OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 13 December 2016

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 13 December 2016

CONTENTS

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
15th 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:

Richard Cooke (Association of Deer Management Groups)
Patrick Creasey (North Ross Deer Management Group)
Mike Daniels (John Muir Trust)
Alex Hogg (Scottish Gamekeepers Association)
Dr Maggie Keegan (Scottish Wildlife Trust)
Drew McFarlane Slack (Scottish Land & Estates)
Grant Moir (Cairngorms National Park Authority)
Malcolm Muir (South Lanarkshire Council)
Duncan Orr-Ewing (Scottish Environment LINK)
Simon Pepper (Forest Policy Group)
Richard Playfair (Lowland Deer Network Scotland)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 13 December 2016

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning and welcome to the Environment, Climate Change and Land Reform Committee's 15th meeting in session 5. I remind everyone present to switch off their mobile phones and electronic devices, as they may affect the broadcasting system.

Agenda item 1 is a decision on taking business in private. I seek members' agreement to take items 3 and 4 in private.

Members *indicated agreement.*

Deer Management

10:02

The Convener: Agenda item 2 is evidence from stakeholders on "Deer Management in Scotland: Report to the Scottish Government from Scottish Natural Heritage 2016", for which we will be joined by two panels of witnesses.

I welcome the first panel. In no particular order, we have Richard Cooke, chair of the Association of Deer Management Groups; Patrick Creasey, chair of the north Ross deer management group; Alex Hogg, from the Scottish Gamekeepers Association; Drew McFarlane Slack, Highland regional manager for Scottish Land & Estates; Malcolm Muir, countryside and green space manager at South Lanarkshire Council; and Richard Playfair, secretary of the Lowland deer network.

As you can imagine, gentlemen, we have a number of questions. I suspect that I know the answer to the first one but I will ask it anyway. How accurate is the Scottish Natural Heritage report, and how robust is the evidence base that it provides?

Richard Cooke (Association of Deer Management Groups): When we were shown the report on the day that it was launched, SNH told us not to take it too personally, in a sense, because it was a critique of the deer sector as a whole and was supposed to be self-critical as well as concerned about the prospects for the future.

The report is a mixed bag. It should be a valuable gathering together of deer information but it seems rushed and incomplete. Unfortunately, it is characterised by errors, inconsistencies and contradictions and, to my mind, is biased. It is written to suit the conclusions, which are a counsel of despair, to which the ADMG certainly does not subscribe. It acknowledges the "statistically significant" progress by deer management groups but concludes that SNH is "not confident" that that will be sufficient to achieve Scottish Government targets.

Perhaps our biggest point is that the report is fatally flawed by its focus on deer numbers and densities. SNH and its predecessor body, the Deer Commission for Scotland, have told us for years that those were not the issue but were an indicator and one of the factors in assessing the impact of deer, among all the other grazing animals and influences on the environment, and that we should focus on such assessment. I know that you have seen evidence from Professor Putnam, who is a consultant in this area. He makes that point strongly. On reading his evidence, I found myself very much in agreement with what he had to say.

I am particularly sorry to be forthright about an agency with which we have long worked closely and well, but I need to convey the sense of frustration and injustice that our members feel at the report's negative tone, given that they have taken so much trouble to respond to the 2014 recommendations. I know that you have had 10 or a dozen responses from deer management groups. Their written evidence confirms that sense of frustration and bewilderment. A lot of the numbers—particularly those in the section on deer numbers and densities—give rise to a point of particular challenge in the responses, as we have seen.

That is all I have to say at this point.

The Convener: I am glad you did not hold back.

Drew McFarlane Slack (Scottish Land & Estates): I am a representative of Scottish Land & Estates, but I am also the chairman of the Monadhliath deer management group. In response to your question, I refer to the particular point that the James Hutton Institute, which carried out a number of predictions of deer numbers that are in the report, referred to predictions relating to the Monadhliath deer management group that it did not use. In response to a note from our deer management group to question it on the issue, the institute referred to its predictions as being too risky. It said that, when it carried out its predictions for the Monadhliaths, its figures predicted a doubling of the deer population by 2016. Therefore, it did not put in any figures for the Monadhliaths. That gives you some idea of our feelings about the quality of the document itself.

Patrick Creasey (North Ross Deer Management Group): I have been a member of the section 7 steering group on Beinn Dearg for the six years that it has been in existence. I am here today because one of the greatest criticisms in the report on habitat monitoring related to the condition of the habitat on Beinn Dearg, where three out of the four main areas were shown as declining and unfavourable. I came here and submitted a paper, because that appeared to be completely at variance with our experience.

We have two very recent reports, both carried out by external consultants for SNH. The first was carried out in 2013 and the second in 2015. The 2013 report gave some very encouraging figures. In 2015, however, we were issued with a draft report around 11 November, which showed us some remarkable declines over the intervening two years—not in deer numbers, which had fallen, but in relation to the habitat in terms of trampling, grazing and virtually every impact.

At a meeting, the members of the steering group queried the report. They asked one question about the scientific basis of the sampling. The second question was on the fact that the 2015 season was an almost uniquely exceptional year. It was the year when, in late November, the BBC reported 73 patches of snow from the previous year up on the hills. The previous time anything like that had happened was in 1993. We asked the consultants what sort of allowance they had made in their assessments for the fact that spring did not come and grass did not grow. The answer was, "We don't think we have made any."

I put in a paper, and we were told by SNH a week later that the report was being withdrawn, that it would be looked at again and that it would then be reissued. It was released to us around 4 November this year, after the deer management report was produced.

There is one factor that I wish to focus on: the effect of the abnormal weather. We have looked at the statistics, and 2015 was the worst year for grass growth, herbage and everything else for 20 years—it appears to have been the worst for 30 years, in fact. Yet when our report was reissued, not one change had been made, except for a firming up of all the conclusions and three pages that were put in claiming that 2013 was in fact a more severe year.

SNH said that it could not compensate for the effect of weather because it could not be measured accurately. The feeling that we had—and I think that SNH now believes this—was that that 2015 report, which feeds right through the deer management report, gives no certainty and that we ought to go back to the 2013 report. We suspect that the two-year increase in impacts is not real; it is just a factor of one exceptional year.

The Convener: That is as may be but the whole deer management issue goes back over many years, not just one.

Richard Cooke used the word "biased" with reference to the report. You would accept that some people would look in on this discussion and say that you gentlemen take the view that you take because you start from a prejudiced position—I say that with the greatest respect. How do this parliamentary committee and the Government get robust and trustworthy evidence in front of us?

Richard Cooke: You are saying, "We would say that, wouldn't we?" We have to accept that deer management has had to change a great deal in the past few years. It could certainly be faulted before and it still can be. There is a great deal to do in future but we are up for it. That is the picture that I am trying to paint for you. I want the committee to take on board that the sector is making real progress—I hope that even our critical friends on the next panel might acknowledge that—and that we are getting better at working together.

SNH is concerned that we will not meet the 2020 targets, but those targets are slightly abstract because they are totally environmentally focused, and sustainable deer management in the public interest is supposed to address environmental, social and economic benefits. All we can say is that we are trying and we will continue to try. We are committed to doing that and to working with SNH and all other relevant stakeholders. We are looking forwards, not backwards. Much of our frustration is with the focus on deer counts that go back to the 1960s and were carried out on a different basis with different techniques. We thought that we had left that behind and, if I am conveying a sense of frustration, it is because we are having yesterday's argument, not tomorrow's.

Mark Ruskell (Mid Scotland and Fife) (Green): I want to pick up on a point that Drew McFarlane Slack raised about the modelling that the James Hutton Institute has done on a regional basis. I accept the criticism and hear what you say. However, page 20 of the report talks about national data and national densities, and I believe that it has been constructed on a different basis. Are you critical of all the data in the report, or just the modelling and predictive data? Do you accept that there is a firm basis for the other data in the report that points to quite high densities across the whole of Scotland?

Drew McFarlane Slack: My criticism is that the way that SNH attended to the Monadhliath situation does not give me confidence that its modelling method can give us confidence in the totality of the report. If it was using modelling techniques in the Monadhliaths that gave predictions of a doubling of the deer numbers in that deer management unit that were not biologically possible, I suggest that there was a flaw in the way that it was doing its business.

Mark Ruskell: I understand your point, but that relates to predictive modelling. My point is about the actual data that is shown on page 20 of the report. I assume that you have read that. Do you see that as inaccurate and, if so, why?

Drew McFarlane Slack: I do not have the document in front of me. I would have to refer to it.

Richard Cooke: Page 20 refers to individual deer management groups and groups them in bands of deer densities, which is not a very meaningful comparison in any case. We have given examples in our written evidence of where it is plainly wrong. In particular, the Inveraray/Tyndrum deer management group has challenged the band in which it has been put, which is something like 12 to 16 deer per km^2. That deer group's own record of counts, which are carried out with SNH's assistance and support, indicates a very much lower density of fewer than 8 deer per km^2.

In reaching its conclusions about that deer management group with the data that was given to it, the JHI has indicated to us that it was only given official count statistics—in other words, SNH count statistics. There are no recent SNH count statistics in respect of that group, so I understand that, without advising the consultant, SNH took the unofficial group count for 2013 as a reference point for its statistical analysis of trends.

10:15

To address the broader picture, the graph on page 20 shows the steady rise in deer populations from the 1960s—as I said, there is a question about that, because the count approach was quite different in the 1960s—and then it levels off and begins to turn down. If you extended that line of increase, we would be looking at an overall population now of more than 15 per km^2, whereas, in fact, SNH indicates that the overall population is about 12 per km^2. Our calculation, which is based on SNH's own statistics and takes a much less complicated approach of a simple comparison with the figure that Robbie Kernahan reported to the Rural Affairs, Climate Change and Environment Committee, comes up with an overall figure of, I think, 10.1 per km^2.

However, as I said at the beginning, the question about overall national populations is somewhat academic. Deer numbers need to be considered on a local basis because management is delivered on a local basis and impacts are assessed on a local basis. Deer numbers are an important reference point for a deer management group when it is deciding what its policies should be, alongside the other considerations that it needs to take into account, such as other grazing animals—sheep in particular—as well as hares, rabbits and wild goats.

Mark Ruskell: In your own data, which you have submitted as an appendix to your supplementary written evidence, there are eight deer management groups that admit freely that they have underreported the deer numbers in their areas.

Richard Cooke: I do not recognise that from our data.

Mark Ruskell: I am sorry. I was just reading your appendix, but—

Richard Cooke: It is certainly the case that deer numbers can be underreported and tend to be underreported. If you look at our supplementary written submission, you will see that we have used, as a sample, a graph of the annual aerial deer counts that are carried out on the isle of Rum, which is a single property owned by the Scottish Government and managed by SNH. You will note that, even though that count is a counsel

of perfection, as it is a closed deer population with annual aerial counting, the numbers are all over the trend line. In fact, SNH admits that two of the counts, which are shown in red on that graph, are biologically impossible. What I am trying to say is that deer counting is not a precise science. It is an indicator that is important in considering what the carrying capacity of the land is and what the approach to deer management should be in terms of the population model.

The Convener: Surely there is a danger that we will just keep going round and round in circles: someone else will produce statistics and you will dispute them, they will dispute your stats and so on. In the next few months, we will have some pieces of academic work, which are being carried out by Scotland's Rural College and by the James Hutton Institute, and which, at face value, would offer an objective insight into the situation. Do you anticipate that those reports will be accurate?

Richard Cooke: The SRUC exercise has been extremely useful. It has identified where more knowledge is necessary and would be helpful. The James Hutton Institute's research is carried out to the highest possible scientific standards, but I am not sure that it has been asked the right question—it is a backward-looking question about populations. The Strath Caulaidh study is about deer populations in woods, and we have no better way of counting those so the conclusions that it has reached about deer populations seem to be about right. As far as we can tell, it is a good guestimate. All those studies are helpful, and what we want to do is not to have yesterday's arguments but to move forward. The more information we have, the better, and the more we can work together and take all the factors into account when considering how to address deer populations as an integrated part of upland management, the better job we will do—and we are determined to do that.

Alex Hogg (Scottish Gamekeepers Association): I manage deer up the Tweed valley in a 5,000 acre block of forestry. One day when we were out stalking in the wood, we met two scientists who were trying to assess the deer population by dung counting. They had no idea that there were also 50 sheep in the woodland as well—they just held their hands up aghast when we told them.

I just want to make the committee aware that SNH's best practice guidance says:

"Be aware of the potential error margins surrounding population calculations and therefore limitations in the value of the information generated as a basis for management decision making."

The Convener: Let us move on and get down into some of the detail.

Finlay Carson (Galloway and West Dumfries) (Con): How successful has lowland deer management been, to date? Evidence that we heard from Scottish Natural Heritage suggested that there is no model that can just be rolled out and that lowlands landowners do not have the same investment or interest in deer management. With that in mind, what barriers face farmers and landowners in the lowlands?

Richard Playfair (Lowland Deer Network Scotland): In the five years that the lowland deer network has been in operation, we have seen considerable movement in the right direction—there has been a lot of progress. Many of the parties who are involved in deer management in the lowlands are sitting down and talking with each other and developing mutual ways forward, which has been really good.

We have to admit that there are still barriers, as Finlay Carson said. One of the barriers is data: we do not yet have enough accessible data to work with. The data that we have allow deer management on a local and prescriptive basis: where issues about which there are data arise—for example, deer and vehicle collisions, damage to crops or damage to trees—action is taken. Because of the complexities—the number of landholdings in the lowlands and that type of thing—it is much harder to develop a catchment-wide, if you like, deer management planning system.

