



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 22 November 2016

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 22 November 2016

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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
12th Meeting 2016, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*Maurice Golden (West Scotland) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Alexander Burnett (Aberdeenshire West) (Con)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)
*Emma Harper (South Scotland) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Mallon (Scottish Government)
Ian Ross (Scottish Natural Heritage)
Claudia Rowse (Scottish Natural Heritage)
Eileen Stuart (Scottish Natural Heritage)
Humza Yousaf (Minister for Transport and the Islands)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 22 November 2016

[The Convener opened the meeting at 10:03]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning and welcome to the 12th meeting of the Environment, Climate Change and Land Reform Committee. I note that Maurice Golden will be leaving at 11.50. I remind everyone present to ensure that their mobile phones are on silent for the duration of the meeting.

Agenda item 1 is a decision on taking business in private. Do members agree to take items 5 to 9 in private?

Members *indicated agreement.*

Deer Management

10:03

The Convener: Agenda item 2 is an evidence session on Scottish Natural Heritage's report "Deer Management in Scotland: Report to the Scottish Government from Scottish Natural Heritage 2016", which was published on Friday. We are joined by representatives of SNH. I welcome Ian Ross, Eileen Stuart and Claudia Rowse.

We will move to questions. Mr Ross, whatever else the report says, it appears by implication to be quite critical of SNH's oversight of deer management over a period of years. Do you accept that?

Ian Ross (Scottish Natural Heritage): Not directly, no. I certainly believe that we are part of the solution, and there are certainly additional things that we could be involved with. However, we reflected the policy dimension that has existed over the past two to three years, which is about supporting the voluntary approach and working extremely closely with deer management groups, particularly through the Association of Deer Management Groups.

The areas in which we collectively probably need to do more are those that fall outwith any form of collaborative arrangement at the moment. That is a strong message that comes out in the report. The deer management groups cover, I think, 39 per cent of Scotland, but we do not have a collaborative approach in large areas of lowland Scotland and significant parts of upland Scotland. That is a challenge that we need to address.

The Convener: The report says:

"Current approaches to deer management under the existing statutory framework are showing signs of improvement, but we cannot confidently conclude that a step change has been taken."

SNH is complicit in that, is it not?

Ian Ross: I will ask one of my colleagues to go into that particular point in more detail, if you are content with that, convener.

Claudia Rowse (Scottish Natural Heritage): Convener, are you referring particularly to our role in delivering the section 7 agreements?

The Convener: I am talking in a wider sense. SNH has responsibility for oversight of deer management in Scotland. The report is quite critical. Do you accept that it reflects poorly on SNH as well as on whoever else?

Claudia Rowse: The chairman has given an initial answer to that. I wanted to come in with a bit more detail on the section 7 agreements and how

we have taken those forward. One challenging thing that the report points out is the variability across the sector in many ways. There might be an opportunity to go into that in more detail later. The section 7 agreements are complex agreements with a number of landowners over big upland habitats with different requirements, which makes the process challenging.

We have a mixed picture. Across all the section 7 agreements, deer numbers have reduced. In terms of exemplifying the voluntary approach, they really show that, on difficult questions where people do not necessarily want to do what they are being asked to do, they have engaged and collaborated to deliver some of the aspects that we have asked them for. With six out of the 11 agreements, the deer density targets have been met, although we acknowledge that in five they have not. The habitat targets, which are the other significant requirement, have been met in three out of the 11 agreement areas and partially in two of the areas—that comes back to the point about the underlying complexity of the information that is being monitored. Six of the areas have not met the habitat targets, although the report refers to the fact that they have “not yet” met those targets. With habitats, an important issue is the time that it takes for them to respond.

I hope that that extra bit of detail shows that the agreements are not whole-heartedly failing at all.

The Convener: No, they are not, but they are not exactly succeeding either. I am well aware of those statistics, which are in the report. It is a question of whether we think that deer density targets being met in a little over 50 per cent of cases and habitat targets being met in a little over a third of cases represents success or failure.

Ian Ross: It is apparent that additional work is required, and we have made that clear. We are not suggesting that the situation is in any way satisfactory. The original commission for the review talked about a “step change” and emphasised the natural heritage and environmental impact. I hope that the report is seen as comprehensive. I believe that it is objective and evidence led, and I hope that it is measured in what it says. It highlights that there are additional areas that need to be addressed. It also acknowledges that a great deal of good work has been done. In particular, the reassessment has shown that a number of deer management groups have progressed significantly and we acknowledge the important support that is being made available through the ADMG.

It is important to highlight that we have not as yet applied section 8. We took forward that process on one occasion and a paper was taken to our board to consider a range of options. However, based on the evidence and what could

be considered to be a reasonable approach, it was decided that there was still work to be done. There had been a change, in that all the landowners had indicated a willingness to collaborate. We therefore felt that we should give them the opportunity to deliver on that basis. In that case, the board also made it clear that it wanted to carry out an early review. In fact, only last week, we got a progress update. We will probably return to the matter in March next year, and at that stage we will make a determination whether there is a need to take further work—and section 8 would be one of the options.

On both section 7 and section 8, there is a process to go through—there must be plans and consultation. As you will understand, significant resource demands go with that, but we have done that in this case.

The Convener: We have teed up a few areas for questioning, so let us get on to those.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): As you did the review, did the results on the deer density and the habitat condition targets come as a surprise? If not, what additional work should have been going on over the past few years in order to improve the meeting of targets?

Ian Ross: Claudia Rowse will start on the issues of the population, the trends and the overlap into targets, and then perhaps Eileen Stuart will come in.

Claudia Rowse: Are you referring to the section 7 agreement targets?

Kate Forbes: Yes.

Claudia Rowse: The targets are usually set for three years, after which they may be revised. The habitat targets are the delivering favourable condition targets. We monitor those through our engagement to see whether the targets are being met. It is an adaptive management process, in which we try to keep the voluntary principle going. We set targets and we see whether people are reaching them. If they are not reaching them, we ask what the reasons are for that and how they might be addressed. In many cases, the targets apply across multiple landowners. Some landowners may well be meeting the targets in the agreement area; other landowners may not be meeting the targets.

As we have said, the habitat targets take longer to respond to, given the monitoring that is needed and when you may see the effects of the reduced grazing levels having a beneficial effect on the habitats. However, we monitor them regularly to then inform judgments and we will amend the agreements as necessary.

Eileen Stuart (Scottish Natural Heritage): I reinforce what Claudia Rowse said. Each of the

section 7 agreements is quite different in the scale of the task, the number of different land management units and, sometimes, the change that is needed—some of them require radical changes in deer numbers. Therefore, it has taken time.

Within each of the section 7 agreements is a mix of people. In many cases, there are people who are willing and engaging and who have been very committed to the changes, the targets and so on. However, in some cases, land managers have been less committed, if you like, and have perhaps not attended the meetings and so on.

We are working with each of the groups in slightly different ways. Sometimes, there are practical barriers so, in some cases, we have been putting in practical management measures, including access tracks and improving access to help achieve the cull targets. We have also been putting in extra measures to help with the counting and the monitoring of the habitats.

There is not a one-size-fits-all approach. The work with the groups is quite time consuming and requires a lot of resources, but we are trying to work with them and put in place measures to bring together all the groups to meet the targets. As Claudia Rowse said, it is an adaptive process and we are trying to get people on the same page and working in the right direction.

Maurice Golden (West Scotland) (Con): Will you clarify the national population estimates for red and roe deer? Why, particularly with roe deer, are we still struggling to gain a baseline figure? What measures are you putting in place to ensure that we have better estimates of the numbers?

Claudia Rowse: You will see from the report that we have not been able to provide a national population figure for red deer or roe deer, because we do not believe that the data is robust; that is why we have omitted it from the report.

We refer to the work that the James Hutton Institute has been doing on our behalf, particularly on looking at the red deer data and the counts that have been carried out since the 1960s. Consequently, we provided a new national deer density population estimate for red deer, because we believe that the evidence base is robust.

On the roe deer data, we have provided some work that was done by Strath Caulaidh on analysing what is happening in the national forest estate. You are absolutely right to say that further work needs to be done to enable us to advise you on national population densities.

The James Hutton Institute's work has not concluded. The figures that we refer to in the report are some initial findings. The institute recommends a robust, cost-effective and

proportionate way of providing national estimates based on the data that we gather.

10:15

Maurice Golden: Have you contracted the James Hutton Institute to do that work for both red and roe deer? What is your next move to establish a baseline? Until we have that figure, we cannot work out whether the targets are being met.

Claudia Rowse: As I understand it, the commission that we have contracted with the institute will address both the red and roe deer count programme and the best way of providing more robust estimates at the national level.

Maurice Golden: Do you have timescales for that?

Claudia Rowse: Yes. The work should report in spring 2017.

Eileen Stuart: There is quite a distinction between the information on the lowlands and the uplands and our ability to access it. In the upland deer range, we send out requests for cull data to be returned to us. The majority of landowners in the upland sector return that to us, and generally that gives us good data on red deer.

We do not have the details of all the people who are undertaking management in the lowlands. The land ownership picture is much more complex, and we do not have a mechanism of asking and requesting people to provide that information. Therefore, there is definitely a disparity at the moment in our ability to access information about those two different parts of the country. That presents more challenges with the lowlands, where the roe deer are more of an issue. We are very conscious that that gap needs to be addressed.

The Convener: Will you clarify something for me? From 2013, the issue was on the Rural Affairs, Climate Change and Environment Committee's radar. We knew all along that the conclusion of 2016 would be the trigger for a review. Should this workstream not have been developed in the intervening period, so that at the point that you came to conduct a review you had the information at your fingertips?

Eileen Stuart: A range of work is under way in the lowlands. We have been working with the Association of Deer Management Groups to expand the network of lowland deer management groups, but that work is not complete. We are also working with local authorities on a piece of work that will ensure that they are engaged and taking their duties to support deer work responsibly, as well as making sure that the current patchy performance of local authorities is improved.

