillery that produced a branded malt whisky was shut down for six months, for example, that could ratchet up a profit hit of between £20 million and £40 million 10 years hence—the whisky would not be used right away, but would be laid down. Distillers do not have the ability to shut up shop and move somewhere else—we are stuck where we are—and localised treatment could affect one or two operators and nobody else. However, the thing that scares me more than

anything else is the damage to the international reputation of the brand. The Scotch whisky industry generates £2.3 billion in exports, and the figure is growing. What is the value of quality ingredients in any product that is exported globally? The quality of water is paramount to our brands.

Whether the problem is perceived or actual, we would be very concerned about the chemical treatment of watercourses.

Rob Gibson: In that case, we would assume that the contingency plan exercise ought to give us some answers to that.

Graham Hutcheon: Absolutely.

Rob Gibson: However, at this stage in the development of the bill, we do not have those answers. Does anyone else want to comment?

Dr Stephen: In the hydro industry there is concern that, if there was a requirement to stop the diversion of water from one catchment or sub-catchment to another for an extended period, that would reduce the ability of the energy producers to produce renewable energy. That would obviously affect targets and revenue.

Rob Gibson: Many of the longer east coast rivers such as the Spey and the Tay, as well as the ones in the north-east such as the Dee and so on, are major whisky rivers as well as major fishing rivers, but they are probably less important to the hydro power industry, which is based further west.

Dr Stephen: I am sorry, but the Tay is probably the most important hydro river in Scotland and has major diversions to take water from one catchment or sub-catchment to another.

Rob Gibson: So it will be essential that we understand the implications of GS treatment for the hydro industry.

Dr Stephen: Yes.

The Convener: Some of those questions raise issues that we might want to follow up later with the minister. Does Ted Brocklebank want to ask about the same issue?

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I want to follow on from what Rob Gibson has said and move on to the next stage. The witnesses have all registered concern about the arrangements for compensation when water becomes contaminated with chemicals. I ask them to explain why they feel that the financial arrangements that are outlined in the bill do not address their fears for their specific businesses.

Dr Stephen: We are unaware of exactly what will need to be done. We have looked at what has happened in Norway and the way in which GS is

treated there. Some evidence suggests that the eradication treatments in Norway are not 100 per cent successful, and we are not confident that the rivers in Scotland are of a similar nature, especially the east coast rivers. We are not sure of the extent to which the eradication treatments will be necessary, or of the timings, the length of time they will take or whether eradication will be acceptable to a large number of organisations, and we are still at sea as far as understanding the implications for compensation because we do not fully understand what will happen on the ground.

14:15

Mr Brocklebank: I suppose that the malt distillers' problems will go further. Graham Hutcheon talked about branding and the effect that eradication treatments might have on a brand 10 years down the road. Do you have fears about compensation because the industry might lose very considerable sums of money?

Graham Hutcheon: Absolutely, and I have not seen the full economic impact assessment for which the bill allows, so I am not sure whether it has been completed. I am certainly aware that we have not provided any information for such an investigation. You are talking about serious sums of money over a very long period of time. People still remember when benzene was found in Perrier water.

We cannot underestimate the knowledge that the export markets have of our brands and what goes into them. The markets are very knowledgeable. We had a discussion with Chinese journalists about the age of whisky, involving one of the industry's main brands, and they were very knowledgeable about our product and how it is manufactured. They are well up to speed, so eradication treatments could be very damaging not just to one brand but to several, given that we have blended Scotch as well as single malts.

Mr Brocklebank: I am thinking about the Spey, for example, which is surrounded by distilleries. If a major contaminant got into such a river, what compensation would you require? Could you pluck a figure out of the air?

Graham Hutcheon: As I said, such an incident could cost the profit of one plant that produces a seriously important international brand of single malt. I have calculated a figure for my company of between £20 million and £40 million, but the figures can be ratcheted up. Not every distillery has an international brand of single malt, but they all contribute to the blended product that is sold around the world.

Mr Brocklebank: Could you not take steps to insure against such a risk? Would that not be part of your normal insurance against a river not being as pure as it might be?

Graham Hutcheon: I agree that that would be possible but can we insure against future brand value? I would not like to pay the premium for that.

Malt whisky sales are growing at 10 per cent per year, but if the figure were to drop to 5 per cent in the next five to six years, that would be a very significant drop and I am not sure that we could take up that risk.

Mr Brocklebank: Does the Scottish Canoe Association have any particular fears about compensation to its members for their inability to use parts of rivers?

Mike Dales: In some ways, our worries are shorter term than those of the whisky industry. From the commercial point of view, such an incident would probably damage Scotland's reputation as a tourism destination for two or three years. Home-grown educational or commercial providers of canoeing, rafting or whatever would be affected.

However, depending on where a company is based, there is a little bit of movement. For example, a company that is based in Stirling might well travel to the River Tay to run canoeing trips, but it can also use other rivers and lochs.

Another of our concerns is that although a lot of lessons have been drawn from Norway because it has gyrodactylosis, its rivers are very different to ours; many of them are single rivers from source to sea, often with big waterfalls that the disease cannot get above. Scotland has problems because the disease would be able to get into the high part of a river, and because some rivers are very big at the estuary end, for example—such as where the Earn comes into the Tay. There would be a lot of different tributaries to cover if the disease got into such a network.

As others have said, the east coast rivers are the ones about which there are most fears, and that is also the case from our point of view.

Eleanor Scott (Highlands and Islands) (Green): I have two questions. Mr Shearer, you seem to be saying in your submission that if GS ever got established in Scotland, eradication would not be possible. Will you elaborate on that?

William Shearer: I would have thought that that would be the case, particularly in our bigger rivers. There is a lot of evidence from Norway, but the Norwegian rivers, which are relatively short and fast flowing and have no tributaries, are very different to those in Scotland. How could one treat a body of water of the size of the Tay, with its many tributaries and lochs, if *Gyrodactylus* got into that river system?

We feel that the erection of barriers, particularly on big rivers, will cost many millions of pounds. A relatively simple barrier across the North Esk, just

above the head of tide, which was designed and costed in the 1960s, was going to cost £500,000. We should consider what that would be in present-day figures and the fact that the North Esk is not by any manner of means the biggest river in Scotland.

Eleanor Scott: Is it your understanding that in order to contain the parasite to sections of rivers we would have to use barriers?

William Shearer: I would have thought so. Going back to a previous question, obviously members of our association very much depend on the salmon that is produced by the rivers. If we kill off the salmon, those businesses will stop work, and since most of them are centred in the more rural areas, there is little or no possibility of people getting alternative work. Furthermore, if there are no salmon to catch, their gear will become valueless.

Eleanor Scott: My other question was for the Scottish Canoe Association. Mike Dales mentioned in his submission the need to learn the lessons from foot-and-mouth disease in relation to GS. What are those lessons?

Mike Dales: There are probably quite a few lessons there—too many to go into now. One lesson is about having a group that can be brought together quickly. A real problem with the foot-and-mouth outbreak was that it began on the same day that the draft Land Reform (Scotland) Bill was published, when NFU Scotland left the national access forum. A ready-made group that could have been brought together to discuss the problem had just fallen apart that week. The Scottish Executive working group on GS has given us the beginnings of a group that can bring the multiple interests together. The four of us here come from different directions, but if a group with organisations such as ours, the Executive and other bodies could be brought in the day after an outbreak, that would be useful.

Another lesson is not to give ministers the chance to stop one activity and make it look as if that solved the problem or did something dynamic. That was a problem with foot and mouth; certain things were stopped and we did not quite know why, and other things continued and we were not quite sure why they continued. We need to solve the problem and cure the disease, rather than just have politicians being seen to do something.

Eleanor Scott: How aware are water users, both here and abroad, of the issue of GS and the need to prevent it from taking a hold here?

Mike Dales: Not very aware. Our submission includes a link to our website and the information that we are putting out. We launched that in May this year, and I hope that quite a few people have seen it. Sailors and other water recreation

organisations were certainly going to adopt our advice.

Information could be given out in other ways as well as through recreational bodies such as ours. When I went over to Norway on the Newcastle to Bergen ferry last August, no information on GS was given to us on either our outward or return journeys, despite the fact that the two kayaks on our roof-rack made it obvious that we were participating in water sports. I wonder how many other people pass through those ports with fishing rods, diving tanks or dinghies. No leaflet is ever handed out to them, even though it is obvious that their holiday will involve such recreation.

Eleanor Scott: That is a very good point.

The Convener: What precautionary measures need to be taken at the moment? The submission from the whisky industry points out that, first, we should not assume that GS will come to Scotland and, secondly, we should do all that we can to prevent it from coming here. *[Interruption.]*

We have a fire alert. Let me explain our emergency planning arrangements. I would have just continued with the meeting but, apparently, we need to suspend the meeting while the fire alert announcements continue. I will suspend the meeting until we have clarity on what is happening.

14:26

Meeting suspended.

14:37

On resuming—

The Convener: I call the meeting to order. We have had the nod to continue the meeting while final check-ups are being carried out.

I hope that I am not being rude, but I intend simply to table my questions and read the *Official Report* later to find out how they are answered. I will repeat my earlier question as I think that it may have been cut off by the increasing noise.

My first question is about the focus on prevention rather than cure, which is an issue that everyone today has mentioned in relation to GS. Does more need to be done to promote the prevention angle? Mike Dales suggested that canoeists were not aware of the potential danger of bringing GS into the country in the bottom of a canoe. Is there concern about that issue? What evidence exists about it?

The different written submissions also mention the need to disinfect fishing equipment that has been used elsewhere and suggest a ban on the import of live fish. Why is that particularly

important? Should other issues relating to prevention be higher up our agenda than the extreme measures, on which fears have been expressed, such as the use of the fairly severe chemicals that we discussed in previous evidence sessions?

I need to leave for a few minutes while you answer those questions, but I leave you in the capable hands of Eleanor Scott

Dr Stephen: I will start with the question on the ban on imports of live fish. Having been involved with the GS task force from the very start of the process, I recall that a risk assessment that was carried out for the Department for Environment, Food and Rural Affairs by various experts in the south highlighted that the most likely route for GS getting into this country was through the import of live fish. That risk was deemed to be far greater than the risk of importing GS on angling equipment or canoes or by any other method. I know that huge problems would arise with a ban—I and most other members of the task force were unaware of this at the time—because of the European free trade agreement, but the issue still needs to be considered.