I do not think that there is a requirement to replicate the system that exists in the uplands, but taking collaborative deer management and understanding of deer management into areas where they do not exist is needed. That does not necessarily mean that we need a lowland deer group in every council area because a considerable amount of work that passes under the radar is undertaken by individual deer managers and by farmers on individual estates. There is much to do—there are gaps in the map that we all know about—but in the five years that we have been attempting to solve the problems, an awful lot of work has been done.

I would also like to say that the report attempted to drill down on numbers in the upland context, so it seems to be slightly anomalous that in the low-ground context, numbers barely come into the equation. We have to acknowledge that we have a growing roe deer population. I think that the report contains only one mention of low-ground numbers of roe deer; in one paragraph, there is an extrapolation from a national United Kingdom figure to arrive at a low-ground roe deer population for Scotland. It strikes me as odd that a report that focuses so much on deer numbers on high ground gives very scant evidence on numbers on the low

ground, in respect of which we ought to be thinking much more about that type of information.

Finlay Carson: You made a written submission. How did you put it together? It is my understanding that four of the 11 lowland deer groups did not take part in the consultation.

Richard Playfair: In terms of—

Finlay Carson: With regard to your written submission on the SNH report, how did you consult the deer management groups? Did everybody contribute?

Richard Playfair: No, they did not. The written submission was very much put together by officials.

Finlay Carson: On what basis did the officials put the submission together?

Richard Playfair: Basically, we have attempted in the written submission to give you a statement of the facts as they are, rather than to draw conclusions or make recommendations.

Finlay Carson: One of the objectives that is given in your submission is

"To represent the interests of members to Government and its Agencies".

Are you getting the balance right between the deer groups and your paymasters—Transport Scotland, the Forestry Commission Scotland and so on?

Richard Playfair: I have to say that there is a very fine line. Our membership is very small—there are 11 deer groups, but there are 2,500 vocational stalkers working in low-ground Scotland.

I would like to think that we promote their views, but we do not necessarily know what their views are at any given time. As we have all pointed out, there are large areas of the map that fall under low-ground deer management's remit that do not currently have representation on the lowland deer network.

The Convener: How conscious are you of the view—which I have certainly heard—that the model for tackling the problem might be flawed and that a slightly different approach could be tried in which much more use would be made of occasional recreational stalkers, instead of the arrangement whereby the Forestry Commission brings in contractors to carry out the work? Do you hear that argument being made?

Richard Playfair: Yes we do, and we absolutely have to use that local resource. As I said, there are 2,500 stalkers out there who could do a job that otherwise needs to be done by—

The Convener: Why, in that case, is that not happening to the extent that it might?

Richard Playfair: Again, that is down to barriers. Certain areas need a wake-up call and more ground needs to be made accessible to those guys to do the job, if there is a job to be done. There must be recognition that local authorities have a duty to manage the deer on their ground, but where there has not been that recognition, it is incredibly difficult for those chaps to get a toe in the door to do the job that they want to do.

There are exceptions: South Lanarkshire Council is an exemplar in getting the job done by a deer management group in a way that is efficient, that sets the highest standards for training and for how its members should conduct themselves, and which does all that in very difficult situations. I am sure that the committee has heard about the urban, or peri-urban, deer situation, which is not an easy one in which to undertake deer management.

Malcolm Muir (South Lanarkshire Council): It is a tricky situation for local authorities. There is little information about deer numbers, the extent of the problem and—in many areas—whether there even is a problem. We have a very useful deer management group in South Lanarkshire, and we work quite closely with it. SNH has also been very supportive, despite its having only a small team. Its people have been working with our rangers and various others, helping them to assess deer numbers and all sorts of things. We are more than happy with SNH's input.

The only solid information that we have is on deer and vehicle collision numbers from Transport Scotland. It is difficult to get any accurate figures from the council's cleansing staff, the police or the many other people who pick up deer carcases or deal with deer on the wider roads network. It is reasonably straightforward to establish habitat damage by deer. In our opinion, the only areas where deer are causing a problem are in newly planted areas that are fenced—if deer get into those, they can cause havoc. In those circumstances, we have them dealt with professionally.

The other problem in the urban context is deer habitat bottlenecks, especially in May or June, when the youngsters get kicked out of the territories. That is when we start to get problems on the roads. Apart from that, we are lucky in South Lanarkshire because we have a good network of urban green spaces and our woodlands are quite connected, which means that the animals can move relatively freely through the towns. With the deer management group doing a lot of the shooting on the surrounding farmland, space is created and young animals can move out towards that, so we seem to have a balance. Obviously, as the deer get closer to the centre of

towns, the situation becomes a lot more complicated.

We are very supportive of our local deer management group and appreciate what it is doing. However, for natural reasons, councils tend to be quite risk averse—especially when it comes to people with high-velocity rifles working in urban areas, which is not something that councils are used to dealing with. We have, therefore, suggested that there should be another layer of qualification above deer stalking certificate 2 to ensure that people have evidence of their being trained to work in urban areas under the public gaze, which is a tricky thing to do and a real consideration. We have been working with the deer management groups on that.

Currently, when deer are in settled areas we tend to use the Forestry Commission because we know that it has trained people who can go into those areas at night and deal with the issue without bringing it to the public's attention. To me, that remains the best way. However, we are more than happy to work with the deer management groups on the farmland surrounding the towns.

10:30

The Convener: As with so much of what this committee hears, it sounds as though South Lanarkshire Council and DMG are working well together, but the question is how that best practice can be shared across the country. Does the Convention of Scottish Local Authorities have a role, given that local authorities have a responsibility?

Malcolm Muir: I cannot speak for COSLA at the moment, because my council is not currently a member of COSLA. A perennial problem when we are dealing with council green space, and the environment across the board, is getting representation on the issues across 32 authorities. It is difficult even to formalise a policy in the area. Initially, I thought that we would develop a council policy on deer management, but I have stepped back a bit from that. I still think that we will ultimately get to that position, but sometimes one does not want a formal political decision on an issue—we do not want people to come to the decision that they will be a no-cull council, for example, which could inhibit our ability to deliver on our duty.

Alex Hogg: Deer management groups have privately jumped through hundreds of hoops over the past couple of years. I sit on the lowland deer network Scotland, and only two councils out of 32 have a policy—that is really low. Some councils have a no-cull policy.

The Convener: We have heard about the problems. How do we fix them?

Richard Cooke: I am involved in the lowland deer network, too. You asked about obstacles to progress—the issue with local authorities has been accurately described by Malcolm Muir and Dick Playfair. All public bodies have a duty under the Wildlife and Natural Environment (Scotland) Act 2011 to manage the deer on land for which they are responsible. The chair of SNH and I, as the chair of LDNS, have written to local authorities on more than one occasion to draw their attention to that.

Addressing the issue is a priority in the lowlands. We also have yet to make sufficient progress with the agricultural community, who are not terribly conscious of deer management except as a potential threat to their economic interests. I am pleased to say that we recently got a representative from NFU Scotland to join our executive committee, which is encouraging.

The lowland deer network initiative was brought forward by the ADMG, which has always aspired to represent all deer managers of all species of deer, anywhere in Scotland. We found that trying to propagate the DMG model in the lowlands simply was not working, so we came up with the idea of a network. The range of interests in deer management is much broader in the lowlands than it is in the Highlands; the types of land use are much more diverse. The idea was to give everyone with an interest an opportunity to get round the table and build—this sounds like rather a vague aspiration—a culture of collaboration.

Such a culture exists in some localities. The South Lanarkshire deer management group is a good example. I read the group's submission, which is very good. However, in a lot of areas such good practice is not happening. I agree with Malcolm Muir's view that we have had enormous help from the dedicated SNH team that works with us. SNH pointed out at the start that we should not assume that just because there is not collaborative management or a lowland deer group there necessarily needs to be such an approach. The impacts of deer vary enormously across the lowlands, as they do across the Highlands.

In five years, we have made considerable progress in getting people together and discussing something that can be quite imprecise—that is, how to manage deer in any particular location. However, I think that we need assistance to address involving the local authorities—with two exceptions.

Emma Harper (South Scotland) (SNP): I recently met forestry people in Newton Stewart, who were generally positive that in the Galloway forest deer management targets are being met. How do you work with forestry interests to see whether you can collaborate better?

Richard Playfair: The Forestry Commission Scotland, Forest Enterprise Scotland and private forestry contractors, through Confor, are represented on the lowland deer network. We are all in discussion, and the arrival of new groups in the south-west has been useful in helping to take forward the discussions.

Claudia Beamish (South Scotland) (Lab): Good morning to you all. If I got it accurately, Richard Playfair said that a lot of good lowland deer management work "passes under the radar". What would be the structure for making the lowland deer network transparent? Why would Mr Playfair shy away—I am interested in the answer; it is a neutral question—from establishing more lowland deer management groups? It seems to me that, even if those structures had different emphases to the Highland groups, they would enable people in areas where there is no lowland deer management group—I understand that there are only 11 groups so far—to come together and share good practice on a more detailed and area-based level than your network.

Richard Playfair: The SNH report correctly identifies three different types of low-ground deer group. We are beholden to a significant degree to the enthusiast who wants to go out and practice deer management. It needs a lot of like-minded individuals to make up a group that will operate over a significant area. Even where we have groups that operate over separate local authority areas, they do not have anything like 100 per cent coverage of the areas. A number of like-minded people must want to get together to create a deer management group, but that is a commitment for them: it means a constitution, chairman, secretary, treasurer and time when they could go out as individuals, as opposed to being members of a group, to do the job that they want to do.

Nonetheless, a number of new groups have sprung up. A recent arrival is the group in East Lothian and Edinburgh, and the one in Inverclyde and Dumbarton is another. They have been mentored by and modelled on existing low-ground deer groups. However, in certain situations there is simply no requirement for a group. One thinks of certain areas in the Borders, down in the south-west and up in Angus where there are significant landholdings and where what is perhaps needed is an annual get-together—a small local forum—to compare notes on what is going on, rather than a formal group structure.

Claudia Beamish: I am perplexed by your saying that there being large landholdings is a reason for not having a deer management group. The Rural Affairs, Climate Change and Environment Committee took clear evidence about the need for inclusive deer management groups that involve local communities and non-governmental organisations. The size of the landholding is not relevant. Do you not agree with that?

Richard Playfair: I am trying to tell you that the group structure in the uplands is not necessarily the right structure for deer management in every context in the lowlands. Even where local deer management groups operate, they do not follow the upland deer management group model.

Claudia Beamish: Will you also answer the first part of my question? I am sorry that I rather bombarded you with a lot. The first part related to transparency for the lowland deer network. How would members of the public check for good practice or learn from it? Finlay Carson has already made a point about concerns about involvement and consultation.

Richard Playfair: One of the first elements of communication that the lowland deer network put in place was its website. That is up and running with information for people to see.

A vital aspect of the network's work is that it is seen to be out in the public domain educating the public. We have a job to do in talking to the public because they do not necessarily all want deer management to go on in their localities. We have to be quite up front about that and take that message into communities.

We have a project called deer on your doorstep—I attached some information about it to our evidence to the committee. That is an outward-facing communications exercise to take the lowland deer management message into communities and to the general public in order to create some understanding of why deer management is necessary and what the direction of travel is in the lowlands.

Drew McFarlane Slack: I will refer again to the situation in the Monadhliath deer management group. For the past two years we have held a fairly substantial stakeholder event to which we have invited local actors and groups from the area around Aviemore, Laggan and Tomatin. They come to our deer management meeting to hear a presentation on our deer management plan and its objectives, and we allow enough time during the day for question-and-answer sessions. We invite the Forestry Commission Scotland, local authority members and staff, the police and the fire service—a range of stakeholders—to the events, which have been quite successful.

We are holding another event next year at Glenfeshie, where we hope to add an extra challenge to our deer management planning processes by inviting people who are perhaps not quite as supportive of our deer management objectives as our members are. It is an attempt to generate debate in order to establish outcomes

that we can insert in our deer management plan. That is one idea that we are using in the Monadhliath DMG that could be a model for the lowlands.

Alex Hogg: In the Glasgow area, for example, 30 men could each shoot 10 deer, which would total 300. At present, however, they cannot get rid of the carcases, so they will shoot enough for their family, but will not go on to shoot what is needed because there is nowhere for the carcases to go—the big game dealers do not come in.

There is an idea on the go to get a wee processing plant up and running so that the local venison could go to butchers and restaurants. The local schools could come to see it.

The Convener: That is useful. I am going to move on to the next topic.

Alexander Burnett (Aberdeenshire West) (Con): I refer to my entry in the register of members' interests on matters connected to deer management.

There has been considerable discussion of deer density. A lot of the submissions to the committee suggest that there is too much focus on numbers rather than impact. What is the panel's opinion on the accuracy of the counts? What would improve their accuracy? Is there a magic deer density number?

I asked the same question of the panel in the committee's previous session, and Eileen Stuart from SNH said that, while there is no magic number, a density of 4 to 5 deer per km^2 is

"the sort of deer density to look for if you want to establish trees without fencing."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 22 November 2016; c 22.]

I would like the panel's views on the counts themselves and their accuracy, and whether a magic number comes out of the process.

Richard Cooke: As I have said, numbers are an important indicator for the deer management policy that should operate on a local basis. In its evidence to the committee three weeks ago, SNH said that there is no magic number, and I completely agree with that.