In addition, we are working on a project with a particular part of the lowland deer to see how we can compare different models. There are slightly different needs in terms of collaboration and action in the lowlands and, as yet, we do not have a model as we do in the uplands that we could just roll out. It is not an area in which there is an obvious quick fix that we could just implement and which would give us the gaps in the information, because we do not have the tools or the information-gathering mechanisms.

We have looked at a number of things, such as agricultural census data, to see whether we can get information through that source. At the moment, there is nothing that we could introduce very easily that would allow us to address those gaps.

The Convener: There was a two to three-year period in which you knew that that information would be required. That is the point that I am getting at. Do you not accept that the baseline of data should have been developed by now?

Ian Ross: I will add a point on that. It is a very complex area. Clearly, we would all wish to be in a more robust position, but it would not be correct to suggest that there have not been a number of ongoing workstreams. In particular, we have sought to work with and engage local authorities, which have certain responsibilities relating to the deer code. In fact, I have written to a number of the local authorities to try to promote those responsibilities. We have an event planned for early next year—in April, I think—to try to move that on to the next step.

As both my colleagues have described, given the co-ordination, the collaboration and the access to information that are required, the area is very challenging. That is one of the reasons why we have highlighted the lowlands in relation to the need for further work. We welcome comments that this committee and others have about how we can take that forward.

Alexander Burnett (Aberdeenshire West) (Con): I refer to my entry in the register of interests, in particular those in farming, forestry and deer management, which I hope gives me some practical insight into today's subject.

Going back to the question of deer numbers, the summary of section 3 of the report gives the figures from 1960 to 2000, when there was an increase, but a longer period is shown later in the section. Why give an uplift in deer numbers in the summary, rather than the more recent reduction, which is perhaps more relevant to the trend?

Claudia Rowse: We have looked at all the count data, going back to when that started in 1961. I am not sure which page you are referring to, specifically.

Alexander Burnett: It is page 20.

Claudia Rowse: Thank you. I wanted attention to be drawn to that. We have gone over that with researchers and academics who have been studying the statistics and how robust the information is. You will see that the confidence intervals on each count are large, because of the opportunity for errors. However, we have confidence in the trend—that is the important information, and it is robust.

It is encouraging that the past 10 years have seen a flattening off of that growth, and we have flagged that up as encouraging, but we conclude that, nationally, deer numbers and deer density are at a high level, which will have an impact on the natural heritage. That is at the national level but, when we look into it, we find that that masks a tenfold variation across the country. There are distinct complexities at regional level. We conclude that 12.5 deer per km² at a national level is still high for its impact on the natural heritage.

Alexander Burnett: Do you agree that both the accuracy of the data collection and the trend are improving?

Claudia Rowse: The trend over the past 10 years is encouraging in that it is flattening off, but the levels are still high at a national level.

The Convener: Just to get this clear on the record, I ask about point 6 on page 16 of the report, which says that the situation

“by 2014-15 had returned to 2004-05 cull levels”.

Would that be sufficient to meet the challenge that we face, if that were maintained?

Claudia Rowse: I am sorry—there was rustling of papers. Which page was that?

The Convener: On page 16, the report talks about the fact that by 2014-15 we

“had returned to 2004-05 cull levels”.

If that were to be maintained, would that be sufficient to take on the challenge that we face?

Claudia Rowse: I have lost the precise reference—there is so much technical detail in the report—but I will try to pick it up for you. One of the areas that the James Hutton Institute is doing more work on concerns the cull effort and the analysis of the cull returns, and we are going to carry out further analysis as part of that work. It shows that cull efforts have doubled in what they are able to deliver over the past 30 years—I cannot remember and would have to check the specific timeframe—and that is encouraging. We are looking at the interaction between the effort of the cull level and the impact on the deer population density trend. As I said, it is complex,

because there is a lot of information to assess about what is happening at the regional level.

Therefore, I cannot directly answer your question whether the cull level is sufficient. It looks encouraging at the moment in terms of the national figure but—

The Convener: It depends where the culling is taking place.

Claudia Rowse: Yes. The other issue is about other herbivores, such as sheep. We have done some initial analysis and there is a little bit of work that is referred to in one of the annexes to the report, which you may or may not have had time to look at. Again, the James Hutton Institute is trying to untangle that at the regional level. We know that there has been a big reduction in sheep numbers across Scotland, but we also know that that has not happened uniformly, so we are looking at where that has happened at the regional level and at the cull densities.

Ian Ross: Convener, I want to ensure that we have grasped the question that you raised. Does that answer it or are there other areas that you would like us to respond on?

The Convener: I have an answer.

Mark Ruskell (Mid Scotland and Fife) (Green): I return to gaps. The witnesses said that, in the lowlands, there is an obvious gap in deer management. There are obviously gaps in the Highlands as well. In effect, you are trying to promote an approach. Is that enough? If you send letters to local authorities saying that you think that they should lead deer management groups within their local areas, most of them will look at the other statutory duties that they have and say that they do not have the time or resources to do that. What is missing? Is it additional powers, budget or enforcement? It is not happening. Gaps are appearing throughout Scotland, particularly in the lowlands, as your report highlights.

Ian Ross: The responses that we have made are to get wider engagement. I am sure that what you say about local authorities is the case. We know the various budgetary and other challenges that they have, but there are some good examples. Some local authorities are engaged, so we seek to promote and share that good practice. We also value the contribution that the ADMG makes in seeking to promote that.

The committee and others will have comments to make about the report, and we look forward to seeing those. Clearly, the Cabinet Secretary for Environment, Climate Change and Land Reform will respond as well. I have no doubt that some points will be highlighted in those responses and, if they reflect the policy position in Scotland, we would seek to take them forward.

Mark Ruskell: But you do not want to go on the record and say what changes are required. You are highlighting good practice—if something good is going on somewhere, you will encourage everybody to adopt it—but you are not pointing to what changes are needed.

Ian Ross: The commission that we had did not require us to make recommendations—that was clear—so we have not made recommendations. However, we have provided an evaluation and a number of conclusions. We have deliberately left it open so that people who read the report can form a view and make proposals and then our cabinet secretary can respond to that.

Claudia Beamish (South Scotland) (Lab): Good morning to you all. I will pursue the issues around culling a little bit further. In a briefing to the committee, the RSPB suggested the possibility of

“Modest increased powers to SNH in order that they can approve forward culling plans from landowners to guarantee management delivers for the public interest”.

Do you have any comment on that? I appreciate that you are not making recommendations but, time and again, the word “complexity” has been used. It has been used in relation to section 7 and how to proceed to section 8. Now it has been used in relation to the data, how to collate it and whether it concerns sheep or deer. Might that suggestion be useful?

Ian Ross: As you are aware, provision was made for that, particularly on cull targets and responses, in the Land Reform (Scotland) Act 2016. Because that is a very recent act, that provision is not reflected in the report, which was produced almost as it was coming into play. It is fair to say that there are a number of new provisions—such as the one that I highlighted—and some other provisions that we have not as yet applied, particularly section 8, although I highlighted an example in which we had explored that and may still take it forward, depending on circumstances. You are right that I am reluctant to propose recommendations, because that is outwith the remit of the work that we were asked to do. However, we would be happy to work to support a range of bodies in looking at proposals.

10:30

Claudia Beamish: There are sections of the Land Reform (Scotland) Act 2016 that refer very clearly to deer management. I am not sure whether you agree, convener, but based on what Michael Russell and I heard as members of the RACCE Committee, and on the action taken by the Scottish Government, it seems that the new provisions are useful. Now that possible SNH actions and the requirement for DMGs to comply with the code of practice are in the act, do you

think that those measures are relevant and helpful?

Ian Ross: I make it clear that we are not suggesting that we would not use those measures. We have a range of tools and we would use them as is appropriate. In the responses to the report, certain parties may lay even greater emphasis on those. Section 8 is an example of our approach. It is true that we have not applied section 8, but we have taken steps in one situation where it may still be applied. We would use it as appropriate, and the same applies to the provision in the Land Reform (Scotland) Act 2016.

My colleagues might want to add something.

Eileen Stuart: I—

The Convener: I want to pick up on something, if I may. I am sorry for interrupting you again, Ms Stuart.

Eileen Stuart: That is all right.

The Convener: I accept the point that was made earlier about the complication that arises from not knowing where the 68,000 deer were culled but, on page 30 of your report, you refer to having scrutinised 14 deer management groups to get a feel for what was happening. The table there shows that only five of those 14 DMGs had culled to the level needed to reduce the population. If that is a representative sample—it is certainly a geographically representative sample—that would be almost a third of the DMGs. Does that not tell us that we need to gear up to take some action, if we have not done so already?

Ian Ross: Yes, I understand how you could interpret it like that. I would add that we have now reassessed based on the 2014 baseline, which means that, to some extent, the report contains a range of more robust data that reflect that reassessment. One of the powerful things about the review is that it gives us a firmer base from which to judge how to move things forward. Others can take a view on that as well. In this case, it applies only to the deer management groups and members should bear in mind that the deer situation and approaches to deer across Scotland are much bigger than that. However, our engagement with deer management groups gives us hard information and data and we have looked at 101 criteria in assessing their deer management plans.

The Convener: My apologies to Eileen Stuart, who wanted to come in.

Eileen Stuart: Thank you, convener. That sample of 14 DMGs is a snapshot and it would be dangerous to interpret too much from that, although you are right to highlight that it suggests that the current levels of activity are not as high as

they need to be, which is something that we need to consider.

In carrying out the review, we were conscious that it would be an SNH review of evidence. We did it in isolation because it was a scientific assessment and evaluation. The information is now out there for anyone to review and comment on. It was clear to us that there is a range of different interventions, from providing advice and guidance to funding and funding support. It would not be appropriate for us to review that or carry it out in isolation, because there are other Government agencies, such as the Forestry Commission and the national parks, which have a clear role. Furthermore, the history of our work with deer has been very collaborative, in engaging with the Association of Deer Management Groups and others.