If the main risk of getting GS into this country is through the import of live fish, there must be ways of ensuring that we reduce that risk. I agree with Willie Shearer that, if GS gets into one of our major rivers such as the River Tay, it is here to stay. There is no way that we could treat the River Tay or any other large body of water that contained fish harbouring the GS parasite. If such an incident were to happen, we would have an on-going containment problem for evermore. Instead of thinking of ways of treating or containing it, we should be putting our minds to preventing it from entering our water system in the first place.

Graham Hutcheon: I support that point of view. The situation is exactly as Dr Stephen described: if it is here, it is here. I doubt that we would ever eradicate it.

The measures that need to be put in place to ensure that the movement of fish is managed properly need to be mandatory, not voluntary. Although I accept that the risk is very low, we should take measures to disinfect fishing tackle, canoes and diving tanks. The issue should be raised at the highest level to ensure that those items are disinfected when they are brought back into the country. At the time of foot-and-mouth disease, if someone took golf clubs to the United States of America, the equipment was taken away and disinfected on arrival. That probably did nothing to stop the spread of the disease, but it raised awareness of the risk.

Dr Stephen: On people re-entering the country with angling tackle or canoeing equipment, things

would be okay if there was a border between England and Scotland. We could search everyone's cars and ensure that everything that had been abroad was disinfected. It is easy to—
[*Interruption.*]

The Deputy Convener (Eleanor Scott): We are being told that we can return to normal working, although we have already done so.

Dr Stephen: If a limited number of airports were involved, the challenge would be doable. In New Zealand and Iceland, where major recreational fisheries are part of the tourism trade, the situation can be controlled quite easily by way of disinfecting angling equipment. However, I cannot imagine how we could do that effectively in Scotland if it was not done on a United Kingdom-wide basis.

The Deputy Convener: Right. I assume that you are saying that it would have to be done on a UK-wide basis.

Dr Stephen: If we are going to do it at all, it has to be done comprehensively.

Mike Dales: All of us are appearing as panel members, and some of us are serving on the GS working group, because of our determination to keep GS out in the first place. Prevention is the priority, not eradication. Obviously, we need to put in place an eradication system that can quickly snap into action if GS were to get here, but we are determined to keep it out.

There are a few useful principles that can be used to keep out GS. As Sarah Boyack suggested, GS can be brought into the country on the underside of a canoe. The chances are that anyone who is a little bit aware of the problem will wash out their canoe, but forget to rinse out their sponge or throw line. People are more likely to bring GS into the country on peripheral bits of equipment. The advice that we give out on our website is that people should think of those other pieces of equipment, many of which are small enough to put into a freezer. We only need to put a throw line or whatever into the freezer for 24 hours for the parasite to be killed.

We want to raise awareness. People need to know the risks. If they go abroad, they need to take their knowledge a step further and learn more about GS. In that way, they are more likely to do the right thing when they return to Scotland after a fishing or canoeing trip.

The Deputy Convener: Mr Shearer, you are the only witness who has not yet commented on this matter.

William Shearer: I can only reiterate what has already been said. My associates and I are very strongly of the opinion that trying to prevent GS from coming into the country and closing as many

routes through which it might enter as possible is the best way forward.

14:45

Elaine Smith (Coatbridge and Chryston) (Lab): I want to clarify something with Alastair Stephen. Your organisation is promoting a ban on the import of live fish. Are you saying that there are problems with that in Europe? Do you think that there should be a ban on the import of live fish for the whole of the UK?

Dr Stephen: I am not an expert in the transfer of disease. However, the risk assessment that was carried out suggested that imported live fish was the most likely route in for the parasite. Those who are experts in the transfer of disease and in the movements of fish should take the matter very seriously.

The Deputy Convener: If no other members wish to continue on that point, I invite Richard Lochhead to return to the whisky issue.

Richard Lochhead (Moray) (SNP): Given that half the nation's malt whisky facilities are based in my constituency, I am taking a close interest in the impact of the bill on that sector. I apologise for arriving late—my train was delayed. I missed the first few questions and answers, although I know that they were about the impact on the whisky industry. You might not have explored one point, which I now wish to raise, about the potential prohibition of transferring water from one area to another, whether it is the water of a burn or stream or the water of a whole catchment area. Could Graham Hutcheon address the impact that that could have on the whisky sector? I know that some distilleries in Scotland transfer water; they might take water from one area and put it back in another area. The proposed prohibition of such transfers would clearly have an impact.

Graham Hutcheon: The overall impact of that would depend on the definition of a catchment area. A number of distilleries transfer from one river catchment area to another, which is comparable to how the hydroelectricity industry transfers water. If there was a ban on such movement of water, the distilleries concerned would be likely to close. Their operation would be unsustainable without the water resource. The proposal is a real threat.

A number—albeit not many—of distilleries move water from one catchment area to another, but almost every distillery moves water from one river to another, or from one stream into the main catchment. As I said, it depends how that is defined. That is another risk on our list.

Richard Lochhead: I presume that you have made your views known to the Scottish Executive

Environment and Rural Affairs Department. What feedback have you been getting about where the debate is going?

Graham Hutcheon: This meeting forms part of the process of ensuring that our views are aired. As we have said, the process goes into next year when it comes to remediation actions and assessments. We are in the loop, and we will ensure that our voices are heard and our input listened to.

Dr Stephen: I will add something on the issue of transferring water. From the hydro perspective, if long-term cessation of transfer is ordered, that would impact significantly on renewable energy production in certain places, as well as on revenue. Scottish and Southern Energy, for which I work on a day-to-day basis, has calculated that, if transfer from one intake on the Spey over towards the Tay is stopped—that is one of our crucial catchment transfers—that would mean losing energy equivalent to a 25-turbine wind farm or revenue of about £4 million a year. That is significant.

Elaine Smith: The AEP suggests in its submission that

“the financial consequences of the Bill are not sufficiently clear.”

Is that related to the fact that the financial memorandum does not refer directly to the potential costs of using the bill's power to compensate? Is there another issue? Why do you think that the financial consequences are not clear? How much clearer should they be?

Dr Stephen: We are unclear about what would be required if GS got into a catchment. We do not know whether that would require a simple treatment of a couple of days in an attempt to eradicate the parasite. Such a treatment might have virtually no impact on the hydro industry. However, if the parasite got into a catchment where there was significant water transfer, that might mean that water transfer would have to be switched off for a year. It is horses for courses. We do not know what the implications will be and whether financial compensation will be made available.

Elaine Smith: Reference is made to the power to compensate.

Dr Stephen: Referring to a power to compensate is different from stating what people will actually get.

The Convener: We need to take two issues forward with ministers. The first is how the compensation provisions are expected to operate. Financial issues underpin that, both for the industries that use rivers and from the Executive's perspective. The other issue is who is involved in

prevention and what specific prevention measures can be taken. We have raised some important issues, which we want to ensure are passed on to the minister.

As members have no more questions, I thank the witnesses for their evidence, which has been very helpful.

We will have a short suspension while the members of the second panel take their places.

14:51

Meeting suspended.

14:52

On resuming—

The Convener: I welcome our second panel, who it is intended will help us get to grips with the nature conservation and animal welfare issues associated with the aquaculture industry and freshwater fisheries. I welcome Dawn Purchase, who is the mariculture officer at the Marine Conservation Society; Libby Anderson, who is policy director at Advocates for Animals; and John Thomson, who is the director of strategy and operations (west) at Scottish Natural Heritage. I thank you all for being with us this afternoon and for giving us your written evidence in advance, which we have all read.

Eleanor Scott: My first question, if I get more than one, is for Libby Anderson. Advocates for Animals' submission mentions concerns about the welfare consequences of a slaughter policy if disease is found in the salmon population. Can you comment on your concerns about fish welfare generally as matters stand now? What could the bill do to make things better and what concerns do you have that that aspect of the bill could make the situation worse?

Libby Anderson (Advocates for Animals): I will answer your second question first and therefore address the specific point.

My submission and other witnesses have drawn parallels between an outbreak of GS and an outbreak of foot-and-mouth disease, because they are quite analogous. It is necessary to have a contingency plan and protocols in place to protect animals that might be subject to emergency mass slaughter. We saw during the foot-and-mouth outbreak a few years ago that animal welfare was compromised. I looked in the code of good practice, which we will probably discuss later, to see what it said about emergency culling. It referred to veterinary health plans, but there were no specifics. Yesterday, I discussed the issue with the Executive because I was concerned that in the event of having to clear a fish farm rapidly, the

normal quite humane modern stunning and killing procedures might not be applicable.

The industry has introduced fairly humane slaughter techniques in the normal course of harvesting, but in an emergency they might go out the window. One could envisage live fish being disposed of by being hoovered up and macerated, which we would consider completely unacceptable. I am trying to explore what techniques would be used. As far as I know, there is no specific recommendation, so it would be helpful if one could be set down in a protocol soon.

If there were a mass slaughter, we would probably say that the use of a high dose of anaesthetic would be appropriate to stun the animals first. We would not agree with the use of CO₂ as an anaesthetic, because we think that it is aversive—it can induce immobility, but not necessarily unconsciousness. In other words, animals could be exsanguinated and eviscerated while they were not unconscious, which would be completely unacceptable. The use of CO₂ would not be supported by the code of practice, either. We need some detail on what the welfare protocols on mass slaughter would be in the event of an outbreak of GS.

On the general welfare of fish, I said that I feel that fish are unduly vulnerable. When I was little, I was told that fish do not feel pain, but nowadays we know that that is not the case. We have a great deal of scientific evidence that fish feel pain. They do not feel pain in the same way as a mammal feels pain—I would not compare hooking a fish with hooking a dog, for example, as some other animal welfare campaigners have done—but there is evidence that they feel pain and I would be happy to provide more detail on that if the committee would like it.

Eleanor Scott: Would you expect the methods for humane emergency slaughter, in the event that a cull was necessary, to be set out in regulations? Although you think that the bill should state that the methods that are used must be humane, you would not expect details of that to be included in the bill.