I am sure that if you asked the witnesses on the next panel what the right number of deer is for Scotland, they would have as much difficulty with that question as we and SNH do. The decision must be driven by impacts. If the management objective is to have regenerating woodland, a much lower density is needed than will be the case if the objective is for the deer themselves to be the basis of the economic operation. Both situations are the norm in just about all deer management groups. Very often, the difficulty is in providing a level of population for one type of management objective and a lower level of population without fencing for the other.

10:45

On densities, even if we get the number down to a very low level of four or five in a particular area for the purposes of environmental change, and do so without fencing, we will still find that, if we create an environment that provides a better offer of food and shelter for deer in the winter, that is where the deer will naturally go on a cold winter's night, and that is when the damage is done. Even getting the densities down to a very low level such as four or five will not necessarily deliver the outcomes that everybody wants. I am afraid that, costly though it is, that is where fencing often becomes a necessity. Even with low densities, fencing would still be necessary to allow regeneration to take place.

Fencing, which is always an issue that attracts more heat than light, would be necessary even if there were no deer, because there are still sheep, rabbits and hares, and young trees are highly susceptible to damage by those species, too.

Angus MacDonald (Falkirk East) (SNP): I have a follow-up point on density rates. You have just mentioned sheep. What is the average density rate, or the recommended density rate, for sheep on the same type of land? How many sheep does it take for the same amount to be eaten as a deer can eat? Do you have those figures?

Richard Cooke: It is a complex matter of juggling to control grazing impacts. As we said in our written evidence, sheep numbers have fallen by 45 per cent in 25 years. Nonetheless, sheep are still supported in the uplands by subsidy within the common agricultural policy, which is not the case for deer. Normally, as a rule of thumb, two deer equal one sheep in terms of livestock units—and, for that matter, six sheep represent one cow. There are accepted yardsticks for comparing the different scales and impacts of the different animals.

The important point is to bring in all the factors that have an impact. We are not just talking about deer impacts. It does not make a lot of sense to consider the impact of a certain density of deer if we ignore the number of sheep that cover the same range.

A lot of sheep farms are no longer stocked, and there is a huge variation in the number of sheep across the Highlands, as there is in the number of deer across the Highlands. All of that is driven by the carrying capacity of the land, the quality of the land, exposure, climatological factors and economic factors. It is difficult to establish a yardstick.

In order to qualify for subsidy under the basic payment scheme, you must carry no fewer than 0.05 livestock units per hectare, so there is a minimum density that is required to support subsidy for sheep farming. Such criteria are not applicable to deer, which are not taken into consideration at all as far as the agricultural regulations are concerned.

The Convener: We have strayed into other herbivores. I will let Claudia Beamish and Jenny Gilruth ask supplementary questions, and then I will come back to Alex Hogg.

Claudia Beamish: I will broaden out that question for the panel. I would like to hear your comments on whether deer pressure is indeed the main factor in the lack of progress that has been made in meeting native woodland planting and restoration targets in particular. I am thinking about the "2020 Challenge for Scotland's Biodiversity" strategy that has been developed. A range of groups have commented on those issues in written submissions—we will hear from some of them on the next panel. What are your views? I note especially the remark in the report that

"more than a third of all native woodlands were in unsatisfactory condition due to herbivore impacts. Evidence supports the view that deer are a major factor in limiting woodland condition recovery."

I would like to hear your comments on that.

The Convener: I invite Jenny Gilruth to come in now as well, and then we can hear the answers.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): Thank you, convener, and good morning, panel.

The submission from the forest policy group says that smaller woodlands

"suffer disproportionately from high densities of wild deer in the surrounding landscape".

As Claudia Beamish said, the SNH report makes it clear that the planting target will not be reached unless we go down the route of culling or fencing, and we know that there are issues with that. Do you agree with the forest policy group, which argued that the deer management group sector needs to be directly challenged on that?

Alex Hogg: I will just give you a practical story about the impacts of deer. The committee will be aware of Caenlochan, which is up near Glenshee and has a site of special scientific interest. In the summer months, the deer are up in the tops, but because pressure from hillwalking has grown and grown over the past 20 years, they were all driven down into the lower areas, one of which was the SSSI.

I was sent this information by Peter Fraser, who works up there. There were roughly 200 sheep on the site and a high number of hares, but more than 12,000 deer were shot. Several years into the section 7 agreement, representatives were invited by the DCS and SNH to go out to the site to see what was there and to see the alpine plants in bloom. What they immediately noticed were the hare droppings. There are still 200 sheep on the site, and no hares have been shot. That just shows that it is very difficult to point the finger at deer.

Richard Cooke: I will provide a bit of context on native woodlands—this is also in our evidence. The native woodlands survey of Scotland counted a total of 324,536 hectares of native woodland. Of that total, 143,323 hectares—44 per cent—lie within the Highlands, the area covered by the deer management groups. Of that 44 per cent, 33 per cent is identified as being impacted by herbivores. Although the default assumption is that "herbivores" means deer, in many cases it also means sheep, or a mixture of the two species. As the SNH report acknowledges, it is completely impossible to tease out the different impacts. That is not to say that deer are not a factor that prevents the regeneration of woodland to some extent, but it is important to remember the whole picture: they are not a factor that applies in all native woodlands.

One function of native woodlands is to provide shelter. Often on farms, particularly those that are let, the access to woodlands is very important for winter shelter and, in some cases, for feeding domestic livestock. To go back to my statistics, 67 per cent of native woodlands are satisfactory in terms of browsing impacts, while the rest suffer damage and inhibition through grazing.

It is also important to remember that native woodlands are in unsatisfactory condition for reasons other than grazing. Of the 143,323 hectares in deer management group areas, 67 per cent are not suffering due to browsing, but if you take into account the other detrimental factors—particularly the presence of non-native species, which have often been planted, and invasive species—the proportion of satisfactory woodland comes down to 50 per cent.

My point is that we all want native woodlands to do better, and management of deer is an important part of that. However, that is not the whole story; other issues, such as the removal of non-native species, need to be addressed as well. We also need to know far more about the grazing impacts—this is where the research comes in—and the interplay between sheep and deer. We are here to try to fix that, but we need to know more about it and we need to work more closely with the other land users concerned.

Drew McFarlane Slack: The Monadhliath deer management group is developing a new woodland

creation plan for all our members—that work is headed up by a member who is a forester of some note. That will necessarily involve us in dealing with the very issues that have been mentioned. In some areas, we will have to put deer fencing in place to look after the woodlands, but there could also be sites where deer will have to be excluded to allow regeneration to take place. In an area the size of the Monadhliaths, there will be a range of opportunities for both those types of activities to take place.

The Convener: Just out of interest, who will pay for that fencing?

Drew McFarlane Slack: It has been largely down to local land managers to do that, but there may well be opportunities to apply for funding from the Government while the Scotland rural development programme is still going on.

The Convener: The private sector would also have an input.

Drew McFarlane Slack: Absolutely.

Claudia Beamish: I refer to page 69 of the SNH report and figure 6.12, which is entitled "Category 3: Retain existing native woodland cover". There are a lot of amber and red areas on that graph in relation to deer management groups. You do not have to repeat what you have already explained, but can you comment on that graph?

Richard Cooke: As you say, there are still some amber and red areas. For me, it is interesting to compare the graph columns for 2014 and 2016, as that shows the improvement that there has been. Nevertheless, as long as there are amber and red areas, there is a job to be done. As I have already acknowledged, we need to do that job, but the solution needs to embrace not just part of the situation but all aspects of it, including the negative impacts. We need a co-operative approach to improve the situation further.

The new deer management plans all address native woodland regeneration and the provision of space for the Scottish Government's target of 10,000 hectares of additional forestry per annum. The plans all provide for that, but they are only just at the completion stage. The next stage will be to deliver on them, and the task for the ADMG and its member groups is to go out and make those plans effective in practice rather than right in theory, which is the point that we have reached at the moment.

Drew McFarlane Slack: Scottish Land & Estates fully supports that consensual, co-operative approach to deer management planning. In the Monadhliaths, we are at year 2.5 of the delivery of our deer management plan, which is still very early in our 10-year plan. We are working hard to ensure that we deliver all the outcomes that are in the plan, but it will take a long time to deliver them all. With a group of more than 40 members, it is difficult to make sure that they are all working together to deliver on the plan, but we are trying to do that. It is very early in the process.

The Convener: Okay. Let us move on.

Mark Ruskell: We have received some interesting evidence from Norway, where the reduction of deer densities is a national policy. I understand that one of the main drivers for that policy was the desire to increase carcase weight and the quality of the head. What is your response to that?

Richard Cooke: This year, I spent a week in Norway with Duncan Halley, who submitted that evidence, because I wanted to get to the bottom of why we are always being told that Scotland should be more like Norway. The Norwegian woodlands are wonderful. We have some here, but there is room for more of them, and making a bit more room for nature is wrapped up in the deer management plans. As far as the condition of the deer is concerned, Duncan is absolutely right: it is more nurture than nature, and deer do better in a better environment. There is plenty of evidence for that even in Scotland, particularly in the south-west, where the biggest red deer in Scotland are to be found in woodlands. If hill-born deer find their way into woods, the condition of the herd will improve considerably in a single generation.

That is not to say that there is no role for red deer on the uplands. They have adapted well to that environment over many centuries. As far as land use is concerned, and bearing in mind the importance of the economic and social roles of deer, they provide the basis of a valuable tourism industry—deerstalking. I have not yet answered a question on the economic side, but the report from Public and Corporate Economic Consultants that we commissioned jointly with the Lowland deer network and the Scottish Gamekeepers Association indicates that that industry is worth £140 million. SNH has chosen not to refer to the multiplier effect of that sector—

Mark Ruskell: My point was more about the weight of the carcase.

Richard Cooke: It is correct that deer will perform better in a better environment.

11:00

Mark Ruskell: So, by extension, that would be the effect of reduced density. There is also evidence from Rum—

Richard Cooke: I am sorry, but reducing—

Mark Ruskell: Can I come back to that in a minute? Evidence from Rum suggests that, as a

result of an increased density of around 13 hinds per km^2, birth weight is declining and there is a reduced fecundity among the hinds, which give birth later; the evidence also suggests that fewer stags are born and that they have smaller antlers when they are adults. That points to less economic value through higher density. What is your response to that evidence from Scotland?

Richard Cooke: The Rum experiment, if one can call it that, has been going on for about 50 years and it produces some fascinating information. As I said earlier, Rum is a unique test bed for deer management—there is a part of Rum where the deer have been tested to destruction by a no-culling policy. You are absolutely right to say that the findings from that study indicate that, if you allow a deer population to build up without control, the fecundity of the hinds reduces and the survival rate of the stags, which are always the first to suffer from overpopulation and climate stress, declines.

The situation as a whole across Scotland is far from being like that overpopulation situation that was tested on Rum. The reduction in the deer population over the years—I refer you again to the drawing on page 20—alongside the reduction in sheep numbers is an indication of the reducing pressure on grazing across the Highlands as a whole. Of course, the situation needs to be looked at; there are wide local variations and the issue needs to be looked at locally. It is certainly true that, if there is an extreme change from overpopulation to a much lower level, there will be a relatively marginal improvement in the carcase performance of deer living exclusively on the open hill, but it is not by any means improvement to the same extent as that which would be seen if those deer had the opportunity to live in a sheltered, closed habitat such as in woodland.

Drew McFarlane Slack: What Mr Ruskell was saying is the basis of the Monadhliath deer management plan. It is about developing a plan that suited the entirety of our 40-plus members, all of whom wished to carry out some form of estate stag shooting during the season, but who all recognised that the quality of stags had been deteriorating over a number of years and wanted it to improve. Even estates with strong environmental objectives wanted to shoot some stags during the year. The Monadhliath deer management plan outcomes are based on increasing the hind cull in order to reduce the overall numbers and allow the stags to improve in quality during that period.

The Convener: Just to get it on the record, what Duncan Halley said was:

"Most Scottish red deer are nutritionally stunted due to the effects of competition with each other for food."

Is that true, Mr Cooke? Yes or no?

Richard Cooke: If you want a yes or no answer, I have already said that, yes, that is the case. However, it is driven by the habitat in which those deer live, in the same way that environmental effects apply to human populations.

David Stewart (Highlands and Islands) (Lab): I am interested in long-term planning. You may have noted the evidence that we took from SNH, when I asked about cost benefit analysis and the answer was that there needs to be more focus on that in the future, which I thought was quite interesting. To what extent do you balance economic, socioeconomic and animal welfare factors when making decisions about the long term in individual planning?

Richard Cooke: Convener, I am not sure that I completely understood the question, but I agree with SNH's statement that we need to know more about the economic and social impacts of deer management in the mix of other economic land uses and environmental considerations. That is clearly addressed in the long-term policy document "Scotland's Wild Deer: A National Approach". Deer management needs to deliver on all three bases. Outwith the protected sites, where environmental considerations have primacy, all management needs to focus on maintaining economic outputs, the associated employment and the communities that that supports.

David Stewart: Let me put a specific point to you. One of the key findings in "Deer Management in Scotland: Report to the Scottish Government from Scottish Natural Heritage 2016" is that

"management of deer in Scotland results in a net monetary loss for both the private and public sectors."

What are your individual assessments of that? I see that you are more encouraged by that question.

Richard Cooke: My assessment is that I challenge it. SNH chose to look at the direct spend effects and the primary expenditure and income figures from a report by an independent economic consultancy that has done many other rural sector studies in the past and has a very good track record. The consultancy used a normal economic model based on questionnaires and surveys. However, SNH chose to ignore the multiplier effect. In considering the impact of any sector on the national economy, it is important to look at the trickle-down effects. I therefore challenge the way in which SNH used those figures.