There is a range of options and, inevitably, we have had some thoughts on those during the course of the review. The next step is to discuss the matter with colleagues in Government and with a range of stakeholders to determine, with guidance from the committee, where best to put time and effort, given that there is a complex picture and we can do only so much. We need a discussion on where best to focus our efforts.

The Convener: Thank you. Let us move on.

Emma Harper (South Scotland) (SNP): As a member for South Scotland, I am interested in the lowlands. It looks as though a lot of money has been spent on studies in relation to 14 deer management groups in the north. I am curious to know what further work has been proposed to engage with lowland deer management groups, and what further investment is planned to ensure that we have better and secure data. In the report you mention

“‘hotspots’, where there is an increasing need to plan and manage the impacts of deer in the lowlands.”

Eileen Stuart: We have touched on that a little already. Work is under way, and we continue to work with the Lowland Deer Network Scotland to try to highlight areas where we can develop collaborative structures. There are far more players in the lowlands, and many landowners do not have the same investment or interest in deer management. There are also practical challenges in managing deer in lowland settings, where there is far more public interest and scrutiny and indeed more public access.

Until we get a good dataset of who the landholders are and who is out there undertaking work, it is hard for us to decide how to get all those people round the table. It is clear that the model that exists in the uplands cannot just be replicated, because that would require so many people round

the table that it would not be manageable. We need to find out how best to address those gaps.

Emma Harper: Is the plan to engage with local people?

Eileen Stuart: I can provide a bit more detail. We have a pilot project at the moment, which is looking at a range of approaches. There are recreational stalkers who want to go out and do some stalking but do not have their own land, and we are looking at ways of matching such people with landowners who want deer to be managed. It is a different type of approach, and the pilot project is considering which approach is most effective and best delivers the public interest. I hope that it will give us a basis for rolling something out more widely.

Emma Harper: Is there a timescale for that?

Eileen Stuart: The project is due to complete next year.

The Convener: Will the conclusions that are drawn from the pilot project be taken up by other agencies, such as Forestry Commission Scotland?

Eileen Stuart: The Forestry Commission is a partner in that piece of work. It is a key player in the lowlands, where it has large landholdings and it is keen on woodland expansion in a number of areas. We work closely with the commission to ensure that its interests are represented and that we find solutions that work for it.

The Convener: It is good to get that on the record.

Alexander Burnett: There has been a lot of talk about population density, but is impact the real issue? Should there be more focus on impact rather than numbers?

Ian Ross: The main thrust of our assessment and our comments on step change reflect a great deal about impact—and natural heritage impact, in particular. Some of the points that were highlighted by the Rural Affairs, Climate Change and Environment Committee in the previous session of the Parliament were reflected in the commission, particularly in the context of natural heritage and some of the feedback on site condition monitoring and information on the section 7s. Also, the RACCE Committee would have considered the native woodland survey of Scotland, the evidence from which highlights one of the primary areas in which we feel that a step change has not taken place, particularly given the timeframe of the biodiversity strategy and the 2020 targets.

Claudia Rowse might want to add something.

Claudia Rowse: Perhaps I can give a little bit of detail here. I cannot remember whether I said this earlier—I apologise if I did—but the Deer Act puts

a duty on the Deer Commission for Scotland and now SNH to take national populations into account. This is the first time that we have been able to go through the data, make it robust and be able to advise on that, but we will absolutely continue to work locally and regionally. Given the variation in densities across the country, which I mentioned, and what is happening with other species, managing local impacts will be critical as we move forward.

Alexander Burnett: A lot of the DMGs have written plans that maintain population balance with habitat, but the report has concluded that maintaining populations is a bad thing. Clearly that is not the case all across Scotland, though, is it?

Claudia Rowse: I am sorry, but I did not quite understand the question.

Alexander Burnett: Many deer management groups have written plans that maintain population numbers after carrying out assessments on the habitat, but the report has concluded that maintaining populations is a bad thing. That very broad-brush conclusion does not really recognise that, in some areas and with some DMGs, that is not the case. Perhaps the report is slightly misleading in making people think that that happens all across Scotland.

Claudia Rowse: I hope that it is not misleading. *[Interruption.]* It is a complex and substantial piece of work, and I am trying to find the page that sets out the finer analysis of the regional breakdown. What it shows—indeed, it underpinned one of our core conclusions—is that, across much of the upland DMG areas, there are still high deer densities.

I was trying to find the table—I think that it is on page 23.

Alexander Burnett: I agree that it says that deeper down in the report. It is just unfortunate that that difference is perhaps not reflected in the summary or top-level information. Perhaps you will take that comment on board.

Where is all of this leading? I know that you have said that you are not making recommendations, but if your conclusion is that you want to get densities down to allow natural regeneration of woodlands without fencing, does that mean that you are aiming for between zero and four deer per square kilometre? Is that a fair conclusion to draw?

Ian Ross: I think that Eileen Stuart can come in on that.

Eileen Stuart: I do not think that there is some magic number that we are looking for. As far as the report is concerned, you are absolutely right to suggest that impacts are ultimately what we want to achieve if we want environmental change and

improvement. However, the information on population and population trends is particularly useful in allowing a feedback loop to find out whether a deer management group has undertaken a range of measures. With that, we can see relatively soon what impact that is having on populations, which, ultimately, are an indicator of what we might expect with regard to habitat change over time.

The other thing of interest is a research review that we have undertaken over the past year; indeed, we are holding a seminar tomorrow to discuss its findings with stakeholders. Something that emerged from that process was the identification by stakeholders of information on population trends and local population density as being quite important in helping them to make decisions and supporting that adaptive management approach. We really want local ownership but, for the voluntary approach to work, we need information flow and the ability to see whether such an intervention gives us the right response. As a result, populations are very useful as an indicator and a proxy but, as you have identified, impacts are crucial.

The Convener: Although I appreciate that it is difficult at times to determine whether it is deer or other herbivores that are impacting on some of our protected sites, I note that in giving evidence on biodiversity the RSPB told the committee:

“Deer management is a key issue in addressing the condition of some of our designated sites and the expansion of native woodland: 18 per cent of protected areas—mostly in upland areas—in Scotland are in unfavourable condition because of the impact of deer browsing.”—[*Official Report, Environment, Climate Change and Land Reform Committee*, 1 November 2016; c 19-20.]

Do you accept that statistic? If so, what does it say about the success or otherwise of the current approach?

10:45

Claudia Rowse: I can answer on the statistics. The way that I have it in my head is different from the way in which the RSPB has presented it, so perhaps I can explain how we have presented it in the report. I am not quite sure, though, whether my explanation will meet the 18 per cent point.

You will know that the national figure for protected sites in favourable condition is 81 per cent; that is a national performance indicator for the Government. We have assessed that the figure for sites that are affected by herbivores within deer management group areas is 10 per cent lower than the national indicator, or—I am trying to do the maths—71 per cent. In areas covered by the lowland deer, the figure is 12 per cent lower.

One of our key conclusions is that deer are a major factor in the unfavourable condition of protected sites. The two figures are in the same ballpark. There are a lot of different ways of looking at it.

The Convener: So it is a presentational issue.

The question that is still to be answered is, if we accept something around there as being accurate, what does that tell us about the success or otherwise of the approach that we have taken to date?

Ian Ross: I will repeat something that I said earlier. One of the main factors influencing our conclusion that the step change has not been achieved across the piece is that we have not seen the progress that we would like to see, particularly in terms of natural heritage impacts. It is clear that there is a need for further work.

On the steps that might be taken, there are probably a range of options. I emphasise that there are probably some tools already there that can be used to greater effect, but there might be other options as well.

What we are not doing is suggesting that that means that deer management groups and the work of the Association of Deer Management Groups have been unsuccessful—a lot has been achieved. However, we have not delivered in terms of natural heritage within the 2020 timeframe.

The Convener: Given that you have acknowledged both here and in the report the work that the DMGs do, why do you think that they have responded so—I was going to say “angrily”, but perhaps that is an exaggeration. They are clearly unhappy with some of what is in the report. What do you think lies behind that?

Ian Ross: I will not try to second-guess that. I have read the reports, and I know that the committee will be taking evidence from the ADMG in the near future. My response to the DMGs would be—I am sure that this has now happened—to read the report in its entirety and to recognise that it is not about direct criticism or blame. The DMGs have an important role to play but, as far as deer management in Scotland is concerned, it is a much bigger picture than that.

I think that the work of ADMG, and what DMGs can actually deliver, are most certainly part of any solution, particularly as we move forward to address the challenge on natural heritage.

Mark Ruskell: Further to that, if SNH has not used the powers that it already has, does that undermine the case for it to have more powers? That is clearly going to be a criticism that is levelled at you by the Association of Deer Management Groups and others. Any kind of shift

towards more intervention, when your track record has been basically voluntarism, is going to be quite hard. When it comes to getting that step change, how do you address that concern?

Ian Ross: We have to bear in mind that the policy position, as stated and restated, was about promoting the voluntary approach. That was the policy position. The critical date was the end of this year, and we were to carry out a review at the end of this year. Therefore, to some extent, the approach that you describe reflects the policy as it was presented.

There were tools there, particularly under sections 7 and 8. We have certainly made use of section 7s, and we have taken steps—as I have described; I will not repeat them—to look at the circumstances in which section 8 will be appropriate to use. I do not take the view that that means that other options are not possible. To some extent, that will undoubtedly be influenced by the deliberations of this committee and, in particular, by the view that our cabinet secretary takes on the report and whatever response she makes.

Mark Ruskell: Are those other options influenced by your available budget and capacity as an organisation? You mention in the report that the implementation of section 7s costs £250,000 a year. What happens when you reach that figure—is that the end of that budget or do you vire in money from elsewhere?

Ian Ross: You will be aware that we have made a significant commitment to our work with deer; between 10 and 12 full-time people are committed to it and a range of other members of staff are involved. The latest figure that I have is that our investment in the work that we do on deer—I am thinking particularly of the pay bill—is in excess of £1 million. We provide a range of support for counts and other areas. It is a significant investment and commitment.