Libby Anderson: I would not expect such details to be included in the bill. We have asked that the bill include provision to deal with health and welfare, which are covered in the industry code. We would like there to be the facility to deal with those extremely important matters statutorily, in the same way that parasite control and escape control are dealt with.

Mr Brocklebank: I have two questions about Dawn Purchase's submission. You claim that a key issue that is not incorporated in the existing code of good practice, but which should be, is food sustainability. You do not really develop the point.

What were you getting at when you said that food sustainability is one of the most crucial aspects to consider?

Dawn Purchase (Marine Conservation Society): If one wants to promote a sustainable aquaculture industry in Scotland, a key contributor to that sustainability must be the sourcing of the wild fish that provide feed for farmed salmon, which are a carnivorous fish. The manufacture of the aquafeeds—the fishmeal and the fish-oil—that produce those carnivorous fish relies heavily on wild capture fisheries, so if we are to achieve true sustainability in the Scottish aquaculture industry, we must ensure that the components that are used to manufacture that feed come from a sustainable supply.

I do not think that the code of good practice gives enough coverage to addressing feed sustainability fully. For example, the recommendations of the fishmeal information network and the International Fishmeal and Fish Oil Organisation are used as the only indicator on wild capture feed sustainability, but organisations such as the International Council for the Exploration of the Sea might well recommend tighter management measures for key wild capture species such as blue whiting and the sand eel. ICES's most recent advice might well recommend a reduced capture or a zero capture for those fisheries. Although management measures might be in place, they might not comply with the scientific recommendations on the fisheries on which the production of farmed salmon relies, so it is arguable whether those fisheries are sustainable. If the Scottish aquaculture industry continues to expand, that will put even more pressure and reliance on wild capture fisheries, so it is essential that we ensure the long-term sustainability of those species.

Mr Brocklebank: We have received a submission from Marks and Spencer claiming that the way ahead is perhaps through its branded product, Lochmuir salmon. It says that the farm fish

"are given a unique feed formulation which reflects the diet of wild salmon. All the fish oil and meal used in the feed is sourced using...leading wild fish sustainable sourcing policies."

Is that the kind of idea that you are talking about? Should that system be worked throughout the fish farming industry?

15:00

Dawn Purchase: Yes, provided that those wild fish sustainable sourcing policies take due consideration of the most appropriate scientific advice, such as that given by ICES, on effective long-term fisheries management to ensure stock

sustainability. The Marks and Spencer system is one way forward and one of a suite of measures that can be employed to ensure long-term feed sustainability. It should be supplemented by examining the viability of alternative fish feeds, such as full or partial substitution with vegetable proteins, by ensuring feed wastage minimisation happens in every fish farm, and by considering alternative farmed sources of food. We should also put an emphasis on farming non-carnivorous species. That is a suite of measures that should be adopted.

Mr Brocklebank: My other question relates to your view that the impact of escaping farmed salmon on wild salmon stocks is well documented. Is that actually true? From the evidence that we have had so far, it seems that although we know about the escapes, it is not quite so clear what happens to the escapees. You indicate that there is dilution of genetic diversity from interbreeding, but the evidence is not so clear.

Dawn Purchase: There is probably not so much clear evidence from Scotland, but globally there certainly is. Although it may not be substantiated with accurate facts and figures, enough documented research is available to indicate that there is a significant problem of genetic diversity from escapes. I have papers, which I am happy to submit to the committee, to demonstrate that although there may be hybrid vigour in the F1 generation after farm fish escape and interbreed with wild stocks, there is significant genetic dilution in wild populations in subsequent breeding and F2 generations.

Mr Alasdair Morrison (Western Isles) (Lab): I want to follow up Libby Anderson's point about using anaesthetic in a mass cull. How would anaesthetic be administered?

Libby Anderson: I assume that it would be done in an anaesthetic bath. Fish are routinely anaesthetised on fish farms, for example to strip the eggs from females or milt from the males. It is a question of devising the protocol so that we have a mechanism for when an emergency arises.

Mr Morrison: Given that it would be an emergency, how quickly could anaesthetic be administered?

Libby Anderson: There would have to be a contingency plan. It is an area on which I would want more information, but mechanisms could be in place. We have a mechanism for fairly humane slaughter on salmon farms in the normal course of things. Percussive stunning and exsanguination is pretty humane. If we do not have that, there needs to be an alternative. We cannot just say that, because there is an emergency, it does not matter how we kill the fish.

Mr Morrison: How much would it cost the industry to put in place this all-singing, all-dancing, wonderful, cosy way of culling fish?

Libby Anderson: I do not think that any cull will ever be cosy or all-singing or all-dancing. This is a question of our values and approach to treating such intensively reared animals humanely. They are sentient and can suffer, so it is appropriate that we provide for their welfare. I could not put a cost on the plan, but it would be excellent if the Executive could provide that information.

Rob Gibson: Scottish Natural Heritage mentions in its submission the empirical evidence on accidental releases from hatcheries and the like. Following the point Dawn Purchase made, will John Thomson take us through the effect on wild stocks of escapes from hatcheries?

John Thomson (Scottish Natural Heritage): I do not think that I can add much to what Dawn Purchase said. Some evidence exists on the issue. I am not a geneticist, but I am aware that studies have been undertaken on the genetic dilution of wild stocks. The issue is attracting considerable interest and concern. If the committee is looking for further evidence and research references, we can write back with that.

The Convener: We would like to have that, given that a couple of questions have been asked about the matter. You and Dawn Purchase have mentioned that more evidence is available. If it is readily available, it would be useful to see it.

Dawn Purchase: I am happy to submit the papers that I have used for reference.

The Convener: That is excellent.

Rob Gibson: The bill will be a central part of developing the code of good environmental practice. SNH talks about a time

"Once an agreed Code of Practice has been developed",

but evidence in previous weeks has suggested that the bill will underpin the code of practice that the industry has developed. Does SNH suggest that the industry code needs to be redrawn?

John Thomson: We have made it clear that we strongly welcome the industry's development of the code of practice. We recognise the huge effort that went into bringing on board as much of the industry as has already signed up to the code of practice.

We do not knock the existing code of practice, but we have made it clear that we do not feel that it goes far enough in every respect. That relates to its scope—for example, it does not cover some interactions with aquaculture in relation to biodiversity and the landscape, which are SNH's interests. To an extent, the code represents a lowest common denominator. The industry

recognises that, over time, it is hoped that some of the standards that are laid down in the code of practice will be raised. That is why we implied that the code is a step along a road but is not the destination.

Rob Gibson: Have you been involved in drawing up the code? Who is involved in that?

John Thomson: During preparation of the code, consultation was pretty wide. I am not familiar with all the detail of everybody who was spoken to, but we played our full part in the consultation process. It was made clear when the code was launched that it would be subject to review over time—it is not cast in stone and will be reviewed and amended in the light of experience. We have made it clear that we are keen to be part of and to contribute to that process.

Libby Anderson: Some years ago, in a previous job, I was a member of the welfare sub-group that considered the code. I think it is excellent, but I tend to agree with my colleagues that environmental aspects could be strengthened, although they are beyond my remit.

The animal health and welfare sections in the code are good, but they are general. When I considered the code some years ago, we discussed specifics about water quality, periods of starvation for animals before slaughter and stocking density, and I see none of that in the code. I would like the code to progress, to become much more detailed and to give much more guidance, so that it becomes more like statutory welfare codes for livestock.

Dawn Purchase: We were not involved in the development of the code, although we were involved in the consultation process. The strategic framework for Scottish aquaculture states that a code of best environmental practice will be developed and incorporated in the code of good practice, but that has not been progressed thus far. Such a code would offer an excellent opportunity to build on the code of good practice and to raise the bar for environmental performance on several key issues.

Rob Gibson: The bill will provide statutory underpinning only for the aspects of the code that deal with parasite control and the prevention of escapes. Should any other aspects of the code be underpinned by statute? If so, which ones? I presume that Dawn Purchase wants the code of environmental practice to be incorporated, but should it be underpinned in the bill?

Dawn Purchase: One key provision that should be included in the bill is a minimum legal standard for cage design. Such a provision could be incorporated in the containment part of the code of good practice. The aim would be to ensure that all containment in the aquaculture industry reached a

certain level. The minimum legal standard should allow cages to deal with the experienced and anticipated climatic conditions.

Rob Gibson: I have a separate point for John Thomson. I think he told us that, under existing legislation, the definition of “fish” includes crustaceans, but that there is a question about whether crustaceans are included in the definition in the bill.

John Thomson: The point that we were anxious to make is that we want crayfish to be defined as fish, because of some of the problems that we have with American signal crayfish in Scottish rivers. That was the key point—I do not have sufficient legal expertise to say whether crustaceans are currently defined as fish.

Rob Gibson: We may ask the minister about that.

I have one final little point about dealing with GS by flushing rivers with chemicals. What would your attitude be if freshwater mussels, a rare and protected species in Scotland, were affected by that? This is the classic case of chemicals affecting a whole river system. Would freshwater mussels be destroyed?

John Thomson: Potentially, yes. That reinforces the point that members of the previous panel made: prevention is obviously far better than any attempt at cure. We want to keep GS out rather than have to deal with it when it is here. If GS arrived and affected a river that hosts freshwater pearl mussels, a difficult decision would have to be made. Some provisions on the processes that have to be gone through in such a situation are written into the relevant European legislation—the habitats directive.

In general, we acknowledge that in spite of the damaging effects of the chemicals that would have to be used to purge rivers, they might be the least bad option in some circumstances, so we would have to accept some of the damaging impacts on other natural heritage interests. However, the issue can be dealt with only on a case-by-case basis and in the light of the established procedures that I mentioned.

The Convener: What prevention measures are appropriate for GS? Obviously, if we have to deal with a GS outbreak, nobody will be happy, because it will have health implications for the fish that are involved, implications for the water quality and potential long-term economic impacts on a range of industries. Do any precautionary measures need to be given more emphasis? The question is for all the witnesses, but I ask John Thomson to kick off for SNH.