Some interesting figures that SNH picked out are that—if I remember correctly—the cost of deer management to the private sector is £36.8 million, which goes alongside a total of £5.2 million of public sector expenditure per annum. That raises

the question of how we are going to pay for deer management in future if we do not do so under the present model, because more of the considerable annual cost will shift to the public sector if less independence is left to the private sector under the voluntary principle.

SNH estimates that its allocation to deer management is £1.5 million, which is considerably less than that of Forest Enterprise because Forest Enterprise manages far more land, but their expenditure together adds up to only a small proportion of the total cost to the industry, which I think comes to £42.5 million per annum.

David Stewart: Perhaps I can set the context a bit better. When I put the question to SNH, it was in the simplistic context of culling versus fencing. The point that I was making—I am grateful to the convener for this statistic—was that 13,500km of fencing have been built since 1990, which is the same as the distance from here to Cape Town. You will be glad to know that I prepared that fact earlier; it is not something that I know off the top of my head. The cost is £250 million over 10 years, which is a phenomenal sum. That was the background to my question about cost benefit.

Richard Cooke: Ah, fencing—yes. [*Laughter*.] Removing this discussion from the deer context for a moment, I note that you have to speculate to accumulate, and any business expects to invest in its capital. In the case of afforestation or woodland protection, the capital is often fencing. Nobody wants to spend £12 a metre if they do not have to. They do it because it is necessary given the pattern of land use in the area. Also, fencing is not just about deer, as I said earlier. It also excludes other herbivores, albeit that the cost of stock fencing with rabbit netting is only two thirds of the cost of deer fencing.

Culling and fencing are not alternatives but are complementary. It was the practice of the Deer Commission for Scotland probably for 25 or 30 years to recommend that, if someone enclosed a piece of ground and removed it from a deer range for another purpose—particularly afforestation—a compensatory cull should be taken so that the density of population did not increase outwith the fence. That is normal practice and it is taken into account in every land management change where deer and, for that matter, stock are an issue.

David Stewart: I want to bring in the other panellists and I am conscious of the time, but will you say something on my point about the amount of fencing that has been built since 1990? There are clearly issues to do with its maintenance, as the cost is huge.

Richard Cooke: Absolutely. As I said, we speculate to accumulate. If one invests capital in a business, one needs to maintain the equipment that has been bought.

Maintenance of fencing is essential, as deer are pretty ingenious when it comes to finding a way round or under a fence—or over a fence, when the snow is high. There is a considerable cost associated with maintenance. As Drew McFarlane Slack said, a great deal of fencing is private, albeit that it might be put in under a grant scheme that involves public money. A lot of fencing is state fencing, in that it is erected by Forest Enterprise Scotland.

Forest Enterprise has invested a great deal in recent years in recharging its fence stock. It has replaced a lot of fences and put up a lot of new ones. Its policy is changing as we get into second-generation, second-rotation forestry, in that it now tends to erect a perimeter fence and maintain it resolutely, rather than trying to fence small parcels. The amount of fencing per hectare of established woodland is therefore declining, but the quality of the fencing and its maintenance need to be better.

Forest Enterprise, acting on our behalf, given that the taxpayer pays it to grow trees, rightly takes a rigorous approach to the presence of deer and culls them to a level at which the casualty rate for leaders on trees is below 10 per cent. In some areas that is being achieved; in some areas it is not.

David Stewart: I do not know whether Mr Hogg wants to comment on that. Are there statistics on the average shelf life of fencing? If a fence is put up today, how long will it be effective?

Alex Hogg: Fifteen years, maybe, and then it will need repaired.

What surprised me way back when we started with deer management was that the Government paid £7 million to have fences taken down to save our capercaillie. That is when the first arguments started about deer and trees. More fences must have been taken down to save the caper than have been put up, but caper numbers are still diving down.

David Stewart: Does anyone else want to comment?

Patrick Creasey: I guess that fences will last longer than 15 years in many areas, with simple maintenance and checks. The experience in my area is that a protection fence will still be in good condition after 25 years.

Drew McFarlane Slack: It probably depends on the quality of the timber and whether the base of the fence has been impregnated with anti-rotting chemicals to keep it in good condition for a long time. If the quality is good, the fence should certainly last 25 years or even more.

The Convener: Thank you. Let us move on.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): We are having this discussion because it was agreed in 2014 that a reasonable timeframe for all DMGs to adopt a deer management plan would be by the end of 2016. Plans were to be environmentally responsible and able to demonstrate how they delivered positive outcomes for deer populations and natural heritage.

In the SNH report, it is suggested that plans are not leading to action on the ground. In written evidence, some DMGs made the point that making an impact takes time. What is the panel's view? Are the majority of plans environmentally responsible, and are they delivering change? Have groups had enough time to produce them?

The Convener: Before I bring in the panel, let me give them a couple of statistics, given that they have been quoting stats at us for most of the morning. According to SNH,

"Fewer than 50% of DMGs adequately identify actions in their plans to manage herbivore impacts on designated features or improve native woodland condition",

and

"Fewer than 25% of DMG plans adequately identify sustainable levels of grazing for habitats in the wider countryside."

Are the figures accurate?

Richard Cooke: The figures are based on the assessment process, which was carried out as a baseline exercise towards the end of 2014 and repeated in May and June this year to assess in close detail the progress that deer management groups have made. As you will have seen from the report, the general picture is one of considerable and statistically significant improvement. That is not to say that all deer management plans are scoring 100 per cent—how many of us scored 100 per cent in a school exam?

This is an on-going process. Some groups are much further forward than others, and some groups are moving forward rapidly. Some groups have not yet completed their plans but are working on them, and new plans are emerging all the time that will continue to make progress.

There is no destination for deer management plans. They represent an on-going, adaptive process. Deer management plans will need to adapt to circumstances, and they will need to continue to show more progress. It is the ADMG's job to assist deer management groups in making that progress, as we have done up until now and as we will continue to do.

11:15

The Convener: This is not necessarily about delivering the progress; it is about identifying something in the plan by way of action to take.

Richard Cooke: Yes. Agreed. That is an important distinction. As Kate Forbes said, the task was set to create plans in a short space of time—over a couple of years—that were environmentally responsible, which identified the public interest and which were consultative and open with the public. As I am happy to acknowledge, we are a long way from being able to say that in respect of all plans. Almost without exception—in fact, I am not able to identify an exception—the deer management groups have taken that on board. With the resources that are available to them—it is often voluntary time, I may say—they are moving in that direction, and they have achieved a considerable amount.

Kate Forbes: I have a supplementary question about the differentiation between some of the plans. Could you pin down the reasons why plans have varied in their success?

Richard Cooke: As you said, the first stage is to create plans that address all the points of public interest. Some of them are better than others.

Kate Forbes: Why are some better than others?

Richard Cooke: I suspect that it is because the creation of the plan is an iterative process. The best ones are probably those that have been created by an independent consultant, not just because the consultant knows more—they do not necessarily—but because they provide an external objective means of addressing all the issues, speaking to all the individual members of the group, identifying their management objectives, putting them into the soup bowl and coming up with something that works for everybody.

Other groups have adapted existing plans without the assistance of experts, so that their main source of external guidance has been the SNH wildlife management offices. That guidance has been extremely good. Those groups are the ones that I suspect are towards the bottom of the spectrum when it comes to distance travelled so far. However, none of them is a basket case—none of them is not trying.

I highlight one of the examples from the report of a failing deer management group, the Harris and Lewis group, which scored 76 per cent red and no greens in terms of public interest. That is one way to tell the story. The other way to tell the story is to say that the group was no more than a nominal group for the years leading up to 2015, when it got going. It has now got the message, it has employed a consultant to write a deer

management plan and it has started having meetings. It is getting people to buy into it. That group is a success story. It has a long way to go before we can say that it works, but it is a good example of where a gap is being filled. SNH has rightly observed that there are gaps, but that group is a good example of where the gap is being addressed and filled. We have identified other areas where that is necessary and where the groups have not even started yet, but they will do so.

Drew McFarlane Slack: I thank Kate Forbes for her question. At the moment we have fairly wide coverage of Scotland with deer management plans. Even if they are a mixed bag, we have plans that can be monitored now. Even the ones that are not as good as the best can be made better through proper monitoring, by the groups themselves and by SNH in supporting them.

The Monadhliath deer management group probably—I hope—sits in the first group that Richard Cooke referred to. We have a plan that was assisted by an external adviser. All our members were contacted and interviewed prior to the plan being put in place.

As I mentioned earlier in answer to a question, the plan is only two and a half years old, so we are at an early stage in its development. For the past two years, we have concentrated on what we collectively believe has been the most important issue facing us: controlling the deer herd in our group.

We have been dealing with other issues. I referred to our stakeholder engagement programme. We have a training day for our members set up for early in January in the coming year. All the other public benefits that are part of our plan are being dealt with systematically and they will be examined and considered at the end of the plan's first five years. At that stage, we will tackle again the ones that we feel we have not tackled properly.

We are considering the plan over a 10-year period to achieve all the objectives that we hope will provide the public benefits that SNH is looking for but we are early in the programme and we have not had enough time to deliver it all yet. We are one of the better groups.

The Convener: With respect, that is really concerning. In the evidence that we are hearing or have received in writing, we keep being told that it is too early to judge progress. Indeed, the British Deer Society wants us to wait another seven to 10 years for a review before we come to a judgment on the matter. How long do you collectively—I am not having a go at your deer management plan, Mr McFarlane Slack—need to sort the matter?

Drew McFarlane Slack: We need to be tested on it at the end of our first five years, so another two and a half years would give us the ability to see whether we are making it work. I have a great deal of confidence that we will make it work, but it may take more time for some of the groups that are setting off from a lower starting point than us.

Alex Hogg: I spoke with Brian Lyall, who is a stalker up at Badanloch in Sutherland, on the phone last night. He has been there for 40 years and he says that, since he first worked with SNH, it has changed the bar three times on habitat assessment. It has not got its head round that. He said that Ray Mears was up doing a documentary and telling the public how the habitat takes thousands of years to get to where it is, but SNH wants to sort it in two years. It is not living in the real world.

The Convener: However, many years of decline have got us to that position in the first place.

Alex Hogg: We have to make a start to get it back but it takes years and years on the hill to see a difference because it is so exposed.

The Convener: Let us move on and consider some of the tools that are available for SNH to deploy. Let us consider agreements under section 7 of the Deer (Scotland) Act 1996.

Mr Cooke, in evidence to the Rural Affairs, Climate Change and Environment Committee in 2013, you described section 7 agreements as an enormous success, but the SNH report states that, of the 11 agreements—I accept that there is a dispute about whether it is 11—deer density targets have been met for only six and habitat targets have been met for only three. It also asserts that, where section 7 agreements were established in DMGs where there were concerns about deer impacts on natural features,

"the proportion of features in favourable and unfavourable recovering condition … is 7% lower than non-Section 7 areas."

I accept that the Breadalbane DMG, for example, takes issue with some of the claims that have been made about it. Do you still hold to the view that section 7 agreements are an enormous success, Mr Cooke? Do other witnesses believe that the agreements work?

Richard Cooke: Yes, I hold to that view. It is an on-going process, so there is more to do. Incidentally, the Minister for Environment and Climate Change at the time, Paul Wheelhouse, held to the same view in his response to the Rural Affairs, Climate Change and Environment Committee. That reflected SNH's view at the time but, for some reason, it has now taken a rather more negative view of section 7.

There are a number of signs of progress in the section 7 areas. You heard from Patrick Creasey that teasing out the progress that is being made and how it is being monitored is, in itself, an issue. A section 7 agreement is, in a sense, a mini deer management plan that is anchored to a designated site. It is a similar process. When I made the remark about success, I had in mind the fact that putting together a section 7 agreement, which is a voluntary control agreement, brings together all the relevant interests, makes them consider all the factors that are at play and makes them come up with a collective solution to the problem.

It may take some time to deliver. As you say, some of the groups have yet to achieve their cull targets and some of the agreements are older than others. The section 7 agreement in Glen Isla was set up at the behest of the deer group in the area, because it was unable to control the population, as the deer were fleeing into the woods. That section 7 agreement was actually closed down, having been a success. The Breadalbane agreement that was referred to was closed in 2015, despite what it says in the report. There are different ways of looking at it.

The Convener: With respect, a few moments ago we were talking about needing time to deliver. All but one of those section 7 agreements predates SNH taking responsibility for deer management. They are not new developments. They have had years to be implemented, and they are not working, according to that evidence. Do you not accept that?

Richard Cooke: Some of them have a long way to go, some have worked and some are a work in progress. I accept that.

The Convener: The groups have had quite a few years to develop them.

Richard Cooke: Section 7 agreements have been available since the Deer (Scotland) Act 1996 was passed. It is interesting that, since SNH became responsible for deer management, it has not sought to put in place any new sections 7s, or just a small number.

The Convener: There has been one.

Richard Cooke: One. Most section 7s were set up by the Deer Commission. As I keep saying—I do not want to sound like a broken record—very often, and in particular in cases such as the Breadalbane section 7 and the Caenlochan section 7 that Alex Hogg referred to, it is not just about dealing with the deer. It is about addressing all the factors that are at play.

Drew McFarlane Slack: Richard Cooke made a point about a section 7 agreement being a mini deer management plan, and I would like to turn that on its face. It has been my opinion that deer management plans are in themselves almost surrogate section 7 agreements; they can be monitored and they are voluntary. That is why it is important that committee members realise that the steps that we have taken to date to get more deer management groups to develop their plans are a huge step forward compared with what we had even three or four years ago.