With regard to the point that you raise, there are significant resource implications that go with use of section 7s and which apply if we use section 8s. I am aware of one case that we are involved in at present and it is very demanding. We are managing our labour resource, in particular, to deliver that, but if a number of such activities were on-going, that would have resource implications across our budget as a whole.

Mark Ruskell: If your organisation were to start using the powers under the Land Reform (Scotland) Act 2016 to enforce community involvement and ensure that there are deer management plans in areas where currently there are none, and to increase fines around section 8s, would you have the budget and capacity to deliver that?

Ian Ross: It is important to get the message out that we would apply those powers but would use them as appropriate. If we had a number of situations in which we had to do that—based on assessment of the most appropriate action—it could impose some challenges on our budget. I cannot quantify that because it is an unknown at the present time. The message is that there are resource implications that go with the use of those powers, as there are with a range of activities that we are involved with.

We have responsibilities that we take forward, whether to do with the marine environment or the land environment; as we take forward certain areas of work, resources go with that. We manage those resources, make an assessment and deploy them as appropriate. I agree—there are significant demands that go with that.

Eileen Stuart: Can I—

The Convener: I would like to come in on the budget—I am sorry to do that again, Eileen.

In the letter from the chairman of the ADMG to the members, it is claimed that the ADMG has had to step in to provide funding for the revival and updating of wild deer best practice and to roll out the SWARD data processing model, both of which are necessary tools for future progress and which are now casualties of cuts to SNH's budgets. Is that accurate?

Ian Ross: I will make a general comment and Eileen Stuart might come in on the specifics. I emphasise that, as far as our commitment to deer is concerned, the number of full-time posts is about 12 at the moment; in the past, it had gone down as far as seven and six posts. We have increased the number of people who are involved.

With regard to the amount of money that we have invested, particularly through the pay bill, in 2012 it was about £0.9 million and in 2016 it is £1.13 million. I cannot discuss the detail of the issue that you have raised, because I do not have that information; Eileen might be able to. There is a very significant commitment of people and resource to support deer activity and there is a range of other specifics that I could discuss to do with our involvement in counts and support for deer management plans that also requires an investment of cash.

Eileen Stuart: I will come back to the specifics of wild deer best practice and SWARD in a second, but on the more general points about the feedback from ADMG and whether we have funding or not, the review has really helped to identify where we need to focus our efforts. Page 76 of the report looks at the DMG plans. There is a wide variation in how the DMGs have approached the task of the DMG assessment and their level of engagement and commitment to action. We hope

to work with ADMG and the DMGs so that the good practice, which can clearly be demonstrated, can be used as models to encourage the rest of the DMGs to get up to that standard.

One of the things that is important is that there has been a huge amount of effort in the way that DMGs are run and the governance arrangements, the attendance, the whole management of the process, the mapping and the planning. We need to make sure that that translates into action and implementation on the ground.

This is a process, and what we have done is take a snapshot in time. Work is on-going and we now want to sit down and discuss with DMGs and ADMG how we can support the roll-out process and make sure that it is maintained. That is part of the reason why we have made the comment about how confident we can be. It is work in progress, and we are not sure to what extent it can and will be sustained without continuing with the same levels of investment that have been in place for the past couple of years.

It is important to emphasise that it is not just SNH that is involved—a range of other players can and do engage and will support the process. We have also touched on the Forestry Commission, and it is a major player.

I come back to the more specific points about a couple of projects that have been under way for some time. The wild deer best practice was well received, is fairly established and has been transported to a number of different countries. It is a programme of practice and a manual that the Deer Commission started and SNH took forward in partnership with the industry to develop guides and roll them out. Several years ago, we started discussing with the industry the fact that the programme was established. The process for developing the guides was quite comprehensive, so rather than SNH funding and maintaining it, it made sense for it to be industry led, or for the industry to take a stronger role. Those discussions have been under way for some time but we certainly do not intend to stop our involvement or input.

Discussions with the deer initiative are quite well advanced. Again, that is a partnership between the Government and the deer sector in England, which are going to help us to develop and take forward deer practice guides. We and ADMG hope that we can get more private investment in that so that it becomes an industry-led model. It would be great if that could be done; it is quite promising.

SWARD was a project on rolling out habitat impact assessment tools for the industry and we are working with the industry to support that. We hope to maintain our input and investment, but we would like it to be a joint endeavour. Those areas

of work are in transition and we are certainly not going to stop supporting them. We would like them to be developed in partnership going forward, with the industry playing a key role.

The Convener: To be clear, between your contribution and that of Ian Ross, my reading is that, one way or another, you are still putting a great deal of money into deer management. Do we conclude from what you are saying that budget pressures are not impacting on your ability to invest as you need to in deer management?

Ian Ross: We are saying that we are fulfilling that commitment, but there could be additional pressures in the future. We would seek to manage those, but it could be very challenging.

Claudia Beamish: I want to return to a comment that Eileen Stuart made about your hoping for private investment. Can you say a bit more about that? Vast tracts of Scotland are owned by private landowners. Some of them have serious problems, although some deer management groups are working very well, as we understand from the deer management review. There is also a more complex picture of fragmentation of ownership in some of the lowlands but certainly not in some of South Scotland, which I represent, where there are large landowners. You say that you hope for private investment. What do you mean by that? What expectation does SNH have that landowners will contribute? I appreciate that the letter from the ADMG highlights that there have been contributions.

Eileen Stuart: That kind of thing is better facilitated by the ADMG because it has the links and networks and because it works with all the estates who are members of the organisation. We have not worked out the detail of funding packages, but it is encouraging that they are all leveraging in private investment. We hope that we can continue and find models. Up to this point, we have not been able to get that package of funding together, but the committee's continued interest and focus will, I am sure, give more impetus to some of that private investment coming forward.

11:00

Claudia Beamish: Would it be useful for SNH to create a publicly accessible register of deer management plans, so that the public and deer management groups could see good practice or, indeed, poor practice?

Eileen Stuart: I am not sure that that would be necessary. One of the most significant improvements is the availability of information and the deer management plans being made publicly available. The ADMG is aiming for all those to be in a central place, so that they are easily

accessible and can be viewed, compared and so on. There may be no necessity to step in if the industry leads—

Claudia Beamish: Sorry—can I interrupt you? How are they publicly available? If I wanted to find out what was happening in an area, how would I go about that?

Eileen Stuart: The work is in development, but the intention is to have a portal that can be accessed through the ADMG website, through which people will be able to access all the deer management plans.

Claudia Beamish: If somebody wanted to access information about a deer management group that they wanted to become involved in—whether they were from a non-governmental organisation, a member of a community group that wanted to have representation or, indeed, a smaller landowner who was not represented—how would they access the information and the minutes? How would they go about finding out how they could get involved?

Eileen Stuart: The information is not uniform across the piece, and DMGs make things available in different ways. It will be an on-going piece of work to make sure that there is a central point or that people are aware of how they can get the information, input and engage.

The Convener: We will explore that area in two weeks' time, when the deer management groups are in front of the committee.

David Stewart (Highlands and Islands) (Lab): The SNH report looks at three approaches to protecting woodland. In simple terms, those are culling, limited culling and fencing, all of which require considerable investment from public funds. What cost-benefit analysis do you use at a senior level to work out the best use of fencing, limited culling and more broad-scale culling? Those are all very expensive approaches. I put that question to Ian Ross.

Ian Ross: For the detail, I am inclined to turn to my colleagues, who have greater familiarity with the issues. Claudia Rowse will kick off.

Claudia Rowse: On the socioeconomics, you will see that it has been flagged up that there is no robust information on the financial impact of deer grazing in commercial forestry or in native woodlands. That is a gap in the knowledge. We have discussed with colleagues in the Forestry Commission and Forest Enterprise Scotland what their assessment and analysis is, but they can provide nothing at the moment that is sufficiently robust for us to report on.

There would currently be no way of carrying out the cost-benefit analysis that you suggest. The only figures that we have are the costs of fencing,

and I think that we report an annual fencing cost of about £4.8 million. However, we have assumed in our thinking—this is not in the report—that the cost of damage to forestry must be more than that, otherwise foresters would not be seeking to fence off the forests. There is no other way of working that out.

David Stewart: My point is that any large organisation, be it Marks and Spencer or any other private sector organisation, would look at a very in-depth cost-benefit analysis before going ahead with key decisions. Why should that not apply to SNH and public bodies?

Ian Ross: I see the purpose of the question. There is a real issue here, given the value of and the investment in fencing, in particular. Clearly, a policy decision would need to be made about that. I was not familiar with the figure, but if it is about £4.8 million a year and that is multiplied over a 10 or 20-year period, we are talking about a very significant figure. I do not have a breakdown of how much of that money is grant supported, but I suspect that a significant amount of the funding will come through the Scotland rural development programme or the Forestry Commission.

There is clearly a policy decision to be made on that, and any policy decision that was made about future support for deer fencing would have a number of implications for deer management, which would be impacted by that decision.

David Stewart: You will be aware, from page 42 of the report, that the age of fencing is crucial and that, given that 3,000km of fencing was built before 2000, there is an issue in the deterioration of fencing that covers a huge distance. The big question is, why should the public purse continue to fund its replacement?

Ian Ross: That is not an easy question for me to answer. We have reflected that issue as much as possible, particularly in relation to the wider economic impacts, so that it can be considered. You are correct in saying that it has a significant impact. We can do the fairly straightforward arithmetic to see how that looks.

Eileen Stuart: I think Mark Ruskell asked what kind of population density we might be looking at and made reference to a density of 4 to 5 deer per km².

Alexander Burnett: It was me.

Eileen Stuart: Sorry.

That is the sort of deer density to look for if you want to establish trees without fencing. Inevitably, in some places, fencing has been the only short-term means of establishing trees and getting them to grow. Fencing allows landowners to have two different management objectives for neighbouring land and to reconcile them. Because there is a

fence, different deer densities can be maintained, woodland regeneration can be supported and there can be on-going sporting activities. Fencing has been the practical and pragmatic solution.

Nevertheless, you are correct in saying that there has not been a very considered approach to the cost-benefit analysis. Maybe there needs to be more focus on that in the future.