15:15

John Thomson: We have been closely involved in the work that has been done on GS until now. We are fairly happy with what has come out of that work to date. We do not have any specific recommendations to make for additional measures. I can check to see whether there is anything that we want to add to our existing evidence on the matter, but I am not aware of anything. It is important that all the issues that have been identified are addressed with rigour. That is evident from the experience of foot-and-mouth, which has been mentioned already. Often, the necessary controls exist in theory but are not implemented vigorously in practice.

The Convener: In this case, what are the controls that exist in theory? In the previous evidence-taking session, canoeing interests commented on the lack of information about whether it is acceptable to take a canoe to Norway and to bring it back to Scotland. What about fishing equipment? Does it need to be sterilised? What kind of checks should be carried out on live fish that are introduced to watercourses? Are there other steps that need to be taken, or do you see the measures to which I have just referred as precautionary?

John Thomson: Key among the issues you have highlighted are live fish, which are the most obvious potential source of GS. That is the issue about which we need to be most worried.

The Convener: A previous witness suggested that people should simply not be allowed to import live fish into the Scottish river system. Is that too extreme a position? Where does the balance lie on the issue?

John Thomson: In general, we are very wary of introducing species from other environments. We have concerns about transfers of native species of fish even between catchments in Scotland, as our instincts in the area are naturally precautionary. Obviously, that extends to the importation of live fish from other countries. Our default position is probably "Don't do it" unless there is a very obvious reason for needing to do it.

The Convener: Does the bill provide a strong enough framework for that policy position?

John Thomson: It probably does. I am not aware of deficiencies in that respect.

The Convener: We may ask the minister whether the intention of the bill is to prevent live fish from being imported. It is not 100 per cent clear that that is its purpose. Would either of the other witnesses like to comment on precautionary principle issues?

Dawn Purchase: I was unable to submit written evidence on GS because it is outside my remit.

Having listened to the previous evidence-taking session and having heard with alarm that people are able to take a kayak to Bergen and to bring it back without anyone mentioning the problem, I make the simple point that it is essential that all key water users are made aware of the issue, however that is done. Prevention is the key. It seems to me, as someone who has no expertise in the area, that if GS can be transported very easily to this country from abroad it is essential that all key water users are made aware not only of the risk of transmitting it to this country but of the implications of their not taking simple preventive measures to stop that happening.

Libby Anderson: I cannot help you a great deal. Biosecurity and animal welfare tend to go hand in hand, as breaches of one often lead to breaches of the other, but this issue is a bit beyond my remit.

The Convener: I have another question about what should happen in the event of an outbreak of GS. John Thomson suggested that we need to take the least worst option. If fairly strong doses of chemicals need to be put into our rivers to try to eradicate GS, what impact might that have on human health, given that rivers are used by canoeists and on a good day—I would not discount this as a possibility—by swimmers? In that context, where would the bill kick in?

John Thomson: I preface my response by saying that we are certainly not experts in human health—

The Convener: I was thinking more from a recreation perspective.

John Thomson: From a recreation perspective, the temporary closure of a river for certain recreational activities might be a necessary and acceptable consequence of an effort to control the disease if it came into the country. The existing access code allows for certain temporary restrictions on access for other reasons. In principle, restrictions should not be a great problem, but they reinforce the argument that we should try not to get into the situation in the first place. In practice, such issues would not be a major consideration.

The worry might be that the authorities could overreact in terms of the number of rivers they considered had to be treated. I would not expect an overreaction in this case, but we can see that something of that was evident in the reaction to foot-and-mouth. A second worry might be that the public would get the impression that recreational activities were barred much more widely than they actually were. That brings us back to the need for communication, which we have already discussed in the context of taking equipment in and out of Britain. It would be important to be open and

straightforward with the public and to tell them what was being done, where, why and for how long.

Nora Radcliffe (Gordon) (LD): Both SNH and the Marine Conservation Society expressed disappointment that powers to direct fish farms to relocate have been omitted from the bill. Will you elaborate a little on that?

Dawn Purchase: We expressed disappointment that the bill does not provide powers to close fish farms when owners are unwilling to relocate them. A poor-performing established fish farm that, due to a previous planning consent, is inappropriately sited—perhaps in shallow water or in a poor tidal flushing area—might be known to have an adverse impact and to have other associated problems. If the fish farm's owners are given the option of financial assistance to relocate the farm to a more appropriate area but are unwilling to do so, we are left in a difficult situation. If we establish that the fish farm is a poor performer and is inappropriately sited and the owners refuse the option of financial assistance to relocate, what do we do? My concern is about what happens in that situation.

A concern that arose with the draft bill was that it would be difficult to prove that closing a fish farm was in the public interest. However, a closure could be in the public interest if it would enhance wild salmonid stocks and have an impact on protected marine habitats and species—that would obviously be in everybody's interest—and on the interaction with predators. All those impacts would be in the public interest and they can all be affected by poor-performing fish farms. We were quite disappointed that the bill does not include powers to close fish farms.

John Thomson: From an SNH perspective, I echo those comments. It is not that we think that legislation and regulation should be the first port of call in dealing with this issue, or that we expect these powers to be used frequently—or, indeed, at all. It is better to address such issues in a more consensual way, particularly given the amount of restructuring that is going on in the fish farming industry. I hope that there will be scope to remove some of the more problematic sites and to concentrate production on better ones. Nevertheless, last-resort powers can be helpful in concentrating minds on addressing situations that you hope will not arise.

Dawn Purchase: This is also a key point for the fish farming industry: allowing very poor performers that are adversely impacting on the environment and overall performance to carry on cannot be good for its reputation.

The Convener: Thank you for giving such helpful evidence on some very detailed questions.

Quite a number of issues have emerged that will have to be dealt with in subsequent evidence-taking sessions. One thing that has certainly come over loud and clear is that who is eligible for and who pays compensation—and whether, as a couple of submissions have highlighted, there is a liability issue—is a difficult public policy matter.

Witnesses have made strong points about prevention and, indeed, communication. For example, who will communicate with whom and what needs to be communicated to the public or to different interest groups? In next week's evidence-taking session, which is the penultimate one on the bill, we will hear from another range of organisations with an interest in the bill.

I suspend the meeting briefly to let this panel of witnesses escape.

15:27

Meeting suspended.

15:30

On resuming—

Budget Process 2007-08

The Convener: This week, we are taking evidence specifically on the Scottish Environment Protection Agency's budget and the issues that SEPA has raised. Next week, we will take further evidence on the budget process from the Minister for Environment and Rural Development.

Mr Brocklebank: On a point of order, convener. The Minister for Finance and Public Service Reform has confirmed that the report of the independent budget review group is now complete, but he has refused to publish it prior to September 2007. That is in complete contrast to the promise that he made in November last year and May this year to publish the document when it was complete. How can committees be expected to consider the budget process if they are denied access to the report? Perhaps you can guide me as to whether that is a matter on which I should push for a vote. Alternatively, can you assure me that, before we get into discussing substantive issues relating to the budget, the committee will be shown a copy of the minister's report?

The Convener: Thank you for giving me notice of the point of order. I do not think that I am in a position to give you anything extra this morning. I have read press coverage on the matter. I suggest, given that we will have the Minister for Environment and Rural Development with us next week, that that might be an appropriate time to raise the issue with him directly. I suggest further that, instead of our voting on the matter today, we should consider the information that we have on SEPA's budget and the paper from the Scottish Parliament information centre, which will allow us to explore the issues that we have discussed previously. We can come back to the issue that you have raised next week, which will give members time to reflect on it.

Mr Brocklebank: I accept that.

The Convener: Are members happy with that suggestion?

Members *indicated agreement.*

The Convener: We will now take evidence from representatives of SEPA on its budget. I welcome Campbell Gemmell, who is chief executive; Calum MacDonald, who is director of environmental and organisational strategy; Colin Bayes, who is director of environmental protection and improvement; and John Ford, who is director of finance and corporate services. Members have a copy of the submission from SEPA, which I hope that they will have found useful. We also

requested submissions from a range of other stakeholders, to get their views. It would be helpful if you would say a few words by way of introduction, Campbell.

Campbell Gemmell (Scottish Environment Protection Agency): Thank you for the opportunity to give evidence. It might be helpful if I indicate that John Ford deals with finance, Colin Bayes with regulation and Calum MacDonald with strategy—that is slightly easier than telling you their job titles. My chairman is not present, because he is on leave at the moment, but he sends his good wishes to the committee and is interested in what goes on here.

SEPA is 10 years old. We have had an interesting 10 years and we are definitely still learning. Often, what the media say might make you think that we have combative relationships with some of those with whom we work. We have open and lively relationships with many of those with whom we work, but that sometimes goes through an interesting translation process in the fourth estate.

We hope that the £32.7 million of grant in aid without capital, which will be £36.365 million with capital by 2007-08, and the £32.3 million of charging income will enable SEPA to be a robust deliverer of key environmental services to Scotland. That is certainly our objective, which will be delivered largely through our 1,270 staff. About 70 per cent of our budget is, in effect, locked up in our staff, which means that it is a challenge to ensure that we can be as efficient as we would like to be. Despite what some of the other people who have given evidence have said, we have met our efficiency targets for at least the past five years. In the past year, we exceeded our 3 per cent target and achieved a 7.2 per cent efficiency saving. I do not think that that gives us scope for complacency, but it shows that we are serious about ensuring that we are as effective and efficient as possible.

We are trying to regulate 10,200 or so authorised activities in Scotland and are faced with a quite complicated and wide-ranging task that is being delivered through our 22 offices. Including all the activities that are registered with us, rather than just those that we authorise directly, there are around 100,000 activities in Scotland that we are directly involved in regulating. There were 6,000 reported pollution incidents last year, half of which had a direct environmental impact and of which 446 were considered significant, including some 200 to 300 incidents in the agriculture sector alone. So there is plenty going on in SEPA's domain. I hope that we can demonstrate now and hereafter that we represent good value for public and chargepayers' money.

We are happy to take any questions that you would like to ask us.

The Convener: Thank you very much.