Patrick Creasey: On Beinn Dearg, which is the second biggest area, the report suggests that the section 7 agreement is not working—that it is failing in three out of the four main categories. We have a very recent report, commissioned for SNH in 2013, that surveyed in depth four main habitat features and concluded that three out of four were in good condition; it also carried out a more local check on a further nine and noted that eight out of the nine were in favourable condition. I would say that there are very real reasons for challenging the conclusions in our most recent deer management report.

The Convener: Is that in relation to that particular section 7?

Patrick Creasey: It is a particular section 7, but that was one of the biggest factors in coming to the overall conclusion. I am pretty sure that SNH will review the data that we already have. We are not challenging the data; it has been very useful in many cases. Last week, we were involved in a collaborative exercise with SNH to address a small problem in a very inaccessible area, which came directly from seeing where the greatest habitat impacts had been concentrated. However, we had an extraordinary 2015. The Fannich hills were also affected and elsewhere might have been affected as well.

We have had a series of reports, the conclusions of which have been harvested, I think, without proper scientific review and may well be wrong. I cannot say that they are wrong, but a natural system, with wild deer, land and all the rest, does not respond that quickly. It takes a very long time to see where it is going. We have information in this year's report that is misleading to the stage that we need to check it further before we set our plans clearly on where we are going.

The Convener: Has there been any stage in the preceding years prior to 2015 when any of the section 7s hit their targets?

Richard Cooke: As I said, some sections 7s have been discharged because they have done what they were brought into existence to do.

11:30

The Convener: I am talking about the live section 7s that are still on the go. If we accept Mr

Creasey's point that there was a bad year, you are making a judgment on that snapshot. Was there any point during 2012, 2013 or 2014 when we might have looked at the section 7s and been able to say that they were hitting their targets?

Richard Cooke: If you take the Caenlochan section 7, which was referred to earlier, as an example, the reduction targets there were reached over a period of about five years about five years ago. That is a slightly unusual situation as the impact is felt during the summer rather than the winter; the deer congregate on the high ground and their impact causes damage to an important nature reserve. The target was considered by SNH and the participating bodies as not having led to the improvements that were expected, so it was adjusted and a further cull was done.

If you look at the example of the West Ross deer management group in the Fannich hills SSSI—the committee received evidence about the group from its chairman, Randal Wilson—the cull target has been achieved, as it says in the SNH report. However, at this stage, the SNH, its surveyors and the group are concerned that that might not be enough so they are revisiting it.

Section 7s are an adaptive process; they need to respond to the evidence as it comes in, taking into account the length of time that it takes for a change in management to be reflected in the quality of vegetation on the ground in what are sometimes very exposed locations.

The Convener: Let us look now at section 8 control schemes. Angus MacDonald will start.

Angus MacDonald: When Ian Ross gave evidence to the committee a couple of weeks ago, he said that SNH

"would be prepared to apply section 8"

following an assessment. He went on to say that a legal action

"would not stop us."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 22 November 2016; c 26-27.]

We also heard him say that during a Rural Affairs, Climate Change and Environment Committee meeting three years ago.

The Association of Deer Management Groups noted in its written evidence to the committee that SNH has yet to use the statutory powers that date back to the Deer (Scotland) Act 1996—they were referred to in response to a previous question—and the subsequent Land Reform (Scotland) Act 2016. The ADMG said that it would support the use of those powers, but SNH has chosen not to use them.

In what circumstances would the ADMG support the use of section 8 powers? Why does the panel think that those powers have never been used?

Richard Cooke: The system is a voluntary principle system of collaborative management. I accept that it is still an unfolding story but, in the great majority of cases, that collaborative approach is still sufficient to deal with any problems that arise. However, it has a backstop and a very clear framework in terms of the statute and the guidance from Government agencies.

When failure occurs, we would not oppose and have not opposed—in fact, we have proposed—the use of section 8 by SNH to resolve a situation of intractable conflict between participants in a particular area. I have had conversations with SNH staff that have indicated a willingness by them to do that, but—at some point—there has been a lack of will to use the measures that are available.

I am not saying that we should rush out and look for a candidate to make an example of, but there have been examples—and there will doubtless be future examples—of problems that cannot be resolved without resort to statutory measures. Taking into account the fact that additional powers have been granted to SNH this year by the Land Reform (Scotland) Act 2016, before SNH suggests that additional measures are necessary we need to see it use some of its existing powers when that is unavoidable. I commend SNH for wanting to proceed in the past by persuasion, encouragement and support, but there are inevitably circumstances sometimes—in what can be a very complicated and conflicted matter—when statutory levers have to be used. We have no objection in principle to that.

Angus MacDonald: It is fair to say that there is frustration across the board about the implementation of section 8 schemes. You mention SNH officers who have told you that there is frustration on their part, although I do not want to put words in their mouths. When Ian Ross gave evidence here a few weeks ago, he said that there is also frustration at board level. If there is all this frustration around, and there is a need for a section 8, why on earth is it not going ahead?

The Convener: Is it because some of your members would go to the court and challenge a section 8 if it was introduced, perhaps on the ground that it could not be proved beyond reasonable doubt that the impacts were being caused purely by deer?

Richard Cooke: As I have said, deer tend to get the blame by default when something is not going right but it is difficult to say that something has been caused by deer and nothing else or by deer in combination with something else. You are

absolutely right to say that. Whether section 8 would stand being tested in court can only be proven by testing it in court. I know that it has been said that section 8 is not effective, but I do not see why it should not be. If it is not effective, sufficient adjustment needs to be made to section 8 so that it is effective. At the moment, we are caught in a situation in which SNH does not feel confident in using a power that it has and we are prepared to say that, in some circumstances, use of the power might be justified.

Drew McFarlane Slack: It is also important that all stakeholders have confidence in the assessment process pertaining to upland habitats and the impact of current land management practices. A document called "A Guide to Upland Habitats: Surveying Land Management Impacts" was produced in 1998 and is used as the bible for those processes. From the discussions that I have had with a number of our members, it is quite clear that there is little confidence that that document is now fit for purpose. When Andrew Thin was in charge of SNH, he was asked to conduct a review of that document. I am not aware whether that is churning on within SNH, but it is certainly an issue for us that the current documents are not fit for purpose.

Kate Forbes: I would like to hear your views on changes that should be made to deer management policy. Various suggestions have been proposed in written evidence, the first of which is to do with SNH's powers. On the one hand, the British Deer Society has suggested that there is currently a suite of powers that are adequate for managing any eventuality. On the other hand, the land reform review group's proposals, which were proposed again in written evidence by the RSPB, suggested that SNH should be responsible for determining cull levels and that landowners should have to apply to SNH with the number of deer that they plan to shoot so that SNH can determine whether the number is sufficient. What are your views on those proposals?

Richard Cooke: As SNH said to the committee three weeks ago, there is no magic number. As far as the land reform review group's recommendations on culls being set by SNH are concerned, SNH would have the greatest difficulty in finding the evidence to justify picking on a particular figure in a particular area for a particular purpose. As we have just heard on section 7 areas, that is difficult enough, so how much more difficult would it be in a complex deer management group situation?

Fixing culls by mandate would, in effect, mean that we have moved away from the voluntary principle, and that is not an option. SNH is closely involved at field officer level with all the discussions about culls in deer management group areas, so its input is as much available through engaging with a particular deer management group as it ever would be if it had to sit in Inverness and come up with a figure. In practical terms, cull setting is fraught with difficulty.

One aspect of the land reform review group's recommendations that I strongly agree with is that the best proxy for deer populations and carrying capacity is the national cull. SNH has the power to require a return of cull to be made to it every year; indeed, it gets that but it is done only in respect of the holdings that it is aware are holdings where deer are culled. As we have heard, deer are to be found on just about every hectare of Scotland and there is no question, particularly in the Lowlands, although to some extent in the Highlands, but that underreporting of the cull is a serious shortcoming.

It would be really valuable if, rather than remain in the current situation, we could come up with a system that gave us a proper, accurate and reliable handle on the annual cull and take that as a measure of deer management success or failure. That was tried by SNH some years ago, when it added a box to the agricultural holdings June return and asked farmers to put in the number of deer that had been culled on their holdings. However, it was made clear that that was voluntary—it was to do with the farmers' human rights or something—and SNH could not require it as it can require the return of data on domestic livestock. Unsurprisingly, there was a very low level of response and the idea was dropped.

Ironically, another possible way of getting that information would be through the new imposition of sporting rights on deer management. However, I will not go into what I think the effect of that will be, as it is mostly negative.

The regional assessors, whom I have sat beside in the past when we have appeared before the committee, have said that they are determined to carry out a full revaluation—they have already started the process—that will cover 55,000 holdings, which is just about all the rural land in Scotland. When that was done before 1994, when the rating was suspended, there were only ever 8,000 holdings. The assessors will have a database that covers just about the whole of rural Scotland—surely that could be the basis for a cull return that would be an exhaustive assessment of the annual cull, which would be enormously valuable information. Therefore, I firmly support that bit of the land reform review group report.

Alex Hogg: I think that it is hypocritical that environment groups are calling for more regulation when, last July, the John Muir Trust left 85 stags on the hillside. When we have food banks and

starving kids, that is an absolute disgrace. I just wanted to make that point.

The Convener: Many of us would agree with the point that you have made, Mr Hogg, but that does not mean that the general point that is being made is not valid, does it?

Alex Hogg: There is no excuse for leaving 85 deer on the hill to rot—none whatsoever. There is no argument for that. It is an absolute disgrace.

The Convener: I return to the point that I just made. Although many of us would agree with your point, that does not detract from the arguments that are made by environmental groups about the need for regulation. Right or wrong, they are entitled to make their points, and they may be justified. Does anybody else want to come in?

Drew McFarlane Slack: It is vital that we maintain the voluntary, collaborative and consensual approach that we are taking just now to ensure that deer managers across Scotland participate fully in the process. If there were further regulation, as outlined by Kate Forbes in her question, that might act as a disincentive for some of our members. It is important that we maintain the voluntary approach.

Mark Ruskell: I understand your point of view, but somebody has to make a judgment about what the cull rate should be. If your members are concerned that they may be hit with a section 7 agreement or, eventually, a section 8 control scheme, is RSPB Scotland's suggestion not a way of passing the responsibility to SNH? It would be SNH's responsibility to make the right decision on the basis of the right data and to ensure that it could be delivered using a fully collaborative approach. It would no longer be your responsibility; it would be SNH's responsibility. Would there not be advantages to that?

Drew McFarlane Slack: I understand your point, but in that case why would we need deer management groups? Why would we not just let SNH deal with the matter?

Mark Ruskell: We would need deer management groups to carry out the actions on the ground.

Drew McFarlane Slack: Why would our members want to participate in that? In the current process, our members carry out functions on their own land to create economic activity and jobs and to provide services in remote rural areas. If the Government were to impose its own strategies, that would disincentivise those private owners from the business that they are involved in.

11:45

Mark Ruskell: That would not necessarily shut down the business. It might just mean that you ended up with deer with heavier carcase weights.

Richard Cooke: You will be saying again, "He would say that, wouldn't he," but deer management groups are now being suggested as a model for collaborative management on a much broader basis. Landscape-scale management is what we are all thinking about—considering the big picture rather than the minute picture of local management at site level—and deer management groups are a good model for that because they engage all the players. I would like to think that we can expand a range of responsibilities, as is already happening, from deer management to other types of management. I have said on a number of occasions this morning that, when we make decisions about deer management, they need to be made with full awareness and consciousness of all the other factors at play. The same will apply to sheep management, reforestation or any other type of land use change, so the voluntary principle is a precious thing.

That particular suggestion, taken from the land reform review group proposal, is, in effect, statutory management. It transfers the responsibility for the management of deer from the private individual to the state. There are cost implications there, and I have already referred to the costs in the report. There would have to be some discussion as to how that would be funded, because—and this is not meant to suggest any sort of threat—participation would be seriously demotivated, at the very least, by the undermining of the increasingly successful voluntary principle mechanism that we have. I remind the committee that the voluntary principle is very much curtailed in its wriggle room. It is not a free for all. We have three acts on the statute book that have a bearing on deer management, we have a policy document that covers three years and we have the code of practice for deer management, as well as ADMG's benchmark and the tools that tell people how to do the job, and now we have the assessment process.

I suggest that more scrutiny, regulation and assessment of the public interest are applied to deer management than to any other land use in Scotland. If the equivalent were applied to arable farming, farmers would have to submit their cropping plant to community councils on an annual basis. We welcome the level of scrutiny that exists in deer management. It is fine, and we are prepared to operate under the microscope and to respond to the challenge that was put to us in 2014 to be more transparent. There are 33 deer management plans online as we speak and that number is increasing all the time. They are there

to be seen, and we are okay with that, but the vital spark is the individual involvement and individual responsibility of the participants in deer management groups, and it would be a great shame to lose that.

The Convener: The deputy convener will wrap this session up with a final question.

Maurice Golden (West Scotland) (Con): Thank you, panel. We are nearly there. The report makes no recommendations. Rather, it conducts evaluations and then draws a number of conclusions. In light of that, what proposals or recommendations would the panel members like to make, and do they think that SNH is sufficiently resourced for enhanced deer management in Scotland?

Richard Cooke: This will be the last word—from me, anyway. I believe that we have done some very good work in the past two years, and seeing that in terms of environmental change is a longer-term prospect, as you have heard from a number of people, but let us not forget that it is also about social and economic benefits. The quantum leap that we have made needs time to work. We accept that we will be back before the committee in three years' time, and I am confident that we will have more to show for our efforts at that stage. We are only at the beginning of the design period; now we have got to go and deliver it, and we can do that.