David Stewart: I was interested in key finding 7, in chapter 5, which we are discussing now. It states:

“Evidence gathered to date suggests that management of deer in Scotland results in a net monetary loss for both the private and public sectors.”

Would you like to say more about that?

Claudia Rowse: Yes. We reached that conclusion on the basis of the evidence in front of us. As you know, we did not carry out any new analysis of socioeconomic data, because that was not what was requested of us. We relied on two well-known reports that were published by Public and Corporate Economic Consultants—PACEC—and Putnam. There are a lot of gaps in the data on both costs and benefits. With regard to our analysis, we have also said, in line with other commentators, that it would not necessarily make sense to quantify some of those benefits in economic terms. We know that 66 per cent of Scottish people associate red deer with Scotland, as an iconic species. You cannot put a value on that or on the social and cultural benefits that deer provide in many ways, so we advise against carrying out any net socioeconomic impact analysis.

Regarding the key finding to which you referred, although we came to that conclusion on the basis of the information that was available, we also say that there are many gaps in that information and that we would caution against summarising a direct economic trade-off.

David Stewart: You have touched on my next question, but I will ask it anyway. I appreciate that it is not an easy question to answer, but what do you estimate is the net annual cost of deer management to the public purse in Scotland?

Claudia Rowse: We have not added the figures up, although we could do that. We have provided what we think are the annual estimates, but, as you will see from the table on page 46, there are many areas in which the costs are unknown. We decided not to summarise those, given the uncertainties. The figures have some caveats in them, as you will see as you go into them. We have provided the figures that we have confidence in.

David Stewart: You say that there is also an unquantifiable benefit for tourism in Scotland, so it is very difficult to summarise the position.

What is your management approach to dealing with non-compliant groups and landowners who do not participate in sustainable deer management? Do you need more carrot, more stick or both?

Ian Ross: To some extent, we have dealt with and are dealing with a situation in which that question could arise. We would be prepared to proceed with a section 8 control scheme if a group did not deliver its deer plan, but we are not in that position yet. Our hope would always be that we would take a reasonable position and set clear targets—whether cull targets or the delivery and implementation of a deer management plan—and clear timeframes. If those targets were not achieved, we would take the necessary step of applying a section 8 control scheme. As a board, we have discussed the point in principle and in practice, and we have taken the view that we would support that step.

David Stewart: If the voluntary approach was shown not to be working for non-compliant groups, you would consider more severe action to ensure that action was taken.

Ian Ross: Yes. As a board, we have discussed that point and agreed an approach. In fact, at a meeting in the middle of this year, we looked at a particular case in which a potential outcome could have been a board decision to apply a section 8 control scheme. We decided, on the basis of the evidence in front of us and an assessment of the position—there had been a slight but significant change in the collective approach—that it was reasonable to allow the group to proceed and to demonstrate that it could achieve the cull targets and implement the deer management plan. However, we imposed a clear timeline. The timeline was a review in November—we discussed that last week in a board meeting—and a final statement on whether the action was progressing as we would wish, which will be made in March next year. Depending on the position at that time, there may—I emphasise the word “may”—be a decision to apply section 8. We want things to progress on the basis of collaboration and the voluntary approach, but the group needs to demonstrate that it can deliver.

The Convener: I will tease out some of the section 8 stuff in a second.

Claudia Beamish: I have looked at your main findings on socioeconomic benefits. Have you done any work on, or are you working in collaboration with anyone else on, the sale of venison? You highlight the issue in your report, and it came up in the RACCE Committee. There

are strong opportunities to develop that business in rural Scotland.

Claudia Rowe: I will start to answer that question, and Eileen Stuart might have further information to give. You are right. As we have reiterated and emphasised, the report contains the evidence that is available to date. Therefore, we have not mentioned other works that we are involved in or where we think there might be opportunities to develop the benefits of, and optimise further benefits from, the deer industry. Certainly, the sale of venison is one such opportunity. We are involved with the Scottish venison partnership and provide the secretariat for that group, which seeks to promote the venison supply chain and improve people's skills—for example, how they might cook venison for catering—as well as the skills of butchers in promoting the use of venison by, and in selling it to, the general public. We also run a number of skills workshops to improve people's skills.

Angus MacDonald (Falkirk East) (SNP): You have mentioned section 8s a number of times, including the application of one that we were told was imminent some two to three years ago but which has still not been put in place. You have said that you continue to explore the matter and may implement a section 8 control scheme in March next year. Given the assurances made to the session 4 Rural Affairs, Climate Change and Environment Committee, why has the promised section 8 not been implemented? Why have you been so reluctant to enforce a section 8 to date, particularly in Ardvair, which, as we know, has received significant press and social media coverage in recent years? Would it not help to concentrate minds if at least one were to be served?

11:15

Ian Ross: It is fair to say that the initial process was overly prolonged. That was the view that our board formed about 18 months ago. I do not have the exact time but we had a discussion about this and we felt that there was a need for clarity about what was expected and the timeline that would apply.

It is also important to recognise that there are steps to go through in terms of—

Angus MacDonald: I am sorry to interrupt, but those steps were taken over a considerable period of time when we started looking at the issue two to three years ago.

Ian Ross: My recollection is that when we looked at the process and the steps, we felt that there were some points at which there could be a challenge and we had to make sure that we had applied those steps properly.

I emphasise what I said earlier. The board felt that the process had been overly prolonged and there had to be absolute clarity about what was expected. That was the change that took place in the approach that was adopted and the clear message that went to the deer management group that was responsible for that area. That is where we are now.

We had a board meeting in June and, at that stage, there could have been a decision to apply a section 8. There was one change: all the owners came back to us collectively and said that they had formed an agreement to work together. That had not been the case before; some owners were not necessarily part of that collaboration. We assessed the position and decided to take a reasonable approach and allow them to demonstrate that they could deliver against some clear targets and a clear timeline, so we decided not to proceed to a section 8 in June.

We also agreed that we would review the position in November and, if we felt that progress was not being made, we reserved the right to apply regulation. We had an update on Thursday last week. The primary things that we were looking at were reports on the stag cull, which was in line with expectations across the peninsula as a whole. The key report will come in around about March next year, which is when we will take a final position and look at a range of factors such as other culls and the work to take forward the deer management plan. A significant review will be done in March next year and a decision will be made. I do not know what that decision will be; we will wait until we have the information in front of us.

The application of section 8 is a possibility, but we clearly hope that Ardvair will demonstrate that it can deliver without the need to apply section 8. That is not because we are trying to avoid a section 8 control scheme for its own sake, but we believe that if you take a collaborative approach and people are delivering by working together, that is probably the best position.

The Convener: In 2015, the phrase that was used to the RACCE committee was “risk appetite”. The issue was that you were required to demonstrate clearly that the damage was caused by deer and not by other herbivores. You have touched upon that as a key factor.

To be absolutely clear, do you feel restricted in any way in using section 8 for fear that it would be subject to a legal challenge? Are the powers that you have at your disposal sufficiently robust and are you confident in them?

Ian Ross: We would be prepared to apply section 8. We would do an assessment and make a decision to apply it. That decision might very well

be subject to a legal challenge, but that would not stop us. I will give you an example that is not directly concerned with deer. We have taken a position on general licensing, and we have made decisions to remove general licences. In some cases, those decisions are now the subject of judicial review. We examine the case, we make a decision and talk to key colleagues, but that example demonstrates our commitment to apply the tools that we have in our toolbox.

Angus MacDonald: With regard to the timeline that you mentioned, are you in a position to share with the committee whether the DMG in question followed up on its commitment to work together?

Ian Ross: Yes; we were reassured by the report that the DMG worked together to produce the necessary stag cull. The report is in the public domain and members can see it. Some issues are outstanding and need to be resolved before March next year and we are working with the group to do that. There are still some challenges and I cannot say now exactly where we will be in March. What I can say is that, if we are not satisfied that the agreement can be delivered, we will prepare to make use of appropriate regulation.

Angus MacDonald: Okay. Do you require more resources to implement a section 8 control scheme?

Ian Ross: That question relates to the point I made earlier. We recognise that the application of section 7 agreements and section 8 control schemes—particularly in some of the complex cases such as Ardvar—are very resource-demanding. If we had a number of such cases, I agree that that would apply significant demand on available resource. We would only move to that decision where we felt from the situation, the evidence and the analysis that it was the appropriate action. I agree that it could be demanding on resources.

The Convener: I will touch on section 7 powers, Mr Ross. When the Deer Commission was subsumed into SNH in 2010, am I right that there were nine section 7 agreements in place and one about to be signed? That suggests that only one has been introduced since 2010. Has there not been a need for further section 7s in that time?

Eileen Stuart: The short answer to the convener's question is no. All the section 7s to date were established where there was impact on and damage to protected areas. That information has been known for some time, because our site condition monitoring information allowed us to identify the hotspots and take action some time ago. Those areas to date have been identified; if more emerge and things change, we would obviously consider introducing new section 7s.

The Convener: That is what I am trying to get at. Has nothing new emerged?

Eileen Stuart: We have not identified something and then held back; we feel that we have the problem covered.

The Convener: Okay, thank you. Let us move on to another topic, with Kate Forbes.

Kate Forbes: The deer management review report has extensive analysis. I am keen to get some hard numbers about the DMGs that the witnesses believe have met the criteria. In the report, it states that there is "variation" among the DMGs and that most of them

"performed well against most public interest and benchmark categories".

I ask the witnesses to pin down how many are meeting the criteria.

Claudia Rowse: I will pick that point up. One of the challenges in carrying out the work is that no clear threshold was set for how to determine what would signify a step change. Eileen Stuart drew your attention to the table on page 76 of the report. We have not concluded what would represent an overall pass or fail rate. There is not a simple answer to Kate Forbes's question, but there is very clear analysis of the precise assessment over the 101 criteria. The results are red, amber or green, and we have drawn our conclusions from those. We have highlighted—and the SNH chairman Ian Ross has mentioned—some of the areas where there has been specific progress and we do not want to lose sight of where that progress has been made.