Richard Lochhead: On the one hand, I have some sympathy for SEPA. Since the establishment of the Parliament, there has been a constant flow of new environmental legislation from both Europe and the current Government. I therefore see the rationale in SEPA's taking on more employees to handle all that legislation and the need for a substantial budget for that. However, having represented rural communities since day one of the Parliament, I have received a constant stream of complaints from the rural industries—I expect that most rural representatives have had the same—especially the farming sector and the whisky sector. Concerns have also been expressed by salmon farmers and the aquaculture sector, and so on.

You say that you regulate 100,000 activities in Scotland. How and when are those activities reviewed to find out whether there remains justification, on an environmental basis, for your regulating 100,000 activities in Scotland?

Campbell Gemmell: We have been actively involved in the Treasury-driven Hampton review on regulatory inspections and enforcement, and we have considered what would constitute better regulation. We have taken extremely seriously the Water Environment (Controlled Activities) (Scotland) Regulations 2005, which effectively implement the water framework directive in Scotland. We have removed from regulation around 80 per cent of the activities that were previously regulated under the Control of Pollution Act 1974—effectively taking them away from the position that they were previously in. By being risk based, the 2005 regulations dramatically reduce the number of activities that are regulated directly. We do not think of ourselves as a rural or an urban regulator; we are a Scottish regulator, although we recognise that a large proportion of our activity is distributed around the country and could, perhaps, be classified as rural.

Implementation of the Pollution Prevention and Control (Scotland) Regulations 2000 will be reviewed in two years' time—effectively, two years after the majority of PPC activities have gone through a first regulation. Perhaps Colin Bayes can add some detail to that. Similarly with the water framework directive; we are just putting the components of controlled activities regulations in place, and we will certainly want to review those in due course. We are regulating those activities only through regulations that Parliament has already approved, and there is an opportunity to review those two major sets of regulations—the PPC and the WFD, which, in many ways, make up the lion's share of our regulatory activities—at the appropriate agreed forward points.

Richard Lochhead: I assume that SEPA plays

an advisory role in providing an environmental justification for those regulations, which remain in place. Many sectors to which I speak are fearful that, because the Government wants to reduce its funding for SEPA and rely on the polluter-pays principle, you will have to raise more income through charges on vital Scottish sectors. Given the fact that you are relying increasingly on the polluter-pays principle, to what extent can you persuade the committee that genuine pollution is taking place for all the activities that are being regulated and that they are being regulated on an environmental risk basis?

I give the example of the on-going concerns in the whisky sector, which were debated extensively in Parliament. Under the 2005 regulations, water abstractions by distilleries are licensed not on an environmental risk basis, but on a volume basis. Indeed, SEPA is imposing a licensing regime, issuing licences and only later carrying out environmental risk assessments. That appears to be bonkers to many Scottish industries. It seems that you are becoming focused on raising charges through hitting many sectors needlessly without putting forward an environmental case.

Campbell Gemmell: I refute your general point. Some specific detail on it is necessary, which I invite you to ask Colin Bayes to provide. If activities do not pollute and do not have the potential to pollute, we do not want to regulate them. That is exactly the process that we have gone through with the 2005 regulations. We have taken the risk issue seriously.

However, as I said in relation to agriculture, it is obvious that certain agricultural activities cause pollution. Historically, there have been times when the whisky industry has tried to argue that whisky is not an inflammable material and that, therefore, we should not take seriously the Control of Major Accident Hazards Regulations 1999, which is clearly a nonsense. Depending on the level of control and management that the companies exercise, it is possible for us to minimise the regulatory burden that we place on them. Nevertheless, we should not pretend that a whole series of industrial activities do not have the potential to cause pollution.

Our cousins in the Environment Agency in England have addressed two issues. First, if a company has a robust environmental management system, should it be regulated as robustly as those that do not have an environmental management system? A European study recently reported that having or not having an EMS had no impact on the compliance of the companies. Indeed, if there was any correlation, those companies that had an EMS were more likely to cause environmental incidents. Clearly, we are not going to go down that route, as our

cousins in the south have done—and they are rethinking that.

Secondly, the Environment Agency has considered the so-called operator performance assessment. If it is obvious that a company is performing particularly well, should we lessen our burden on it? The Environment Agency has gone down the route of giving a 5 or 7 per cent reduction in fees on that basis. We are not yet convinced that that is a sufficiently robust process. How would it be applied? Would an OPA score be applied to an individual company? Would it change year on year? If so, would we then be subject to the view that we were moving the figures around year on year while companies wanted a consistent long-term view of what their capital and revenue investment would be?

I return to your first point. We balance roughly 50:50 our polluter-pays element and our delivery of public good. The grant in aid is the latter 50 per cent and the polluter-pays element is the charging schemes, which make up the first 50 per cent. There is no logic to say that that should be the right balance; it is roughly what we have come to apply. I would be interested in the committee's views and, in due course, the minister's views on that, as we have not had a discussion about what the balance should be. Frankly, if we reduced the burden on industry—which may or may not be a good idea—the burden would be greater on the taxpayer if the overall targets for efficiency and performance that are set for us are valid, as the Auditor General and KPMG, along with a number of others, seem to think that they are. We do not find it surprising that companies rail against the burden that is placed on them. Nobody likes having to pay taxes or being regulated; nonetheless, that is SEPA's job.

Would it be helpful to have the answer to the supplementary point about the costing in more detail?

The Convener: Yes.

Colin Bayes (Scottish Environment Protection Agency): It is a continual challenge to us whether regulation is proportionate. There is a spectrum of regulation that ranges from, at the left-hand end, general binding rules or a statutory code of practice such as was discussed in the committee's previous evidence session, to registration, licensing or complex licensing at the right-hand end. We are concerned that, where regulation is needed, we should apply the correct regulation in the correct way across that spectrum.

Campbell Gemmell referred to the 2005 regulations. We have taken more than 80 per cent of activities' discharges—which previously had to have a consent and go through a consenting process—into registration. As a result, we have

dropped our fee to about a quarter of what it was previously and have reduced our input to the process to a tenth of what it was previously. We have also provided an online registration system to ease matters. The previous system was overburdensome, and we have changed it.

15:45

We recognise that there are certain things that would benefit from moving across the spectrum that I have described. We are currently issuing pollution prevention and control permits to high street dry cleaners, but that seems excessive, and I would support anyone who said so. We also issue pollution prevention and control permits for petrol vapour recovery systems on petrol stations. Such a system is a standard piece of kit that lends itself to general binding rules of registration, and we have suggested to the minister that in such cases—and there are other examples like that—we should constantly consider whether we are at the right point on the spectrum, so as not to be overburdensome and so as not to have our staff spending time on low-risk things, when they should be dealing with high-risk things.

We also take a risk-based approach to audit. We have a manual that has been consulted upon and is available on our website. It sets a risk-based approach to such things as how often we should check whether someone is complying with their permits. It attempts to take a proportionate approach to the risk of the activity.

The Convener: You gave some examples of areas where you feel that the approach is excessive. Is that because custom and practice has changed and because general industry standards for dry cleaning and for garages have improved to the extent that good safety practice in the operation of equipment, or ensuring that the right kind of equipment is used, is now so standard that it does not need the kind of approach that was taken before?

Colin Bayes: I would suggest that, for those two examples, the balance was wrong in the first draft of the legislation. Among the most effective pieces of regulation, at the left-hand side of my spectrum, are the general binding rules for silage and slurry handling in Scotland. They have been extremely effective, but they have been at the left-hand end of the spectrum. I am not suggesting that that is the ineffective end of the spectrum, but that one should look for the appropriate mechanism, and I think that, for the two examples that I quoted, the mechanism is not appropriate. There are far better ways of regulating those activities that are less burdensome to the industry and less demanding on our organisation.

The Convener: What is your process for reviewing whether the mechanism is appropriate?

When we examined the water regulations last year, we had a debate about small, individual water supplies being taken out of the system. You have mentioned that today. Would you approach the Executive so that it could then act on the regulations? What is the process for freeing up the system where appropriate and for being tough where appropriate?

Colin Bayes: The Executive will clearly receive information from sources other than SEPA; I do not want to give the impression that we are the sole source of advice to the Executive. We clearly get intelligence that suggests that the balance is wrong. I chair two major stakeholder groups in the organisation—one for the regulated PPC industries, and another for industries covered by the controlled activities regulations—and Calum MacDonald chairs a third group, to do with waste management. Those groups provide us with an opportunity to hear feedback from stakeholders—people with permits who are regulated—about whether the level of regulation is right, so we gain intelligence from our close contact with industry and with those we regulate. Ultimately, our mechanism is to feed that information to the Executive and to seek amendments to regulations when the opportunity arises.

Elaine Smith: When I first indicated that I had a question for the witnesses, I also said that I was interested in the polluter-pays principle, and it seems ironic that that is where a large part of SEPA's budget comes from. If you are going to change the rules, does that mean that you are eating into your budget because you might be taking out of the regulatory system companies that would otherwise be paying?

Your submission addresses waste management issues and the national waste strategy. How much of your resource do you apply to private waste collectors and whether or not they are recycling? I am thinking particularly about paper recycling. I know that in some business centres that have a private waste facility there is no paper recycling, although one would think that that would be a good idea in such places. The issue of permit checking and its impact on your budget follows on from that. If you increase the number of staff that you employ to check companies' permits and whether they are complying, will that leave you short of funding?

Campbell Gemmell: There are probably several different elements to the issue. Calum MacDonald may be able to provide some of the information that you are seeking. There is a great deal of confusion in the country about who is responsible for individual parts of the system. We are responsible both for regulating private and public sector-based waste management facilities and for working with the Executive to set the overall framework for waste management in Scotland.

Over the past few years, we have made huge strides towards increasing the percentage of waste that is recycled and bringing down the total volume of waste, although that is a struggle for us all. Putting ourselves out of business is a very interesting challenge. I suspect that it will take rather a long time, although not because of any resistance on our part. The challenges that we all face in Scotland will result in there being a great deal of regulated activity and need for policing for a long time. I stress that we have no direct involvement in the legal process. Nothing to do with fining results in income coming back to SEPA—we are completely separate from that part of the process.

Elaine Smith: I will stop you for a moment, as your comments relate to an issue that interests me—your relationship with local authorities.