As far as SNH's role is concerned, we have worked closely with it over a long period and with its predecessor body, DCS. That will continue. The engagement at ground level has been particularly valuable, although the recent restructuring of the SNH wildlife staff has not been terribly helpful, I am afraid, and I am not sure that they have been involved in the scrutiny of the report. We will work with SNH, however; as I said, the picture that I want to paint is of a sector that is moving rapidly forward, and I am telling you that that will continue.

The Convener: What did you mean when you said that wildlife staff might not have been involved in the scrutiny of the report?

Richard Cooke: When we were presented with the report, on the day when it was announced, we were advised that the next job of the people who were presenting to us would be to announce it to their own staff. For whatever reason, it had been kept entirely within the compiling team and at board level, so the next job was to explain it to the wildlife staff. I suspect that some of the anomalies about which we heard this morning, for example the mismatches between DMG densities and the extrapolated densities of JHI, would have been picked up by the wildlife management officers, who would have said, "This just does not make sense; we need to have another look."

The Convener: There is a suggestion that a couple of workstreams have had to be funded by the DMGs. Will you clarify that? The answer that we got from SNH three weeks ago left the issue a little bit out there.

Richard Cooke: There is no doubt that the reduction in funding to SNH has had an effect on what it can deliver. We know that when it loses staff it does not replace them, and that its wildlife team has been dispersed around the areas—that might have been done for reasons of efficiency, but it has reduced SNH's strength in working together.

We also know that some of the important tools that we need to do our job—I am thinking of the Scottish wild deer best practice guidance, which has been allowed to wither on the vine, and the really important SWARD data processing system, which we must have—are no longer sufficiently funded by SNH so that they can go forward. We have been told that SNH will support us as best it can on that, and ADMG is raising funds privately. We currently have more than £40,000 but we need the figure to be half as much again. We are prepared to put money in, because we need to be able to do what we are expected to do.

To answer Maurice Golden's question, SNH needs more funds if it is to deliver the deer management that is clearly in the public interest.

Drew McFarlane Slack: Scottish Land & Estates wants to underline the point that many deer managers in Scotland feel disappointed and disheartened by the SNP report—

The Convener: The SNH report. [*Laughter*.]

Drew McFarlane Slack: Sorry, convener. It was the natural comedian in me that said that. I do apologise. That has put me off my stride.

The SNH report has done nothing to help deer managers in Scotland to carry on with their work in the way in which they have been doing it. It is discouraging and disincentivising. I would like SNH to be properly funded to assist us. I underline that SNH has been a great partner for us in the Monadhliaths. It has been supportive and has helped us to deliver our outputs—I cannot fault it on that. However, the report does not generate the kind of partnership that we think that we have developed locally.

Alex Hogg: The Scottish public voted the red deer as its number 1 iconic species. There are 500 employees in SNH, but only 12 of them deal with deer, and they desperately need help. Staff who work with deer are underrepresented.

The Convener: Thank you for making those points, and thank you all for your time, gentlemen. This has been a useful session for the committee.

11:54

Meeting suspended.

11:58

On resuming—

The Convener: Welcome back. We continue our session on deer management in Scotland. Our second panel comprises Mike Daniels of the John Muir Trust; Maggie Keegan of the Scottish Wildlife Trust; Grant Moir from the Cairngorms National Park Authority; Duncan Orr-Ewing, convener of Scottish Environment LINK's deer subgroup; and Simon Pepper of the Forest Policy Group. If you do not feel the need to answer a question, do not feel the need to speak, but please contribute when you feel that it is appropriate to do so.

All the members of the panel were in the audience for the first part of the meeting, I think, so they will have heard the comments of the deer management groups and others, who made it clear that they think that SNH's report contains some significant errors. I would welcome their thoughts on that.

Duncan Orr-Ewing (Scottish Environment LINK): We think that the report is a fair one. All that SNH is doing is bringing together all the evidence on deer management in one place for the first time, which is very helpful. To be frank, the evidence on the subject will never be perfect, as the preceding debate indicated. SNH has used all the available data. It has made it clear that the report's conclusions are based on the hard data, not the interpretation that Mark Ruskell described earlier.

We have heard the discussions about whether the data is precisely accurate and, frankly, whether the density of deer is 12 or 15 per km^2 is slightly arbitrary. The deer densities are still too high to deliver the public interest. We know that, in other countries, deer density is around 0.5 deer per km^2 rather than the 12 to 15 that we have been talking about.

SNH has ensured that its report has had independent scientific scrutiny. The bottom paragraph of the foreword to the report highlights who has been involved in collating the data and how it has been scrutinised.

12:00

The Convener: But there appear to be some factual errors in the report. Does that not undermine it?

Dr Maggie Keegan (Scottish Wildlife Trust): We spoke to SNH about that, and it assured us that the figure on page 20 of the report is robust. It said that the modelling by the James Hutton Institute was modelling and was in no way how it drew its conclusions on the evidence in the report.

As has been said, the impacts and the pace of change are what are important. For me, the figures on pages 68 to 71 are among the most important things in the document. They paint the picture of how deer management groups are addressing some of the public interest issues that need to be addressed to deliver the Scottish biodiversity strategy. As the committee brought out in its questioning of the first panel, although some deer management groups are doing very well and have made good progress, many have not made the required progress or the changes that will be necessary to deliver the Scottish biodiversity strategy.

Simon Pepper (Forest Policy Group): Although there might be some dispute about the detail, the overall thrust of the report is robust. The suggestions that it was prepared with "bias" or in bad faith are extremely unfortunate. SNH has no motivation to exercise bias in the process—I cannot speak for SNH, but I am pretty sure that it would be the first to celebrate if there was genuine evidence that the targets would be met on time.

In response to whether there has been adequate progress and whether the targets will be met, the report gives a clear answer. The sector is praised for the progress that it is making but, as is apparent from the evidence that the committee has just heard, the deer management groups have not had time to demonstrate delivery of the results, so it is hardly surprising that SNH lacks confidence that the results will be delivered on time.

The question that needs to be asked is whether the deer management groups have the opportunity to deliver the objectives on time. They have expressed fulsomely their intention to do so, and it seems to us that they should be given that chance, but we should be preparing for the possibility that some of the groups might not deliver. We must ask ourselves whether the arrangements are in place to make quite sure that the objectives are still delivered, even if there turns out to be difficulty in some cases.

Grant Moir (Cairngorms National Park Authority): The information about the Cairngorms national park appears to be relatively accurate according to our understanding of what is happening in the Cairngorms. The report reads well in that regard.

The Convener: As far as the report's validity is concerned, given that it is so critical, might one not see it as a condemnation of SNH's oversight of deer management as much as a condemnation of the DMGs? Do you accept that the way in which the report is presented should give us confidence that it is accurate?

Dr Keegan: I listened to SNH's evidence, and there is no doubt that it has tried to bend over backwards to deliver the policy, which is the voluntary approach. It could be argued that, in some cases, it has given the voluntary approach too long to work, particularly when the Deer (Scotland) Act 1996 says that a section 8 control scheme can be put in place after six months.

We have discussed the issue among ourselves. One of our feelings is that SNH is asked to be a regulator and an enforcer, in the way that the Scottish Environment Protection Agency is, and therefore has to switch between being an adviser to being a body that seeks conciliation and so on, which might not come as naturally to it as it does to other bodies. One of the recommendations might be that it has to be much more robust and be backed by Government to deliver the policies that everyone wants it to deliver.

Emma Harper: In a letter to the committee that is dated 5 December, SNH provided information on three research projects: the wild deer research project and the Strath Caulaidh project are due to report at the end of January 2017, and another one is due to report at the end of March. Do SNH and stakeholders have sufficient accurate data and research available to enable them to make robust, evidence-based policy?

Dr Keegan: Do you mean in terms of the conclusions in the report?

Emma Harper: Yes, bearing in mind that additional reports are due next year.

Dr Keegan: There might be some dispute about the densities and the populations but, as everybody says, we need to look at impacts and—if we are talking about red deer—how deer management groups are working in practice. There is no doubt that some are working well while others are not addressing the public interest. SNH has scrutinised the 44 deer management plans and has assessed them against the public interest criteria, and quite a lot of them have not come up to the mark. Its conclusions are based on how well the deer management plans will deliver the public interest, because that was the whole point of the report. Because it has found that most of them are not going to deliver, it has come to the conclusion that it is not sure that there has been the necessary step-change.

The Convener: I am surprised that, given that the committees of this Parliament have taken a serious interest in deer management over the past three years and that SNH knew that this review was to be conducted at the end of 2016, it has not commissioned and delivered the piece of work on the estimated count of red deer on the hill ground by now. Are you surprised by that, too?

Duncan Orr-Ewing: All of the data is helpful and informs deer management best practice. It would certainly be helpful to have more information on localised deer densities, because some of the projects take time to act. The point is that, over the piece, SNH has generally bent over backwards—I think that Maggie Keegan used that term—to try to give the voluntary approach to deer management a chance. It has invested heavily in research to help to inform that process and in the production of deer management plans, which cost £160,000—the Forestry Commission has also invested in that regard.

On timescales, "Scotland's Wild Deer—A National Approach" was published in 2008. It set out quite clearly the public interest tests that needed to be met. We are not talking simply about what has happened since the Rural Affairs, Climate Change and Environment Committee considered the evidence in 2013, because there was the deer code in 2012, which also set out the public interest criteria.

I should also say that SNH has provided a huge amount of information behind the scenes to the deer management groups to help them to produce the deer management plans. SNH has bent over backwards to make the voluntary approach work. I am coming to the conclusion that the voluntary approach simply is not adequate and that SNH needs support from Government to use the powers that it has to deliver a more functional deer management system.

The Convener: In its submission, the Forest Policy Group also suggests that SNH is not sufficiently well backed by Government to enable it to deliver. Simon Pepper, what, specifically, do you mean by that?

Simon Pepper: There is a reluctance to move from a voluntary basis to a compulsory one. As Richard Cook rightly said, although it might seem paradoxical, a compulsory backstop is an essential part of a voluntary system. There are all sorts of reasons for the reluctance to move from a voluntary basis to a position in which the compulsory powers can be used, where appropriate. One of them is what Ian Ross, in his evidence before you a couple of weeks ago, referred to as the policy position, which was his rather cryptic way of referring to the extent to which he feels supported by ministers. Certainly, I feel that stronger, clearer support now from the relatively new cabinet secretary, indicating a much clearer Government resolve behind SNH's powers, would be very helpful indeed.

The Convener: Are those existing powers or powers that were delivered by the Land Reform (Scotland) Act 2016?

Simon Pepper: Both.

The Convener: Both.

Emma Harper, do you have another question?

Emma Harper: It is about lowland deer management, which I am aware concerns not just the south of Scotland. In evidence to the committee, the LDNS stated that the solution

"may lie in ... farmers and landowners taking responsibility, individually or collectively, for sustainable ... management".

What barriers do farmers and landowners in the lowlands face that might prevent them from taking responsibility for sustainable deer management?

Simon Pepper: Mr Playfair made some very good points about the situation in the lowlands. By the way, the distinction between lowlands and the hill ground is not as clear as is sometimes suggested—that is, that red deer are dealt with by the DMGs and all deer on ground below the sporting estates are dealt with by others. Very large parts of Scotland—I think that it is 61 per cent altogether—are not covered by DMGs, including everything from the fringes of the sporting estates right down to the centre of cities. It seems to us that what is conspicuously lacking in what is available to those trying to manage deer in those circumstances is data.

The DMGs have accepted and demonstrated the need for collective data, shared among all the participants, so that everybody knows what is going on. In general, that data is not available to people outside the DMGs, with a few exceptions. Generally, those who are trying to, or should be persuaded to, manage deer responsibly in what are called, very broadly, the lowlands need to know what is going on in their area. That is so especially if it is a small area of land and you have some responsibilities for or are affected by deer—you need to know what your neighbour is doing and to have data on how many deer there are; and, in particular, you need to know how many deer your neighbour is planning to cull in the next while, so that you can relate that to the impacts that you are experiencing. That discussion just is not happening in very large parts of what are broadly referred to as the lowlands.

Our suggestion is that one serious improvement that would encourage the use of the voluntary principle would be to equip anybody who is interested with easily accessible, up-to-date information about the status of deer in the area and who is culling what or is planning to do so. That could be done digitally. As time went on, information about impacts—both public-interest and, indeed, private-interest impacts—could be added to the database, which should build a picture that informs local discussion. Responsible people will then act responsibly because they are able to access the up-to-date information that they need.

The Convener: Would that have the effect of getting more local authorities to exercise their responsibilities in that area as well?

Simon Pepper: Let us say that it is an absolute fundamental: without that information, nobody knows what they are doing and everybody is acting with a blindfold. As soon as you expose that information, you allow a discussion or debate to evolve, in the local area, in the context of what the public interests are there—whether those relate to deer/vehicle collisions; damage to gardens, farms or forests; wildlife issues; or natural heritage issues. Unless people have that information, they do not have any basis on which to make rational decisions.

12:15

Mark Ruskell: Returning again to the issue of deer densities, I wonder whether you have any thoughts about what the magic number is for deer density. What I think I heard from the previous panel was that it is very difficult to pin down. Every estate and every circumstance is unique, with unique habitats and unique conditions. Is it possible to generalise the policy around deer density?

Simon Pepper: In your question you have put your finger on the answer; it is no—you cannot generalise and it is folly to generalise. In every local area, the facts need to be taken into account and the balance between private and public interests needs to be assessed fairly, in a way that is accountable locally, and then decisions are made. Of course there is a national component to that, but the decision about the appropriate number of deer to have per km^2 in an area varies enormously across Scotland. To suggest that there is a magic number is quite wrong.