With regard to sticking to the terms of the commission that was set up, and to try to make sense of the amount of data in front of us, we have specifically looked at a core number of the natural heritage categories; for each of those, the DMGs score a lower proportion of green scorings than for all the other categories. There is further data on the criteria level, because the categories are summaries of criteria. That information informed our judgement and conclusion about the lack of progress on the natural heritage.

Kate Forbes: Let us try to pin that down even further; what percentage of DMGs is SNH satisfied with?

Claudia Rowse: We have not drawn that conclusion; what we have done is to provide the evidence. The debate and discussion is for you, here at the committee. We have provided the evidence; we particularly pulled out the natural heritage scores, but we looked at 101 criteria. We also concluded and we flagged up that the variation within DMGs is important. Some landowners are scoring green on everything and are carrying the green rating of the whole DMG. It

is complex, but we were not asked to set a pass or fail rate.

The Convener: Let us come at the issue from a slightly different direction. When we set out on this journey in 2014, would you have expected to be where we are today, or better, or worse? What progress has been made in what you would have expected in a general sense when we set out on this journey?

Eileen Stuart: It is easy with hindsight to question whether we would have established that assessment, and Claudia Rowse has referenced some of the complexity. Now that we have the information, we should look at which criteria are most important and where we would like to see most progress made. That is the sort of thing to discuss. We must set thresholds so that we can identify the good performers and say to the poorer performers what areas they need to improve and what the thresholds are. We can work on that.

Is progress in general as we anticipated? What we have seen—which has been very encouraging—is how well the DMGs have responded to the benchmark, which is about their ways of working and how they share information with the public and engage wider stakeholders. There has generally been good and solid progress on that and there is a good foundation to build on.

Now that they have the information on habitat impacts and targets, what we need next is for all the DMGs to identify actions; areas connected to some of the natural heritage indicators have yet to have actions identified. That is where we would expect most focus and where we would perhaps have expected more to be done on such targets as woodland expansion and improvement in woodland condition. SNH has supplied information and advice on areas that can be improved and the types of action that we would like to be built into plans. Some DMGs have done that but others have not; that is the area where we would have expected more progress because identifying actions is a key step in ensuring management action on the ground.

The Convener: In essence, the foundations have been laid by the vast majority of DMGs, but building on those is the issue.

Eileen Stuart: Yes. It is a process; we need to have the foundations, then the plans and then identify the actions. We hope that that process will lead to implementation and change on the ground. We are several steps along that line but we are not quite at the level that we would have hoped to be.

Ian Ross: For the record, we are giving detailed feedback to each individual DMG. People who look at the graph as it stands in the deer management review report do not necessarily

know the detail that sits behind it, but the particular DMG knows. For instance, there are probably a small number of DMGs in the graph that have been created in the recent past, so they are at an early stage. Part of the work that we have been doing of late, with the ADMG, has been to encourage new DMGs, such as one that has just been created in the Uists, which is at a very early stage in the process.

The Convener: That does not reflect particularly well on that process; they knew that there was a review coming in late 2016, early 2017. One would have expected greater progress to be made if they were serious about addressing those issues.

Ian Ross: In the particular situation with the Uists, I would not apply that criticism. In taking a collaborative approach, there has been recent encouragement that needed to be applied to particular situations there. What the Uists DMG needs is for us to offer it encouragement. That allows steps to be taken to address a number of concerns that we have highlighted plus others—a concern about Lyme disease is particularly prominent there. If you looked at the graph for the Uists DMG, it would be predominantly red, I suspect.

11:30

Maurice Golden: When I look at things in the round, the evaluation chapter in the report seems to highlight that there has been a lot of boardroom discussion and planning but a lack of implementation. Does SNH have, first, sufficient budget, and secondly, sufficient powers to ensure that there is quick progress, particularly in relation to the challenges that are set out in “Scotland’s Biodiversity—a route map to 2020”?

Ian Ross: The biodiversity route map timeframe is one of the measures that we applied, and we say in the report that we do not think that the delivery of aspects of the natural heritage that are affected by deer will be achieved in that timeframe. That is part of the judgment call that led us to say that the step change has not been achieved.

I am reluctant to say something that could be considered to be a recommendation. We have a number of tools, as I said. Some are very new and have yet to be applied. Some have been there for some time and we are applying them, where appropriate.

There is great merit in the voluntary approach, but we need to accelerate activity on natural heritage and make use of the existing tools. We would value the comments of this committee and others about what other measures might be appropriate.

Finlay Carson (Galloway and West Dumfries)

(Con): You gave an indication of how you engage with DMGs that are performing poorly. Is any sanction available to SNH? Is such a tool needed, if there is to be improvement?

Ian Ross: Some of my colleagues might know more about that than I do. I have mentioned provisions in the Land Reform (Scotland) Act 2016 and, of course, sections in the Deer (Scotland) Act 1996, and we have said that we will apply those provisions as appropriate. There is no doubt that we will use the tools that are available to us. I do not want anyone to get the message that we would not use those tools. We would do so, based on an objective assessment and the evidence.

Claudia Rowse: Incentives also have a role in relation to DMGs' ability to deliver what needs to be delivered. As members can see from the review, we have not carried out a full analysis of how incentives are taken up, how effective they are, and how much funding is being delivered for deer managers through SRDP and whether it is at the right level. The role of incentives will be important in ensuring that DMGs make progress.

Mark Ruskell: Any organisation that fears that its decisions could be subject to judicial review will spend time considering its options and its approach. I understand why one case came back repeatedly to your board for discussion. Can you tell us, without going into specifics, how you can strengthen your backbone in relation to your response to potential judicial review?

An interested party who wants to overturn a decision, has deep enough pockets and knows that SNH is risk averse, will just push the button, employ lawyers and go ahead with a judicial review. Could something be done in relation to data, or might some legal change be required, to enable you to make your enforcement decisions more robust, where appropriate, and more able to withstand a legal challenge? Is there a weakness in the system?

I know that that is a difficult question for you to answer. What might be the terms of a theoretical judicial review? Would it be about data or something else, in relation to which you do not have a robust basis for defending your decision?

Ian Ross: I am not a lawyer and I cannot comment on the legal aspects of judicial review. However, I can say that when we were discussing the section 8 that I mentioned earlier, the board expressed frustration that we were taking too long to move the process forward. The board made it clear that it supported the application of section 8 where the evidence indicated that that was the appropriate course to take. I cannot recall whether we talked about judicial review, but I can say that it

was not a factor that influenced the board's decision.

I refer to the general licensing example that I gave: we have used the powers and removed general licences. The process is subject to judicial review, but at no stage did we say that we could not do it because we did not want to get involved in a judicial review. Those are the powers and duties that we have; we use them based on objective assessment.

Mark Ruskell: It is costly, though.

Ian Ross: It can be. As someone who has been involved in other organisations that have been subject to inquiries and judicial review, I think that one has to do the right thing.

The Convener: You have said on a number of occasions today that Scottish Natural Heritage deliberately did not make recommendations about the way forward: that was not in your remit. The final page of the report states:

"the review indicates that longer-term improvements may not be forthcoming without additional measures to enhance sustainable deer management in Scotland."

Presumably, that goes beyond the powers that have been granted to SNH in the Land Reform (Scotland) Act 2016.

What do you have in mind with that statement?

Ian Ross: My interpretation of that statement is that "additional measures" include the more effective application of some of the new tools or the use of tools that we have not yet applied. It could also refer to areas that are not covered by a collaborative approach at the moment. I would not directly interpret that quotation as being about new regulatory mechanisms.

Eileen Stuart: It very definitely was not intended to be shorthand for regulation. It was to illustrate that there is a whole range of different things that could be done, which includes many of the things that we have touched on about information gaps and incentives.

Change in any kind of land management generally requires a package of measures that are all aligned, including clearer policies about what the priorities are. There are areas with conflicting objectives, and it can be a challenge to know what the Government priorities are.

There is a range of different things, such as guidance and support, that that term encompasses. We certainly think that there is more that can be done, but we have not explored that in detail.

The Convener: We need to wrap up this discussion. Before we do, can I ask that the committee be given sight of the pieces of research

that have been referred to today? That would be useful. Would it be possible for the committee to have that information before our meeting on 6 December, when we will have the stakeholders in front of us?

Ian Ross: We could certainly make available any information that we have. As the committee knows, there are one or two pieces of work that will not be concluded until the new year.

The Convener: We would appreciate that, thank you. I thank the witnesses for their attendance. I will suspend the meeting briefly to allow for a change of witnesses.

11:37

Meeting suspended.

11:41

On resuming—

Subordinate Legislation

Crown Estate Scotland (Interim Management) Order 2017 [Draft]

The Convener: The third item on the agenda is an evidence-taking session on the draft Crown Estate Scotland (Interim Management) Order 2017.

I welcome the panel of witnesses, Humza Yousaf, the Minister for Transport and the Islands—I particularly welcome him as it is his first appearance before the committee—and his officials David Mallon and Douglas Kerr. I ask the minister to speak to the instrument.

The Minister for Transport and the Islands (Humza Yousaf): Good morning, Convener. Thank you for the opportunity to speak to the draft order that has been laid to establish an interim body—Crown Estate Scotland (Interim Management)—to manage Crown Estate assets in Scotland.

On 21 October, the Cabinet Secretary for the Environment, Climate Change and Land Reform wrote to the committee to set out the actions that she was taking to prepare for Scotland taking early control of the management and revenues of the Crown Estate assets. We are taking that step at the earliest opportunity, to ensure that the early transfer of those assets can be completed.

The Scotland Act 2016 provides for establishing a body by order in council for the purposes of receiving the functions that are covered by the United Kingdom Government's transfer scheme. The draft order will establish a new body to manage Crown Estate assets in Scotland on an interim basis. That needs to happen to ensure that we can progress a smooth transfer as quickly as possible and until the Parliament has legislated on the long-term framework.