Campbell Gemmell: Local authorities manage the bulk of the waste management regime. We issue licences and what are, in effect, exemptions to allow certain specific proscribed activities to be undertaken under a lesser burden than would normally be imposed. The local authority sector has the biggest part to play.

Calum MacDonald (Scottish Environment Protection Agency): The national waste strategy is an example of our activity that is not funded by fees and charges. It is undertaken largely on the basis of partnership and working with all the sectors that are involved in the management of Scotland's waste. With regard to delivery of the national waste strategy, we are involved much more in persuading and educating than in direct regulation. Elaine Smith specifically mentioned the private waste industry. I presume that she is referring to commercial and industrial waste. The national waste strategy and the national waste plan that arose from it focused on municipal waste—waste that is collected and dealt with by the local authority network that Campbell Gemmell mentioned. The next phase will be to tackle commercial and industrial waste, which is by far the largest proportion of the waste that is produced in Scotland. Again, we will proceed largely on a partnership basis, rather than by direct regulation and force.

Elaine Smith: Is your budget sufficient for you to carry out that task?

Calum MacDonald: Our budget is adequate for the role that we play in delivery of the national waste plan. The strategic waste fund, which is held and disbursed by the Scottish Executive, is another matter. We do not hold the fund directly, so SEPA is not providing local authorities with the resources to deliver the hardware that is required to deal with waste.

Elaine Smith: Who is providing those resources?

Calum MacDonald: The Scottish Executive.

Campbell Gemmell: We are keen that market development work should be supported, to ensure that we tackle some of the waste streams and create proper working markets in those materials. The issue is not whether that work comes to SEPA. We have made considerable progress in the area in Scotland and have moved significantly beyond having paper mountains because people were unable to get a reasonable price for paper. There are now reasonable markets for glass and cullet, and there has been considerable innovation in that area.

Recycling of textiles is a more difficult problem. There is a series of challenges. Organisations such as the Waste and Resources Action Programme—WRAP—work hard to promote and create markets and we are keen to support that work. However, the issue is not largely about money. A low level of financial support is required, but the main work is co-ordination, raising profile and trying to engage the private sector more effectively to develop and sustain those markets.

Colin Bayes: We are often seen as the regulator, but we have a function of providing advice to companies on waste minimisation, which is funded through our grant-in-aid funding. We also organise, and are the main sponsor of, the yearly vision in business for the environment of Scotland awards, which aim to raise awareness of the issue through education and encouragement, not through our regulatory activities.

The Convener: Eleanor Scott has a brief supplementary question.

Eleanor Scott: It might not be that brief, so I will let Rob Gibson ask his question.

Rob Gibson: Thank you—I apologise for butting in.

How much involvement has SEPA had with the Minister for Finance and Public Service Reform's attempts to make savings in the administration of Government services?

Campbell Gemmell: We have participated in several processes, including the consultations on shared services and transforming public services. The committee can see our submissions to those. We have also participated in the on the ground programme, which is a Scottish Executive Environment and Rural Affairs Department initiative to consider how backroom services can be shared between various services that come under the SEERAD umbrella and the scope for more effective front-line delivery. SEPA is working with Scottish Natural Heritage to develop a shared office in Aberdeen. Our Aberdeen office is one of our major laboratories. The new development will bring SNH's Aberdeen office under the umbrella.

In Galashiels, we are considering bringing together SEPA, the Forestry Commission Scotland, the state veterinary service, the agricultural advisers and SNH. That is an interesting pilot. The chosen location is close to the end of the proposed Waverley railway line, so we await the development of that line with interest. That is an example of our trying to give the public a more obvious way in to a series of organisations whose public services overlap. That takes us back to Richard Lochhead's point about the accessibility of rural services. Galashiels is not as rural as other areas, but it is a rural location where a more joined-up service would probably be welcome.

It is difficult actually to obtain backroom savings, although they may be relatively easy to identify. John Ford has been working with the on the ground group and with the finance directors of other non-departmental public bodies to try to find more efficient ways of working. For example, rather than us all recruiting individually, that could be done through a grouped process. Similarly, procurement work could be shared. We have already taken significant steps, but the rhetoric and the reality are different—it is hard to follow through on the rhetoric.

Rob Gibson: I am interested in that final remark. More than 10 per cent of your staff are involved in finance and corporate support. Are those not precisely the kind of backroom operations that could be shared more easily between Government departments?

Campbell Gemmell: It is possible to do that, but when we already have a well-functioning and good-value professional service, I am reluctant to say that the way of making progress is to reduce that or to share it with other organisations, which may have different terms and conditions, pay regimes, pension arrangements or working hours. The police service and Stirling Council share a common payroll facility and we are exploring how we could use that idea. However, with human resources and finance staff, although some services can be delivered efficiently as bulk process activities that provide pro rata savings, others are sensitive to the culture of the organisation or the nature of the service that is provided. I do not want us to progress so fast that we break something that works, just because it seems that a few jobs could be saved here or there.

I do not know whether John Ford wants to add to that. We spent quite a lot of time considering the possibilities. We are certainly open to the notion of making those sorts of shared service work.

16:00

John Ford (Scottish Environment Protection Agency): On the spectrum of saving, SEPA and other organisations have to make themselves as efficient as possible internally in relation to support services and frontline staff. From 2002-03 to 2007-08, our ratio of backroom staff to other staff is projected to drop from 14 to 10 per cent. We have implemented efficiency savings and have others in train; we are getting there. Nevertheless, there are other areas in which we can become more efficient.

We should consider the opportunities to share backroom services with other organisations. However, we should not stop considering our own efficiency savings and think that if another organisation carries out a service for us, efficiency savings become its problem. People working on the ground have to operate as efficiently as possible. That will allow us to come together with efficient services and to make further efficiency savings.

Rob Gibson: It seems to me that many other organisations could make exactly the same pleas. I am interested to hear what you have to say in this on-going business of efficiency savings. Given that finance systems are shared with many other organisations, would you not give them higher priority?

Campbell Gemmell: Sharing finance services is certainly feasible. The work that Scott-Moncrieff did for the family of non-departmental public bodies highlighted bulk processing as an area in which efficiency savings could be made. We are exploring that. It is worth mentioning that we offered information technology and communication support to the Crofters Commission and Deer Commission for Scotland, because, given that we had a bespoke system, it was easier for us to offer them such support, almost on a free consultancy basis, than it would have been for them to go out to the market and, perhaps less critically, buy in a service that might not have done what they needed it to do. We are already sharing services; it is a question of how far we can go and how formalised that has to be. We could continue to share a lot of services informally. We will certainly report back in due course on how our exploratory work, under the Scott-Moncrieff umbrella, progresses.

Eleanor Scott: I want to return to waste issues. Like Elaine Smith, I have a few reservations about the polluter-pays principle. I would much prefer to have a polluter-stops principle, because, too often, the polluter-pays principle means that someone can pollute as long as they can pay for it. I am sure that among the postbag issues that my colleagues hear about is the fact that some of the burden of regulation falls not on the people who

are polluting, but on the people who are attempting to clean it up. You mentioned your commitment to trying to bring down the total volume of waste. One of the ways to do that would be to stop classifying as waste things that patently are not waste.

I might be about to show myself up as one of the people who are confused about who is responsible for what, but I hope that you will enlighten me. NFU Scotland raised the issue of road planings. An inert substance that has been used on one road can be reused on a farm road, but it would be classified as waste. Topsoil is classified as waste unless it is put through a riddle and the stones are taken out; it then becomes a product. There are many such issues, about which I could go on at length, but I will not. Who decides what is classified as waste? Why make things difficult for people who are trying to do something that is beneficial to us all?

Campbell Gemmell: I agree with everything that you said. Waste is a particularly difficult area, given the definitions that Europe has put in place. We are trying to avoid the discussion going all the way to the European Court of Justice. We are in the process of consulting on better waste regulations. I hope that we will get as much input as possible from throughout Scotland so that we can identify the opportunities to simplify the burden of regulation. We do not want to regulate these types of activity, but we have to take a proportionate and precautionary approach.

We must consider, for example, when the grain size of the soil that a lorry is carrying is of such a size that it becomes a lorry of stones. It is easy to say that it is ridiculous that SEPA should consider stones to be waste, but, if the stones have soil around them, which may be from an area in which, say, organophosphate dip was disposed of on a farm, would we want that to be deposited somewhere else near a watercourse? Sometimes the definition is used rather too prescriptively, but we need to find ways of making obviously useful materials non-waste. Road planings are an example. If, like stones, they are used on the farm we have no problem with them being considered a useful material. Depending on what happens subsequently, we must conduct a case-by-case review, because there may be a pollution risk to the environment. To be precautionary, we must take that seriously.

We have identified tallow as a fuel. We think that it is a fuel rather than waste, but the matter is debatable at a European level.

Eleanor Scott: It took a considerable fight by a lot of interested people to get recognition of that.

Campbell Gemmell: Indeed.

Eleanor Scott: If someone wants to move a

tonne of soil from A to B, they obtain and pay for their waste management licence and they are then allowed to move the soil. What do they get for the fee that they pay? Does someone come and test the soil for organophosphates? What do they test it for?

Campbell Gemmell: They might test the soil for organophosphates in certain circumstances, depending on what the material appeared to be. We try to apply common sense. We must also ensure that the resource is available to us. We do not have staff that can be switched on and off, depending on the problem that is presented. We must maintain a cohort of expertise within the organisation. In effect, the resource may well be available for other issues but is also there to be consulted when we face a specific challenge, such as when we are asked, "What is this material?" When we are presented with materials, it is often the case that neither the owner of the materials nor we know what those materials are, so we must take a sensible approach to assessing them.

Eleanor Scott: Sure, but to return to the topsoil issue, a person pays the fee whether or not there is a risk. Once the fee has been paid, someone decides whether there is a risk and they come and test the topsoil. If there is no risk, the fee is a contribution to SEPA's finances to keep someone standing by in case there is a risk somewhere in the future.