Grant Moir: That is probably one of the most interesting questions. We have just had the national park partnership plan consultation, which asked roughly that. It asked:

"Should the Park Partnership Plan set guidance on the appropriate range of deer densities necessary to deliver the public interest?"

As you can imagine, we had a lot of interest in that question and a lot of polarised views.

The bit that I think is quite interesting is the public interest part. We are keen on setting out more clearly in the park partnership plan what that public interest is. If we are looking at woodland expansion, peatland restoration or getting designated sites back into feral condition in certain places, we want to ask what that means in relation to not just deer but other things as well, and whether that will be done through deer culling, fencing or the other mechanisms that are available to people. We need to set out clearly what the

public interest is spatially in order to be able to have that conversation—that is pretty crucial.

There is a link back to the land use strategy and the things that were said about rural land use partnerships and the potential for plans to be part of that. If we look at what is happening in both national parks, the park partnership plan is in effect the rural land use strategy for those areas.

If we can have that conversation about what the public interest is and add in the private interests—what people want to do with their individual estates—then we can have a conversation about the appropriate deer densities associated with that. That is the really clear bit that needs to happen. Then, if there is not agreement on that, the question is: what is the backstop? Is it section 7, section 8 or a different mechanism?

Having more clarity on the public interest and how that is set out and being able to make that conversation more realistic and get people involved in it would make a big difference.

The Convener: It is good to get on the record the point about peatland restoration, Mr Moir. I visited a potential project in Invermark in a national park where they were talking about quite an exciting peatland restoration project. However, having restored the peatland, we would then have to consider the need to put a fence around it to protect it. Deer impacts are quite significant across a range of issues.

Mike Daniels (John Muir Trust): To answer Mark Ruskell's question, densities are key to some extent. If you consider the public interest, you will see that the deer densities on SNH-owned land, Forestry Commission-owned land and NGO-owned land are generally much lower than on a sporting estate. I would argue that nobody really needs a density higher than 4 or 5, apart from the sporting interests.

Also, if you compare the densities across Europe—as was mentioned earlier—they are 0.1 to 0.5 deer per km^2. In our highest density areas, we have something like 10 times that. I take Simon Pepper's point that we need to know what the objectives are, but, as Grant Moir said, a way of working that out is to turn it into a number by working out what the density should be.

Dr Keegan: I just want to add that I whole-heartedly support the land use strategy, which would help, as would eco-system health indicators. Interestingly, I see from reading Duncan Halley's report that in Norway they set cull targets as well, based on deer weights. If deer weights are going down and it is thought that the carrying capacity of the land cannot support them, they increase the cull. There are quite a lot of factors; they are taking in deer welfare as well.

Duncan Orr-Ewing: I will expand on that a bit. A number of our organisations have practical experience of reducing deer numbers on the land that we manage to allow the habitat to recover. Once the habitat has recovered, deer densities can be allowed to go back up again. The critical point is that we need to take the step of reducing the deer numbers in the first place to give the habitat time. We know that a number of the habitats that are most seriously impacted by deer—particularly uplands, peatlands and woodlands—take time to recover.

I agree with what has been said about spatial mapping. However, we now have good spatial mapping of the peatland resource in Scotland, for example. I think that I have read that the deer density needed to allow peatlands to recover is around 0.4 deer per km^2.

Mark Ruskell: To be clear, you are saying that from the outset, the objectives—including the economic objectives for sporting estates, I presume—should be put into the mix.

Claudia Beamish: Good afternoon to the second panel. I want to drill down with those who feel that it is appropriate to answer on the extent to which the environmental impacts that we are discussing are due to deer. I noted what Duncan Orr-Ewing said about deer numbers and evidence. It would be useful if he could send us some of the information to which he referred, which would be interesting for the committee to consider.

I think that you have all heard about the targets in "2020 Challenge for Scotland's Biodiversity". I will not go into the details of that again, as it was highlighted in the first evidence session. However, it is stated on page 33 of SNH's report that

"Of the 1606 features examined, 56% of features have a negative overgrazing pressure identified, compared with only 9% having negative undergrazing pressures."

It seems from that report that the main factor that leads to insufficient progress in native woodland planting restoration is deer populations, although that has been disputed. What does the panel think about that and more broadly about whether the main factor is deer or other herbivores? It is very hard to generalise about these things, but any comments would be valued.

Dr Keegan: I went back and looked at "Scotland's Native Woodlands: Results from the Native Woodland Survey of Scotland", because obviously there could be mixed results. It could be sheep or deer. That document said:

"Deer were recorded as a significant presence ... in 73% of native woodland areas, livestock in 15%, and rabbits/hares in just 3.5%."

It concluded:

"Deer are ... the most widespread type of herbivore recorded and are likely to be the major source of impacts."

I do not have my own evidence; I am going on a Scottish Government long-term report.

Claudia Beamish: What was the date of that report?

Dr Keegan: Unfortunately, that report was not out when we gave evidence in 2013. It is quoted in the SNH report, but the SNH report does not go into all the details, which would have been a bit more helpful.

Grant Moir: Cairngorms national park is 49 per cent Natura sites and 25 per cent sites of special scientific interest, which are the highest figures in Scotland by quite a distance. Overgrazing remains the most significant pressure for designated features in the park. It affects 126 features and is ahead of disturbances by burning. Whether that is significantly by deer or sheep depends on where you are in the park. It gets down to fairly local circumstances. We could not generalise across the national park and say that it is all by deer or all by sheep or a mixture of the two. In certain places, it will be one, the other, or a mixture of the two. However, overgrazing is still the main reason why 19 per cent of features are not favourable or recovering.

Duncan Orr-Ewing: I am picking up from the SNH report that 50 per cent of the deer management groups failed to identify actions in deer management plans to deal with deer impacts in designated sites, which suggests a failure of the current process. SNH has provided that information up front, but the matter is still not being dealt with.

Simon Pepper: The distinction between sheep and deer, or for that matter between other herbivores and deer, is much easier to make in the lowlands. In the lowlands, most livestock is enclosed; if damage that is experienced in a woodland is being caused by deer, it is clear that it is only deer. If you ask anybody who is trying to grow trees anywhere below the head dyke anywhere in Scotland, they will tell you that fencing is a major constraint and cost. It is often a prohibitive extra cost, as it is not supported by subsidy.

Jenny Gilruth: Dr Keegan, we spoke to the previous panel about the impact of the deer management group sector on the tree-planting target. There was a reluctance from that panel to accept that deer are to blame, as it were. We also spoke about the impact that sheep might have on the ability to reach the planting target. Would you agree with the Forest Policy Group, which argues that the sector needs to be challenged specifically on that point?

Dr Keegan: I do not think that you can argue with the conclusions of the native woodland survey report. We had a conversation with SNH following its evidence, and we specifically asked whether it can tell the difference when it comes to herbivore impact. Can it do a herbivore impact assessment between deer and sheep so that it can work out what the problem is? SNH said that it has confidence that it can. In some circumstances there could be a combination of both but, if you know what the primary cause is, that is the one that you should address. Does that answer your question?

Jenny Gilruth: Yes.

Mike Daniels: I will address the previous point, too. To answer the question generally, if you look out a window in Scotland, you will see that you can grow trees only behind a deer fence. In lots of other countries in Europe, natural regeneration is the most common way for woodland to grow. On the other side, deer are a natural part of the woodland and we do not want to fence them out of all the woodlands. Deer should be there—but at a much lower density.

The SNH report was interesting in that it mentioned that 3,000km of deer fencing is about to deteriorate in the next few years. That is 20 times the length of the Scottish border. When it comes to the costs of the options for the future, to renew 3,000km of public sector fencing over the next 20 years will involve a huge cost, as opposed to having a lower deer number—not no deer but a much lower number. The reason for the deer fencing for woodland is that deer are the main herbivores that people are trying to keep out.

Alexander Burnett: I have a question for Grant Moir. I am glad that you raised the matter of the national park, which the constituency that I represent shares a bit of. We talked earlier about the section 7 agreements and about why some of them have not been lifted. I understand that the section 7 agreement at Mar Lodge, which is in both our areas, was due to be lifted at the end of last year, subject to satisfactory habitat reports. Those reports have come through and they are satisfactory, and the deer population is being reduced in the woodland zones, as is evident. What is your view on why that section 7 agreement has not been lifted? What do you think the plans for that might be in the future?

Grant Moir: A number of people find the section 7 grouping quite useful for discussing some of the issues. It is not just a question of the formal section 7 mechanism. Because there are a lot of issues in that area, it is a useful grouping for bringing those folk together.

One of the issues that I would have brought up anyway is boundaries between deer management

groups. Mar Lodge sits at the edge of one deer management group and abuts two other deer management groups. There are some quite different deer management regimes there. I do not have an answer as to why the matter has not been brought to a conclusion. I would need to go back and check—I cannot speculate. I know that the people involved find the grouping useful for discussing deer management issues within that area. It is worth thinking about how deer management groups work with each other across boundaries. Some of the big issues are between deer management groups, not within them. That is especially true in the Cairngorms, where there are some quite different objectives on the part of different deer management groups.

12:30

The Convener: Dave Stewart's line of questioning chimes with Mike Daniels's last point.

David Stewart: As the witnesses will have picked up from my questions to the previous panel, I am interested in the costs and benefits that have to be considered in decision making. Key finding 7 in part 5 of the SNH report states that the

"management of deer in Scotland results in a net monetary loss for both the private and public sectors. However, many of the impacts and benefits are not easy to assess or do not lend themselves to monetary valuation."

What is your assessment?

Dr Keegan: I could put it in terms of natural capital. I could list some of the opportunities that are not being taken in some areas because of the impact of deer. I am very struck by the way deer are managed in south-west Norway and the way opportunities come to communities there because of the lower deer numbers and the fact that there is some woodland regeneration, although I am not suggesting that that happens everywhere. There are opportunities relating to carbon sequestration, timber production, wood fuel, foraging for berries and fungi, education, recreation, biodiversity and natural flood management in riparian habitats. There are quite a lot of benefits that are very difficult to quantify. I do not think that those are totally captured in the report, although it is difficult to put a value on them. However, we know that biodiversity and the ecosystem services in Scotland are worth about £21 billion every year.

David Stewart: So there are hidden costs but also hidden benefits.

Dr Keegan: Yes, I am sure that there are.

Mike Daniels: The socioeconomic question really needs to be tackled more. Undoubtedly, all the deer stalkers in the private, NGO and state sectors do a hard job and they are out there day and night—that needs to be acknowledged. However, at lower deer densities, we actually need more people employed and far more employment, because it is much harder to cull deer when there are fewer of them.

I remember Richard Cooke a long time ago saying in a meeting that no estate owner made money from running a deer estate. It is true that people do not own a sporting estate to make money; they own it because they have money. It is not a model that generates economic return, but there is economic activity and the social benefit of employing staff to do that job. It is a misconception to say that, if we have an environmental priority and reduce deer numbers, we will not employ people. All the NGOs represented here that cull deer employ people to do that. In some cases, we employ more than were employed under previous owners.

There is a different type of employment, but there is certainly still a place for traditional deer management. If we get a much lower deer density and a healthier environment, that will have all the economic benefits that come from flood protection, peatland restoration and woodland regeneration. There is a range of benefits but, because we are looking at bare hills, we do not see them and we do not know that they are there. However, they will come and they will benefit the country as a whole and not just the landowners who happen to manage the land at present.

Grant Moir: The employment issue is crucial. One of the main points that estates make is about the number of people who are employed in the sector. It provides employment in remote areas, and we are keen to try to retain people in remote areas working on the land. Is the current model the only way to do that and what is the opportunity cost of doing it with that model? If we wanted to move to a different model, what would that be?

That is difficult for people to get their heads round, but we can point to a number of estates where there has been a significant reduction in deer numbers but no significant reduction in employment. It is not the case that a reduction in deer numbers leads to a reduction in employment. Actually, when we look at some of the estates that have done that around Scotland, we find that that point does not stack up. It is worth looking at the evidence on what has happened on estates where there has been a reduction in deer numbers. There is not a simple relationship between the two.

The Convener: That is one of the gaps in the evidence that we have to consider.

Simon Pepper: I agree that it is difficult to know what to make of the economic appraisal in the SNH report, especially given that it includes an

assessment of the value of deer. Nobody is suggesting that deer should not be there; the question is how many should be there.

The argument that fewer benefits will arise if there are fewer deer does not stack up. If someone sends people down the road when they have reduced their deer, the first thing that will happen is that deer numbers will increase again. There will be an on-going requirement for a skilled, active workforce, which will continue to have employment.

The question perhaps goes back to "Scotland's Wild Deer: A National Approach", which talks about a vision of achieving

"the best combination of benefits"

for all. That is where these arguments come into play. Where is the best combination of benefits for all? We also need to look at the land reform agenda, which is about securing the benefit of land for the many and not the few, more engagement by communities and revitalisation of the rural economy.

There is a strong argument to suggest that the particular preference for high deer numbers that is currently imposed by the sector is not necessarily to the benefit of all. I think that benefit to all is the direction of policy.

David Stewart: I add for the record that the Community Empowerment (Scotland) Act 2015 has a role to play here as well.

I have one final question. The RSPB told the committee in its written evidence:

"In our view, there needs to be a re-balancing of the deer culling effort between the public and private sectors to ensure that the private sector increases its efforts."

How would you respond?

The Convener: Duncan Orr-Ewing is here, but as part of his day job.