Marine Scotland received support for the single-entity approach that was outlined in the recent consultation on proposals for establishing an interim body post-devolution. The draft order that we are discussing today was finalised as a result of that consultation. Other specific issues arising from the recent consultation will be considered as part of the forthcoming consultation on what the longer-term arrangements will be.

The devolution that is provided for in the Scotland Act 2016 requires the transfer to either the Scottish ministers or a person nominated by them, meaning a single transferee. It is our intention for Crown Estate Scotland (Interim

Management) to be the body that is nominated to receive the transfer.

It is proposed that the body will take up its full powers in April 2017, obviously subject to the UK Government completing the transfer through the statutory transfer scheme, and the Parliament approving the draft order in council.

Crown Estate Scotland (Interim Management), as established by this order, will be a body corporate, separate from the Scottish ministers. To ensure that the body has a fully functioning board, there will be a chairing member and up to eight other members, appointed by the Scottish ministers. The order provides that members will need to have relevant skills, experience and expertise. The intention is for the chair to be in place to assist in the appointment process for the chief executive and other board members prior to the body taking on its functions next April.

The body will be required to operate in a transparent and accountable way, which is consistent with the principle of good governance. The body will have the usual reporting arrangements for a public body and an annual report will be laid before Parliament.

Establishing the interim body is only the beginning of the transfer journey. We plan to initiate a consultation in December on the options for the long-term management of the Crown Estate assets.

I am happy to take any questions that the committee may have on the draft order.

11:45

The Convener: Thank you, minister. I will begin the questions. How will the interim body work? Is it a holding operation or do you envisage it operating in a way that is recognisably distinct from how the Crown Estate has operated up to now?

Humza Yousaf: We might describe it as a landing platform—it needs to be in place for the transfer of powers. Let me talk about long-term arrangements, which will reflect the consultation in their ethos, principles and structure. We want the interim body to be right from the beginning in that we want to ensure that the principles and good governance arrangements are all correct so that they can inform the long-term arrangements.

The long-term arrangements will not be in place overnight and there is a process to go through—not just the consultation, but a legislative process as well. Therefore, although the body that we are discussing today is an interim body, it is important that we get it right.

The Convener: Surely there is a balance to be struck between, on the one hand, enabling the

new chair and board to take decisions that need to be taken, rather than postponing them, and, on the other hand, ensuring that the successor organisation is not committed to courses of action that it might not want to take forward. How will you strike that balance in practice?

Humza Yousaf: The direction to the board is that it should start as we mean to go on. Although it will be an interim body, what it does in the interim could well shape how people perceive the devolution of the Crown Estate assets. In the interests of those who benefit or draw their livelihood from the Crown estate—residents and tenants—it will be important for the body to start as we mean to go on.

We will be looking for a mix of relevant expertise and experience when it comes to the board, bearing in mind that we are going through a transitional period.

The Convener: I presume that producing a corporate plan for the interim body will be uppermost on the board's to do list. Do you have any timeframe in mind for the delivery of that?

Humza Yousaf: Again, that will be a matter for the board. From the consultation, we have a lot of information about what people want to see. In terms of principles, continuity of business will be right up there, but the consultation also revealed a strong desire for the opportunity for community input to decision making. There are also human resource implications to be resolved in relation to staff transfers.

All of those issues will need to be discussed as soon as possible. That is why the appointment of a chairperson before April 2017 is so important, with the appointment of a board thereafter. There is a body of work to be done and there should not be any delay in doing it. Although we are working on an interim basis, the way in which the body starts is incredibly important for the future and long-term management of the Crown estate.

Mark Ruskell: You have highlighted the important role of communities. Can you flesh out the detail of how the new body will work with communities? In what practical ways can communities input to the workings of the body?

Humza Yousaf: That is a very good question. Over the summer months, I had the pleasure of travelling around a lot of island communities in all six of our local authority areas that have islands, and the issue of responsibility for island communities and the Crown Estate came up on many an occasion. There was a feeling that there is a disconnect between communities. That is important because we can talk about the transfer of the estate to local authorities—that was in black and white as part of the Smith commission—but we have to ensure that communities also have

access and input with regard to how the Crown estate can work for them.

There are a couple of practical things. The consultation gave a very strong steer that communities and community organisations want to be involved. We would expect the board and the chief executive to be cognisant of that—I am sure that they will be, but I will not be shy of reminding them.

The appointment of the board also provides opportunities for community interests to be directly represented. We encourage the new board to go out. It should not be stuck in its base in Edinburgh, where it might be located; it should go out to communities and have that ethos.

On what other mechanisms might be in place to enable communities to regularly input, I do not want to prejudge what the board and the chief executive want to do but, it is fair to say that, from my perspective and, perhaps importantly, from the cabinet secretary's perspective, community input on the Crown estate, even on an interim basis, has to be there from the very beginning.

Mark Ruskell: Does that point about a strong community ethos relate to the skills and expertise that you are looking for the board members to have?

Humza Yousaf: Most certainly.

Mark Ruskell: You have said that the maximum size of the board is eight, but do you know what the figure will actually be?

Humza Yousaf: The maximum number is nine—a chair plus eight others. The Scottish Government has made the point that the chair plus one other would be the minimum number of members. I would not like to be prescriptive about the ideal number. The first step involves getting the chair and the chief executive appointed, plus one other member, and then it will be for them to ensure that there is relevant expertise and that community interests are represented. That should be part of the discussion.

Claudia Beamish: In the previous session, as part of the Rural Affairs, Climate Change and Environment Committee's regular engagement around the Crown Estate's annual report, I and others raised the issue of the mission statement and the remit. That fits in with the production of the corporate plan, which the convener asked about. Given the points that you have made in answer to Mark Ruskell's questions, will there be an opportunity for a change to the mission statement? How would that happen? Do you see any problems with that being done early by the interim body, or should it be a longer-term thing?

Humza Yousaf: That is a good point. The immediate priority for the chair, the board and the

chief executive will be continuity of business. That will be incredibly important but, as you say, it has to be informed by a corporate plan, a mission statement and all the other relevant documents. I do not see any issues with the mission statement being discussed by an interim chair, body and board, but it is important to say that it is an interim body and that what happens in the long term must be informed by consultation with the public. We must hear from the public what they want with regard to the mission statement, ethos, principles, structure and governance of a long-term body. I am happy for my officials to put some meat on those bones, but I do not see a particular conflict for an interim body in doing that. It is important that, for the long term, the community and the public have a say on what the ethos should be.

David Mallon (Scottish Government): The duties that govern how the assets are used, which are set out in the Crown Estate Act 1961, will of course remain, but there is an opportunity to change how things are done—it is about how people go about their duties rather than what those duties are. As the minister said, it is about reaching out to communities, including island and remote communities, so that the decisions can still be made in the interim under the existing legislation, with a better understanding of the priorities of and implications for local areas. There are opportunities in the long term beyond that.

Claudia Beamish: I will just push you on that. In your understanding, there is nothing in the 1961 act that prevents the mission statement from developing a complementary social aspect or the remit from being developed in that way. There would not be a conflict.

David Mallon: No—I do not see anything conflicting with that, given that the 1961 act includes provisions on good management, as well as best consideration.

Angus MacDonald: Good morning, minister. You mentioned that the interim body will take on its asset management role on 1 April and you mentioned the consultation on long-term arrangements for the management of the Crown estate. How long do you expect the interim body to be in place for?

Humza Yousaf: That is a tricky one. We do not want to be definitive on a timescale, for the obvious reason that the consultation on the long-term arrangements might well lead to further Scottish legislation, which must go through a process, as all legislation must. We might need to incorporate other, non-legislative measures for the long-term management of the Crown estate. That will be informed by the views of the public and stakeholders who input into the consultation.

We see a timescale of two to three years for the interim arrangements; we would not be more definitive than that. However, there certainly will not be any dragging of heels. I think that the consultation on the long-term arrangements will be launched next month—I should be corrected if I am wrong. We will not wait long to look at the long-term arrangements.

Angus MacDonald: That is good to hear. In the consultation document, the Government indicates that the interim body may be

“retained on a more long-term basis for certain specified functions.”

What do you have in mind when you speak about “certain specified functions”?

Humza Yousaf: That goes back to my earlier remarks. It is important to get the interim body right because, if we have good practices, procedures and governance, there is no reason why they cannot be replicated nationally and in the long term in the permanent body. It will be for the board, the chair and the chief executive to advise whoever is in charge of the long-term arrangements on what worked well, what lessons have been learned and what they would not recommend doing. That will inform the long-term arrangements. It is premature for me to suggest what they would be, but it certainly should not be the case that the long-term body is not informed by the interim body’s experience.

David Stewart: Good morning, minister, Mr Kerr and Mr Mallon. I am interested in what the consultation document says about piloting work to be carried out primarily in the three wholly island authority areas: Orkney, Shetland and the Western Isles. Will you say a bit more about that and about how minded you are to look at that model—particularly for the devolution of marine assets to community organisations such as the Harris trusts?

Humza Yousaf: It is worth reiterating that there was a commitment in black and white from the Smith commission about further devolution to island communities, and the three wholly island communities were specifically mentioned. When I travelled to those local authorities, they mentioned Crown Estate pilots, which were also mentioned when I had the first meeting of the ministerial group. I salute the indefatigability of the leader of Western Isles Council, who mentions them at just about every opportunity. He is, of course, right to do that.

I have said to those local authorities on each occasion that we are open minded about the idea of a pilot. There are some obstacles—for example, there are potential legislative obstacles. Once the full transfer of powers has been made to an interim body, we will have some issues to discuss,

particularly when we do not have the long-term arrangements in place. Can there be a pilot from the interim body to the long-term body? That is where the discussions are, and they are moving constructively. The local authorities will always want to push us to go more quickly, but the issue is certainly on the agenda whenever we have meetings.

David Stewart: For the record, I share your view on the leader of Western Isles Council. We are meeting in a couple of hours.