Campbell Gemmell: I have not identified any of my 1,260 staff members that are twiddling their thumbs, but I take your point that, in that sense, there is an element of cross-subsidy. However, that is an essential part of maintaining the system. If 100 per cent of our staff were funded through grant in aid such a cross-subsidy would not be necessary, but as it is at least some of the staff costs have to be met—and should be met, if we take the polluter-pays philosophy to heart—by the charging mechanisms. The charges exist to ensure that assessments can be made.

Eleanor Scott: I do not want to hijack the meeting by talking about topsoil all day, but I return to situations in which charges are being paid by people who are not polluting but are clearing up pollution.

One case that was brought to me relates to someone who runs a quarry but also does skip hire, so he deals with material such as builders waste. He has a waste management licence because he does that work. That is fair enough. He has a crusher for the rock because he runs a quarry out in the country, but because he also crushes builders waste to make recycled aggregate—I am sure that we all agree that we should be trying to use recycled aggregate and preserve virgin material—he has to get a specific licence at the cost of a couple of grand for the

same crusher that he uses for the rocks. It produces the same dust from the rocks, but he is told that he has to pay to get a licence to crush builders waste. How can that be justified? That is a disincentive to make recycled aggregate, because he cannot sell the recycled aggregate any cheaper than the virgin aggregate that he gets from his quarry.

Campbell Gemmell: My short answer is that that is not a good rule. That is exactly the type of issue that we want to identify under the banner of better waste regulation. The consultation should identify every such situation in which we could make the rules better. I agree with your rationale. However, we are here to police that which already exists, which is why we do that.

Colin Bayes: At one point, registration of the application of certain materials to land was not subject to any charge and was not subject to any regulatory oversight. In fact, a committee of the Parliament looked into the matter following a petition that came from concerned residents in a particular area, as a result of which the waste management licensing exemption regulations were changed to introduce a charge so that SEPA could be more proactive in its oversight of some of the activities.

We did almost nothing previously and it was very much a paper exercise, but concerns that were expressed by the Parliament led to the introduction of more proactive oversight of exempt materials—for want of a shorthand word—going on to land. I am not saying that we have got it exactly right, which is why I said that we are always receptive to intelligence that suggests that there might be areas in which it is not right or in which it is acting as a disincentive to sensible practice.

Eleanor Scott: Who decides what constitutes waste?

Colin Bayes: It is extremely difficult to give a short answer to that question. Waste has been defined in the European waste framework directive and in decisions on cases that have been through not only the European courts but courts in the UK. It is not an easy area and the constant challenge is to find the right balance between encouraging the use of materials that will ensure that virgin materials are not used and protecting the environment adequately. At the other end of the spectrum, as we well know, some people want to use unsuitable materials.

Campbell Gemmell: We have worked with companies such as Lafarge to ensure that they are capable of using waste solvents for fuel. Although the solvents could quite easily have been classified as waste under current definitions, it was patently obvious that they had a very high calorific

value and could be an effective fuel if burned in a plant with decent control. Similarly, because of the significant risks that are posed by fly-tipping, we have allowed the operator that I mentioned and other operators that have suitable control to burn tyres for fuel.

In Switzerland, Lafarge adds road sweepings into the fuel chain when making cement. That is an excellent use of material and is certainly far better than turning it into landfill or depositing it elsewhere. If we are smarter about this in Scotland, we will find that a lot of materials can be properly treated as such instead of being treated simply as waste.

We were certainly unhappy about the rules on small waste oil burners. I will not call them daft, but I think that if people are able to heat small industrial premises and estates with small-scale materials it is completely barking then to make them manage such estates like huge industrial complexes. Under those rules, small waste oil burners must have control applied to them.

Eleanor Scott: Are those EU rules?

Campbell Gemmell: Yes, they were EU rules that were effectively passed into Scottish legislation. In that regard, we missed the opportunity the first time round; however, we have another opportunity to make things rather simpler, and I hope that we will take it.

The Convener: We are getting away from the main issue, which is our exploration of your budget. However, I should say that, on previous occasions when we have dealt either with anecdotal evidence from constituents or with certain waste, energy or agricultural issues, the committee has been frustrated to find that a material that might have already been used and might, in one sense, be described as waste could become a resource in other respects if an intelligent approach were taken. It is simply a matter of common sense that things should not go to landfill if they can be used somewhere else. As a result, you can take it as read that we will enthusiastically support any move that you might make to review such connections. We have certainly raised the issue with the minister, particularly with regard to waste and energy matters.

Mr Brocklebank: As the witnesses are aware, we have received submissions from various organisations including the Confederation of British Industry Scotland and the NFUS. The CBI feels that although your intentions are good and honourable, your culture does not allow you to deliver on them. For example, its submission says:

"We believe that SEPA does not have enough incentive to improve its performance, because it knows that it can simply pass cost overruns on to its 'customers', a luxury

few businesses enjoy."

16:15

Campbell Gemmell: I have had such conversations with Iain McMillan directly, too, but I completely refute the assertion. Rather like the NFUS, the CBI presumes that we have not met our efficiency targets, but we have—we have met them repeatedly. However, the CBI does not give credit for that in its response. I wonder what the cost overruns are. I am keen to see specifics about what the CBI considers the cost overruns to be.

We have challenges when we try to frame appropriate regulatory activities without knowing what the final regulations will be. At the UK and Scotland levels, we have a habit of being rather late to refine regulations. I will not use the term "cobble together", but we often have to move relatively quickly to finalise the detail of the regulatory regime. We do that pretty professionally. If we take the opportunities to review as we go along, we should be able to provide greater confidence.

I acknowledge that we do not yet always deliver the service that we or industry would like. We have good interactive relationships with some sectors that speak frankly to us and give us useful information to work with. Some industries are rather more critical without necessarily being as constructive.

I am happy to respond to any question that the CBI or members can frame. I noticed that the CBI's submission mentioned a level playing field and comparisons with England. We have published a benchmarking document on our website that compares our charges with those in England. We are more expensive in some cases and cheaper in others. I am not sure whether we should level down or up, but I am sure that we will have an interesting discussion about that.

To be frank, some targets to which we are working probably need to be refined. We need to be held to new and more demanding targets on some matters.

Mr Brocklebank: That is one of the points that the CBI makes. What sanctions can be levelled against SEPA? The CBI says that your

"general efficiency target is to determine 72% of licence applications within the statutory time limits. This is unacceptably low ... any private sector business that only 'delivered' on time to its customers 7 times out of 10"

would go out of business.

Campbell Gemmell: Colin Bayes will pick up the detail on that. The language that the CBI uses is interesting. That is not our "general efficiency target"; it is one of 21 targets. Last year, we met

17 of our 21 targets, including one that was on our internal efficiency, which we exceeded by more than 100 per cent. Colin Bayes can add detail about the target on our turnaround of licences.

Colin Bayes: I preface my comments by saying that I am not comfortable with where the figure stands. I will explain the process for dealing with an application. First, the quality of the application that arrives on our doorstep matters. When we receive poor-quality applications, as we do, we rarely refuse them. We try to work with an applicant to deal with an inadequate application, although we could apply the letter of the law and reply by saying, "Thank you very much, but your application is inadequate." Working with an applicant takes time and, without doubt, it impinges on our ability to turn around applications quickly.

Some legislation requires us—rightly—to undertake public consultation, which means that timescales are sometimes not met. Some legislation gives the minister the right to call in an application. When that right is exercised, I assure members that an application certainly fails to be dealt with in the specified turnaround time. For some licences, a company is required to take a test of financial competence, and companies are sometimes not speedy in taking that. Before some licences can be granted, planning permissions are required to be in place. All that I am saying is that several constraints exist. As I said, I am not complacent about the issue; I am just explaining that some aspects are outwith our control.

An important factor in determining the turnaround time for a licence is whether the regulatory regime is right. We opened the discussion earlier about moving from licensing to a different point on the spectrum of registrations. We believe that we have had considerable success in changing that on discharges to the water environment, applications for which have a 21-day turnaround time, which is much shorter than the time for a licence application. We are confident that what we have done to get the regulatory framework right, as well as our performance, will cause the licence application figure to rise. The figure is not good enough. It is not always within our control, but I am confident that it will rise.

Mr Brocklebank: You will have seen the raft of criticisms from NFU Scotland. It claims:

"There is a lack of transparency in charges. There is also no explanation as to why charges in some instances are higher in Scotland than in England."

Can you handle that criticism?

Campbell Gemmell: Again, Colin Bayes can perhaps add to what I am about to say.

We have published our benchmarking data on our website. They show that some elements of the

11 charging schemes are more expensive in Scotland, but some are cheaper. Given that there are different circumstances in Scotland, I am happy that the regime is as it is, although we have, with the Executive and DEFRA, committed ourselves to looking at new charging schemes and new regulations as they are introduced with a view to trying to align the relevant charges. However, there are significant differences in how pollution prevention and control, for example, are regulated in England and Scotland. Direct pound-for-pound comparisons are therefore meaningless. We must be careful about the use of such data.

Mr Brocklebank: Could SEPA be more transparent?

Campbell Gemmell: We publish the data on our website—I do not see how we could be more transparent than that. Indeed, CBI Scotland and Scottish Water said in their submissions that we are considerably more transparent than we were. Perhaps we are on a journey and we need to go a little further, but our transparency is already significant.

Colin Bayes: That is a good description. We are on a journey, but we need to go further. We should consider what we did under the controlled activities regulations. We established a regulatory stakeholders group that oversaw the activities that we considered would be necessary to deliver the duties in question, the number of inspections that we planned and the build-up of costs. Furthermore, we appointed independent auditors to report not to SEPA but to the stakeholders group on whether we had properly done our costings. The NFU was represented on that stakeholders group. Charges have not always been developed in such a manner, but that is probably the best practice that there has been in the United Kingdom for developing charges. I hope that we will see more of that kind of approach. A pollution prevention and control stakeholders group will go through a similar process.

I read NFU Scotland's comments on groundwater charging. It has pointed out that farmers in Scotland are charged £170 for authorisation to dispose of sheep dip while farmers in England are charged only £138. Why is there such a difference in charges? What did not come out is that a permit is required for every disposal site in England and Wales. If a farmer has two disposal sites for spent sheep dip, he will require two permits there. In Scotland, we thought that that system was crazy and that a farmer should need only one permit to have disposal facilities on his farm—we thought that such a system would be far preferable. Whether the farmer has one facility or 10 facilities does not matter. Equally, we allowed one crofting township

to hold a permit on behalf of all its crofters; individual crofters did not need permits. You have to look at the details behind the headlines. Charges are lower for many farmers and crofters in Scotland.