Duncan Orr-Ewing: Yes—I am representing Scottish Environment LINK today.

At present, the Forestry Commission takes a third of the national deer cull each year, and it has managed to drive down deer densities, as is said in the report on the national forest estate, on 9 per cent of the land. That is currently an additional cost to the public.

The chart on page 20 of the SNH report and the text around it suggest that the current levels of deer cull elsewhere—this would probably also be the case if we include the Forestry Commission data—are not sufficient to reduce the current population of deer. I read into that that we need more effort from the private sector and perhaps more engagement by others, in the way that Simon Pepper has just described, to help with that effort. We need more people to cull and reduce deer, and not the number that we currently have.

The Convener: Thank you. We will move on. In 2013, the Rural Affairs, Climate Change and Environment Committee was told that it was too early to come to judgment on the impact of the code of practice that was introduced in 2011 as part of the Wildlife and Natural Environment (Scotland) Act 2011. Now we are told that it is too early to come to judgment on the impact of deer management plans. How long do we have to wait to see a genuine return?

Dr Keegan: I was just sitting here thinking, "I'm in 2013." An important point to note, and one that everybody recognises, is that the habitats take a long time to recover, so there should be some urgency about not waiting. That is the point. If we give it another three, four or five years, the habitats will continue to deteriorate. We do not have that time to wait in delivering the Scottish biodiversity strategy.

The Convener: Let us broaden this out a little. What do we need to do to build some momentum into this?

Duncan Orr-Ewing: We have made some suggestions, as Kate Forbes mentioned earlier. As I said, we need some rebalancing as well, but we suggest that more emphasis be placed on the individual in relation to deer culling. We have a deer management group structure, but those who are not following best practice and meeting the public interest can hide under that structure.

The land reform review group report made some sensible suggestions about socially responsible cull levels. Rich Cooke said that he does not agree with SNH putting the onus on the deer management groups, largely because he wants the voluntary approach to continue. I think that he has misread slightly what the land reform review group's report says in that context. My reading of it is that what is suggested is that individual landowners should come up with a proposition about what a socially responsible deer population would look like on their land. They should submit that to SNH, which will say yes or no, depending on whether it considers that the proposition is adequate. SNH might pick particular geographical areas where it thinks that there is a problem; therefore a blanket approach would not be adopted. That was the approach that the land reform review group suggested. To my reading, the voluntary approach still has traction in that process.

The Convener: I saw Simon Pepper nodding in agreement.

Simon Pepper: It is well worth dwelling on the land reform review group recommendations. They were significantly misunderstood or

misrepresented—unfortunately, rather than maliciously—earlier.

I have looked at this in great detail. I agree that the detailed recommendations were not particularly well expressed, but they are well worth pursuing as grounds for improving the way in which the voluntary principle might work.

A key element that is misunderstood is the use of the word "determining"—the idea that SNH should be determining a cull in any particular area. It is clear from the rest of what is said that the term does not mean that SNH should pre-emptively decide on culls and impose those decisions in a top-down way; what is meant is that SNH should scrutinise and approve proposals with, as Duncan Orr-Ewing said, the options of letting the plans proceed or going back to the owner and saying that in the public interest more deer need to be culled.

A dialogue would then start, and the expectation is that, if the case was put properly and courteously, a responsible owner would accept it and behaviours would change. A courteous, sensible and low-key approach is embodied in the proposal, which deserves further consideration.

The Convener: Perhaps that is so, but what would the backstop be?

Simon Pepper: That is the next key thing. What is required to start the conversation is the data that I spoke about. There is then the process of approval, which might evolve into consent—that is the term that the land reform review group used.

The fundamental key to an effective system is whether there is a credible back-up power. At present, with the best will in the world, and given all the difficulties that have been experienced, I do not think that anybody would say that we have a credible back-up power in place. As we discussed before, it has not been used for a variety of reasons; no one has any faith in it.

We need to look at slight adjustments to the legislation to enable a swifter, more straightforward, entirely accountable and appealable measure that allows SNH to ensure that a cull that is required in the public interest is delivered. That would be for cases in which dialogue had come to a halt and no progress was being made, perhaps because the owners were unwilling, were unable or refused to do what was asked of them.

Duncan Orr-Ewing: The convener mentioned that section 7 agreements are not a new thing; they came in when the DCS was managing deer issues. One of the big faults in the section 7 process is that there is no time limit on when the agreements come to an end and we move to the next phase. We have had considerable deliberations at SNH board level about whether to move to the next phase. It is time consuming and costly for SNH to marshal the evidence and all the other information that is required to produce a solid case. We need a more streamlined process.

12:45

It is a shame that section 8 has not been used and tested. If it were tested in court, we would know whether it was a workable power. As has been indicated, SNH said that it was about to use the power when it came to the Rural Affairs, Climate Change and Environment Committee in 2013, but the power has not subsequently been used.

As Simon Pepper said, we need a credible backstop if people want decisions to be made, which would allow them to operate. They might not like a decision, but at least there would be one.

The Convener: Mark Ruskell wants to develop the section 7 theme.

Mark Ruskell: Actually, I will reflect briefly on the voluntary approach. SNH's report covers public interest categories. My reading is that there has been good work by the majority of deer management groups to quantify things and assess the condition of our sites and the quality of the environment, but the gap seems to relate to the delivery of the actions. I know that the analysis has been only over a two-year period, but what are your thoughts on how we drive actions? Is that a matter of enforcing more section 7s or driving them through a voluntary approach or whatever?

The Convener: To be fair, deer management plans were on the go before that period in some places, so we are not talking about just a two-year period. It was two years ago that the Parliament told the groups to get their act together and set a time for a review to be carried out.

Dr Keegan: When SNH looked through the 44 reports, it gave deer management groups advice on actions. Whether they chose to follow that advice is reflected in the figures. Another point is that the amber ratings did not move from 2014 to 2016.

Perhaps the onus should be on the individuals. There are deer management groups where probably 80 per cent of the landowners and the land managers want to do the right thing, so there is a need to deal with the others. That is a process of fairness. Such an approach could equally apply to the lowlands. For example, if there were a road traffic accident hotspot, a landowner—or manager, if the land was local authority owned—could be compelled or asked to set cull targets, and action could be taken if that did not happen.

Grant Moir: Deer management plans were asked about, and I have obviously looked at the plans for the Cairngorms area. An issue is that their quality varies and that actions need to become more specific and spatial. That is probably what needs to happen next, because that is a key mechanism. There are good intentions in the plans and—let us be clear—they are a lot better than they were. However, we need to move from intentions to what that means on the ground and who will do what, by what timescale and where.

That approach happens in some places—Drew McFarlane Slack mentioned woodland expansion in Monadhliath—so what I said does not apply everywhere, but if people are lagging behind on a voluntary principle, what do we do about that? That comes back to whether the mechanism is for, if you like, shunting the ones that are further behind to make them do what we are looking for.

Mark Ruskell: That is in effect the step change that SNH is calling for. Is that your interpretation of it?

Grant Moir: Yes.

The Convener: We have touched on section 7s. As nobody wants to add anything about them or their effectiveness, we will move on to section 8s.

Angus MacDonald: Section 8s have been touched on, too. The witnesses will have heard my question to the previous panel about section 8s and my reference to Ian Ross's comment that SNH would be prepared to enforce a section 8 following an assessment. It is fair to say that many of those with a vested interest share a frustration that no section 8 has been enforced yet. Are there any circumstances in which you would have expected a section 8 scheme to have been enforced? If there are, why did that not happen?

Mike Daniels: I echo what has been said. The John Muir Trust has been involved in two section 7s—the one in Breadalbane and the one up at Ardvar, which have been talked about.

There is a lot of uncertainty as to whether a section 8 would be open to challenge and how effective it would be. Given all the different owners that are involved, would a section 8 apply to all of them or just one? Would it apply to fencing or culling deer? There is a lot of uncertainty, but SNH has limited powers. John Milne, who was chair of the Deer Commission for Scotland, said in evidence to a parliamentary committee a long time ago that he thought that the section 8 approach would not work. As I said, there is a lot of uncertainty about the approach.

That goes back to the question whether we should try to deliver something that is complicated to deliver. What does delivering a section 8 mean? Is it a one-off cull that gets imposed, then we walk away, or is it a long-term thing? The mechanism that we have been discussing is based on the individual owner, who is either doing something or not doing it, and that approach can be repeated every year, which keeps up the pressure. The fear is that, having spent years on the process to get to a section 8 and having decided to reduce the deer population to X for a one-off cull, a question will remain about what happens after that. That seems a convoluted way of doing something.

We have had deer management groups and deer management plans for 30 years and section 7s for a long time. I do not know what else to say; for whatever reason, none of that is working and it is not going to work. I am therefore not overly confident that section 8 will be the answer to the problem.

David Stewart: I will make a general point, which I am not necessarily looking for the panel to reply to. My view as a member of the Scottish Parliament is that, if legislation is fit for purpose, the agency that is charged with carrying it out should carry it out, be that Police Scotland, the Crown Office and Procurator Fiscal Service or whatever. If there is a sense that legislation is faulty or not fit for purpose—we had examples of that with the Cadder ruling and the tenant farmers ruling—it is up to Parliament to correct it, which can be done by a committee or the Parliament as a whole.

My general point is that either the legislation is used or it is not. There is the idea that legislation has to be tested in court but, if we did that for every piece of legislation, the courts would be full every day from now until the end of the century. That is not the way in which legislation is planned to work. I just make that general point, and the witnesses can respond to it or not.

I am afraid that I do not understand the point that SNH is making. No one has suggested so far that the legislation is faulty. If it is faulty, the Scottish Government has the space and time to correct it through a one-line bill in the Parliament. I do not know whether Simon Pepper wants to respond.

Simon Pepper: I will. Because section 8 is so cumbersome and has not been used for so many reasons—whatever they might be—the signals that, unfortunately, people pick up from that reluctance lead to a culture of impunity being developed, which does not help progress.

I do not know whether the committee has asked SNH how much money it has spent on one section 11 that is threatening to go to a section 8, but the amount is huge. I do not have the exact numbers, but I think that the amount would shock members.

If we go through that rigmarole for every section 11 that might turn into a section 8, we will be finished and will not make any progress.

The Convener: Do you mean a section 7 that could turn into a section 8?

Simon Pepper: I am sorry—I mean a section 7 turning into a section 8.

The guard dog analogy is quite good. If you have a guard dog but it takes you an enormous time to let it off its leash to do its job, people will start ignoring it. We need a nimble, straightforward, clear-cut and effective back-up, but the paradox is that it might never need to be used.

Angus MacDonald: I take on board Simon Pepper's point. However, do you not feel that serving even one section 8 would help to concentrate minds?

Simon Pepper: Certainly. However, if it costs £1 million, it could be argued that it is questionable whether that is good value for money.

The Convener: If you were in a position to make recommendations, what would each of you suggest was the best way forward from this point on?

Simon Pepper: I have a fairly clear recommendation. We have reached the point where most of us agree that, with the best will in the world, we do not have a system that is functioning smoothly. It is not delivering the goods; if it was, your predecessor committee would not have felt it necessary to light a rocket under the system and get things moving, as they clearly now are. However, many of us doubt whether it can still deliver the goods.

The land reform review group's proposals offer an extremely worthwhile avenue for further discussion between the necessary parties to come up with ways to improve the working of the voluntary principle and make it easier for everybody. That would be an enormous advantage to the deer management groups and to those trying to operate in the lowlands.

If some elements are still not performing in two to three years—or whenever we come back to look at outcomes—we need to be in a position to deal with that decisively; otherwise, we will be back in the same old situation of going round the mulberry bush.

Duncan Orr-Ewing: We acknowledge that there has been some progress from the deer management groups, albeit that it has been quite late, even though we have had recognition of the public interest since 2008 in "Scotland's Wild Deer—A National Approach". However, what we really need is a system of deer management that does not apply just to the 40 per cent of the land area that the deer management groups cover. We need a system that covers all deer over all of Scotland.

We would go back to the land reform review group proposals and put the onus on individual landowners to come up with a proposition that recognises the public interest. It would then be for SNH to consider that proposition and agree or disagree with it.

We agree that setting up a time-limited, task-led group—working on the basis of the land reform review group proposals and other considerations—to come up with a formal proposition with the deer management groups, involving FCS and SNH, would be a good way to develop more concrete proposals that might help to sort out some of this mess.

Grant Moir: I have two quick points. It is crucial to have spatial articulation of the public interest at a level that people can understand and relate to in terms of flood management, peatland restoration, woodland expansion and so on, which the deer management groups can also relate to.

Specifically on sections 7 and 8, we should ask whether they are fit for purpose.

Dr Keegan: It is probably no surprise that I agree with Duncan Orr-Ewing, because the Scottish Wildlife Trust is a member organisation of Scottish Environment LINK. We would very much like to be part of a short-term working group with clear terms of reference that would perhaps come back to the committee in six months with a solution.

Mike Daniels: I agree with all that. I add that there is a lot of concern and uncertainty among stalkers out there, in the private and public sectors and in non-governmental organisations. The public interest is not very clearly expressed. Expressing that more clearly would really help SNH in its regulatory role, so that it could just say, "This is what you need to cull," and everyone would be clear. In the current situation with the deer management groups, we just end up with confusion and conflict. That has been going on for years and is not helpful for our rural communities.

The Convener: Thank you for those suggestions and for your time.

At its next meeting, on 20 December, the committee will take evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform on the Scottish Government's draft budget 2017-18 and will consider subordinate legislation.

12:58

Meeting continued in private until 13:10.

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