I will raise a wider issue. I understand the interaction with the Crown Estate and our islands, our future, which focused on the three wholly island communities. You will know that previous Administrations looked at powers that would help the north mainland of the Highland Council area—I think that that happened in the first session of Parliament. The air discount scheme, for example, did not apply just to the three island authorities; it applied to elements of Argyll and Bute and of Highland. That was very much aid of a social character.

Have you looked at extending the pilots to island communities that are in the Highland Council area and in Argyll and Bute? As you know, they have considerable island communities, such as those on Skye, Rum, Eigg, Muck, Islay and Jura. I appreciate that that goes beyond our islands, our future, but do you accept that there are specific needs in island communities, which Europe appreciates in its various funding packages and the Parliament has reflected in the air discount scheme? Will you look at the pilot model?

12:00

Humza Yousaf: I assure the member that every local authority that has responsibility for island communities—all six of them—has mentioned to me the potential of a pilot. That is why, when I became the Minister for Transport and the Islands, I extended the ministerial working group, which previously involved just the wholly island councils, to ensure that the Highlands and Islands, Argyll and Bute and North Ayrshire were also part of the discussions. It is fair to say that we are looking at the issue. More details have come from the three wholly island councils; there may be other requests and more details from the Highlands and Islands, Argyll and Bute and North Ayrshire, and we will treat them in exactly the same fashion.

David Stewart: I have a couple of further questions. How are the discussions that you have had with the UK Government about funding of the body progressing?

Humza Yousaf: Fair funding and a fair financial framework are essential for devolution of any function or any powers. It is fair to say that the

discussion is on-going. Some staff are to be transferred, as the member is probably aware, and we have to ensure that that is done on the same terms and conditions, within the principle of no detriment. I have not been aware of any major issues. The member will be aware that there are always discussions to and fro, back and forth; they are on-going on the principle of fair funding and no detriment to the Scottish and UK Governments.

David Stewart: All committee members are aware that it is crucial that new bodies are adequately funded so that we avoid—to use a cliché—the strangled at birth syndrome. We have had issues with Police Scotland, the Scottish Fire and Rescue Service and perhaps new set-ups for Highlands and Islands Enterprise, which I am sensitive about, as the minister knows. How important is it to have adequate funding for the interim body straight away, so that we do not start with the problem of deficit financing, which would mean that the new chief executive and board were struggling to run the organisation because, frankly, it was underfunded?

Humza Yousaf: I have spoken to the Cabinet Secretary for Environment, Climate Change and Land Reform, who is committed to ensuring that the body is adequately resourced. All that I can do at this stage is assure the member that that is part of our thinking and part of our discussions. The member is absolutely right—we want the body to be adequately resourced because the transfers of powers are important to us. I give him that assurance and I know that the cabinet secretary is cognisant of the matter.

David Stewart: My final question is on something that the convener is familiar with. With regard to Crown Estate properties, the minister will be aware that the tenant liaison group met Crown Estate officials and was informed that, on the transfer of powers in April 2017, no cash will be transferred. Will he confirm whether that is accurate?

I am concerned about the key issue of how the Crown Estate and the individual estates will be funded to pay salaries and meet day-to-day running costs, other than by having to sell assets. The minister will be aware that we do not want the unintended consequences of the sale of agricultural assets to have a long-term consequence for communities. Would there be issues with loaning funding temporarily to make sure that the estates were adequately funded?

Humza Yousaf: I will defer to my officials on the specific point. I have been familiar with positive discussions with tenants in which we have reassured them that their tenancy agreements will transfer and that there should be no detriment. That is the last thing that we want; we want continuity upon transfer. Continuity is the key

word—I said to the convener at the beginning of the discussion that it is hugely important.

It has been suggested that the Crown Estate should organise workshops for discussions with tenants to agree improvements that will be made and to consider other suggestions, and I am happy to suggest that to the Crown Estate board once it is in place. On the specifics, I will ask David Mallon to provide some detail, if you do not mind.

David Mallon: It is true that, so far, the transfer will not include any share for Scotland of the liquid assets of the Crown Estate commissioners. However, individual lease agreements are set so that some are paid annually and some are paid up front, so there will be a pro rata share for Scotland of the annual lease payments that are due to Scotland. That is how the draft transfer scheme operates, to ensure that the funds for Scotland reach Scotland. If someone inadvertently pays Scotland wrongly, funds are sent in the other direction.

David Stewart: Let us think of a scenario. It is May 2017, and you are running a Crown estate. How are you paying the wages of workers on and the running costs of that estate?

David Mallon: That will happen not only through leases that are paid from 1 April but through the transfer in advance of 1 April of the pro rata share of lease charges that are paid to the Crown Estate commissioners, some of which are due to the Scottish body.

David Stewart: Can the Scottish Government lend funds to the estates so that they do not have to sell off vital assets in order to pay running costs and salaries?

David Mallon: Yes. The order in council that is before us proposes to give the Scottish ministers the ability to provide a loan or a grant to the new body. We see that as something that can happen if it needs to happen, but so far we do not think that it will be necessary.

David Stewart: Will that, in effect, be enacted if the order goes through? Would any other legislative action need to be taken to ensure that a loan facility was enacted?

David Mallon: If, as you have said, the order in council were to go through, it would have to be completed by the Privy Council.

David Stewart: That usually happens quite quickly.

David Mallon: Yes—well, we hope so.

David Stewart: I think that that answers my point. Thank you.

The Convener: One issue that I want to ask about—Mr Mallon is aware of it, as we have

previously discussed it—is the suggestion emanating from the tenant farmers on the Crown estate of a backlog of repair work on their agricultural holdings. The Scottish Government will inherit the responsibility for addressing that issue and its financial implications. Has any work been done to identify whether there is such a backlog and, if it exists, what its scale is?

David Mallon: We have had discussions with the Crown Estate in light of our previous engagement with the committee, and it has assured us that it has maintained its investment in Scotland during the period of uncertainty that we have had over the past few years about the ultimate set of arrangements for Scotland.

Nevertheless, our discussions with stakeholder representatives through the stakeholder advisory group have perhaps identified a need for cross-subsidy between different parts of the estate. We are actively looking at that to best ensure that the investment that needs to be made can be made.

Claudia Beamish: In light of visits that the committee has had, I wonder whether it would be appropriate to have dialogue with tenants as well as with the Crown Estate about any backlog of repairs and maintenance.

David Mallon: It is not really for me to say, but I would probably advise engaging with NFU Scotland and the Scottish Tenant Farmers Association. I am aware that in the four rural estates tenants have nominated their own representatives. One of those options would be entirely possible and appropriate, but I guess that the committee has to form its own view.

David Stewart: I apologise for jumping back to an earlier discussion, but I want to take the minister back to my point about island communities. Is he aware of the Japanese island development act—[*Interruption.*] I just want to make sure that the minister is earning his corn, convener.

The act inspired the distinct nature of Japanese islands. It is useful for the debate that we will have on Thursday, but it also provides a distinctly important example of powers. The issue of the Crown Estate and the islands is crucial. Will the order give a legal status to our islands, which are vital? If the minister cannot answer now, perhaps he can say something about that in Thursday's debate.

Humza Yousaf: I know that the member has been called the fount of all knowledge, and he has just adequately demonstrated why that is. I undertake to look at the act that he refers to before Thursday's debate. I am also looking at how we can strengthen the devolution of powers and functions to local authorities, but particularly to island communities. If there is a blueprint that we

can look at in Japan—we have previously looked at it for devolution comparisons—we should not be shy in doing so.

David Stewart: I apologise for the swotty point.

Humza Yousaf: I would not describe the point in that way, and I am happy to look at that legislation before Thursday's debate.

Alexander Burnett: Looking at geography that is closer to home, I will ask about the location of the offices. Given that that is up for review, are there any concerns about, say, the hiring of staff? Can the minister update us on the interim and final locations of the offices and whether there are any barriers to locating them outside Edinburgh, good transport links permitting?

Humza Yousaf: No questions have been raised about the location so far. For us, the ethos is that the board, the chief executive and—I hope—the staff should move around the country and get out to rural parts and the islands to engage. A common criticism that I have heard is that the Crown Estate management has been disengaged and has not got down to the grass roots. I am not talking about all those involved—I certainly do not want to overgeneralise—but there has been a bit of a disconnect and a bit of distance. The push from the Government will be for the new body to get out there instead of being stuck in offices in the central belt.

Kate Forbes: The suggestion in the consultation is that the offices could be located in Inverness, with meetings taking place across the Highlands and Islands. Is there a commitment to ensuring that meetings are held in rural areas of the Highlands and Islands, which will contribute to engagement with communities?

Humza Yousaf: That suggestion and the suggestion from Mr Burnett are absolutely correct. Meetings should be held outside Edinburgh. It will be for the board to decide on that, but the advice from the Scottish ministers about the board's ethos will be that board members should travel around the country for meetings.

As for the location of the offices, I have been helpfully reminded that the lease that is in place limits opportunities for relocation in the short term. However, we will consult on the longer-term arrangements, and the issue that we have discussed might emerge as a general theme. We will have to look at the lease at that point. As I said, our preference is for the interim body to hold its meetings outside Edinburgh.

The Convener: I am sure that other members will want meetings to be held in the south-west of Scotland, too.

We move to agenda item 4, which is consideration of motion S5M-02399, in the name of Roseanna Cunningham.

Motion moved,

That the Environment, Climate Change and Land Reform Committee recommends that the Crown Estate Scotland (Interim Management) Order 2017 [draft] be approved.—[*Humza Yousaf*]

The Convener: As no member has indicated a desire to speak, I ask the minister to wind up.

Humza Yousaf: I am pleased that the order will, I hope, be agreed to. As I said, it is important that we get the interim arrangements correct, and I look forward to the consultation and the committee's input on the long-term arrangements.

The Convener: The question is, that motion S5M-02399, in the name of Roseanna Cunningham, be agreed to.

Motion agreed to.

The Convener: I thank the minister for his time. At its next meeting on 29 November, the committee will hold a pre-appointment public hearing with proposed Scottish land commissioners.

As agreed earlier, we now move into private session.

12:13

Meeting continued in private until 13:00.

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