The Convener: The answers that have been given are useful because the issues that have been raised are the kind of issues that people are concerned about whenever any new environmental regulation comes to the committee. People are concerned about the transparency that exists and the rationale behind the different costs. Members will probably be interested in the analysis on SEPA's website.

Nora Radcliffe: I am interested in the target of processing 72 per cent of licence applications within statutory time limits. An explanation has been given, but I am still slightly bothered by the matter. A statutory time limit should mean exactly that. Is there scope for considering when you start to count? Do statutory time limits take into account applications that need to be consulted on or called in? It seems to me that something is not right that could be put right.

Colin Bayes: I sympathise with you. We could be more sophisticated in how we show that performance target. The legislation does not discount the period for public consultation, for example. We can exceed the statutory period only with the agreement of the applicant. That is the important thing to know. If the applicant turns round and says, "Sorry, I do not want the time limit to be extended," the application will be deemed to have been refused and the applicant can appeal to the minister. There are checks and balances. We do not discount the period during which public consultation is taking place nor do we discount when the application is called in. Perhaps we should discount that period. I am pleased to say that the number of applications that are called in is not very high but, nevertheless, those have an impact on the performance statistic.

Nora Radcliffe: I just worry about the ripple effects on people who are waiting for licence applications to be determined. However, those people can appeal.

Colin Bayes: Yes, those people can appeal. Within the organisation, we have a management instruction that any licence application that is crucial to an economic development will be fast-tracked. In those cases, we will meet the applicant early to ensure that we get a good-quality application, which is the foundation for dealing with any application quickly.

Nora Radcliffe: Do the statutory time limits for different licences perhaps need to be made more pragmatic and workable?

Colin Bayes: I would rather that we worked on

getting the correct regulatory level that I have described and see what impact that has. In the first six months of this financial year, we turned round 1,639 registrations for point source discharges within 21 days. That is considerably better than we did previously. We were able to do that because we now have a more proportionate regulatory regime that facilitates that.

Campbell Gemmell: Our difficulty is that the 72 per cent target is a very clumsy measure that covers some hugely diverse things, but I do not think that moving the goalposts would be the right answer. We need to tease out the components and perhaps have explicit sub-targets for different regimes. We are keen to try to refine the measure. We know that it is not good enough, but we also know that it is a bit of a bucket term that is not easy to interpret.

Nora Radcliffe: The measure becomes more reasonable once we dig underneath it.

The Convener: I want to ask about the two environmental targets that SEPA has not met. My first question is on minimised and recovered non-municipal waste. We know that such waste constitutes the bulk—about 70 per cent—of our waste in Scotland, but we are doing a lot better on domestic waste. Do we need a statutory or notional target if we are similarly to reduce the levels of non-municipal waste?

Campbell Gemmell: Calum MacDonald might want to field some of the detail of that question.

Again, our difficulty is about where we are trying to get to. I am certainly keen that the overall figure should come down, but I am not sure that we have the arrangements in place as yet to bring that down. As the committee has picked up, four of SEPA's targets measure the performance not just of SEPA but of the waste industry or water industry or whatever. For example, on composting, we are heading towards significant figures that probably far exceed real compost markets in Scotland. Achieving those levels has been a necessary stepping stone towards better municipal waste management, but we do not want an excess of something for which there is no market and that we cannot do anything with. We need to consider how we can refine the processes for reducing waste volumes in a way that ensures that we have in place appropriate markets for the streams that might arise.

Does Calum MacDonald want to add to what I have said? It is a hard target to meet.

Calum MacDonald: The target is hard to meet. I am not sure that I can add much to what Campbell Gemmell has said. A number of different approaches are possible, but I am not sure at this stage whether we need a statutory target.

The Convener: Given that the target is to

“Complete the national framework for dealing with non-municipal waste”,

I suppose that the failure is to deliver a national framework. However, non-municipal waste is such a huge part of the waste stream in Scotland that I wonder whether anyone is breaking down that target into different types of targets. Eleanor Scott asked earlier about road waste and whether it is reused or is just thrown out. I want to know whether the same kind of energy is going into considering these issues. At European level, we have clear targets for domestic waste. Does the absence of similar European targets for non-municipal waste make it less of a priority? I would not be surprised if you answered yes to that question. However, SEPA has still not met a target that it set.

Campbell Gemmell: I think that my answer is, “Yes, but.” I encourage the committee to have that discussion with the minister. I think that the target is not particularly smart and needs to be significantly improved. Given that we have only an overarching responsibility, the target needs to be distributed more effectively to those who can implement it directly.

16:30

The Convener: I was just interested to see that next year’s target is to

“Achieve milestones in the national framework for dealing with non-municipal waste.”

It is a slightly different way of wording the target, but I do not have a clear sense of it.

Calum MacDonald: It is largely a timing issue. We are saying that we still want to do this but that an awful lot is happening with the national waste strategy and the national waste plan. We have not put the municipal waste issue to bed yet. It is where we are in the flow of time. We need to sort out the municipal waste elements first and then we can concentrate on commercial and industrial waste.

The Convener: My second question is about diffuse agricultural pollution, which I know has been on the agenda of SEPA and the Parliament since day 1 of the Parliament. You have a target to “Prepare and implement environment improvement plans to improve ... catchments”—

we would be interested in that under water framework directive issues. You have begun to identify priority catchments but only in priority areas and there is still no progress on the implementation of improvement plans. Where do you go from there? The target for next year is just to

“Promote good practice and compliance.”

Campbell Gemmell: Again, there is a timing issue. In effect, the corporate plan target to which you refer was put in place almost three years ago. In some respects we have moved a little faster than was expected; for example, the consultation on the general binding rules for diffuse pollution is out—we are pleased that the minister and his department have taken that forward. In effect, they have taken our advice that general binding rules are a better way of going about achieving targets than taking a more tackety-boots type approach to the regulation. That is encouraging. Given all the work that we did on the prevention of environmental pollution from agricultural activity code—we hope that the GBRs will end up looking like it—I think that there is a strong framework that we can see being implemented.

We also found it difficult to get the plan in place and to get skilled people into the organisation, which is an issue that we have raised with the minister and the deputy minister. We were therefore slower in getting some of the framework and bureaucratic elements done, but we have made quite good overall progress thus far. The targets need to be revisited in our next corporate plan for the next spending review period, and they will be.

Richard Lochhead: I noticed that the briefing says that the environment agencies north and south of the border have different VAT status and that if you had the same VAT status as the Environment Agency, you would be able to reduce your fees by 5 per cent. Where are we with that debate? Have you been writing to HM Revenue & Customs? Has the minister supported you?

Campbell Gemmell: We have 10-year-old bruises on our foreheads. Unfortunately, some decisions that were made early on in the establishment of SEPA were probably flawed and we have suffered as a result of that. The issue has been revisited.

John Ford: We have on-going discussions with the sponsor department about reviewing our status and bringing us into line with the EA. However, the process is not simple, as I am sure that you will appreciate.

Nora Radcliffe: Would it require primary legislation at Westminster?

John Ford: Yes, we believe so.

The Convener: So there was a lack of foresight in the early days of the establishment of SEPA, which predates us all. However, it is quite a significant issue.

I thank you all for fielding all the questions that we have asked. It is appropriate that, 10 years on, we should subject SEPA to some strategic

scrutiny. When individual regulations come before the committee, we burrow down into an issue, so it is quite useful to be able to look at the organisation as a whole and ask some questions.

When I was reading the NFUS submission, I was struck that many of the points would be more appropriate for the minister because they are about the policy framework under which SEPA operates. There is an issue to do with the appropriate balance between public sector funding to improve the quality of the environment and business funding to make sure that that side is regulated properly. That is an on-going debate that we might want to rehearse next week when the minister is here.

I thank the representatives from SEPA for the submission that they gave us in advance and for letting us test other stakeholders' view of the agency. It has been a useful process.

We will have a brief break and then continue with our business.

16:35

Meeting suspended.

16:37

On resuming—

Subordinate Legislation

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

Plant Health (Scotland) Amendment Order 2006 (SSI 2006/474)

The Convener: We will crack on with our business and move to agenda item 3. I am conscious that numbers are slightly thinner, but I want to keep going.

We have two negative statutory instruments to consider. The committee will remember that we considered the Environmental Noise (Scotland) Regulations 2006 at a previous meeting. We asked the Scottish Executive a series of questions that we wanted answered before we let the regulations go further. Members will have a copy of the response, which certainly answers most of my questions.

I still have questions about what happens when noise has been mapped, and I presume that there will be issues to do with remedial action when particular noise problems are identified. I presume also that that will affect future major construction projects for rail and road, which will have major noise implications and in relation to which issues will arise to do with compensation or a greater emphasis on noise baffling. However, that is clearly for the future. It was worth asking the questions and I hope that members are happy. We also have the comments from the Subordinate Legislation Committee on the regulations.

The Subordinate Legislation Committee made no comments on the Plant Health (Scotland) Amendment Order 2006.

Does any member have a comment on either the regulations or the order? If not, we will be content with them and happy to make no recommendation to the Parliament. Are we agreed to do that?

Members *indicated agreement.*

Item in Private

16:39

The Convener: Our last agenda item is to ask for members' approval to take the decision on the committee's future work programme in private at our next meeting on 1 November. I have had some early discussions with the clerks about our various work options, including potential witnesses that we might like to hear from. I would like to wrap up the work together. We would obviously have to ensure that we communicated any decisions as efficiently as possible through our minutes. Are members happy with that?

Members *indicated agreement.*

The Convener: The bad news is that, for the agenda next week, the choice is between starting at 9.30 and starting at 10 o'clock and finishing in the lunch hour. My judgment is that we should start at 9.30, which has the potential of letting people out within three hours. Are members agreed?

Members *indicated agreement.*

The Convener: I will see members next week.

Meeting closed at 16:40.

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