



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 25 January 2017**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

**3<sup>rd</sup> Meeting 2017, Session 5**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Gail Ross (Caithness, Sutherland and Ross) (SNP)

**COMMITTEE MEMBERS**

\*Peter Chapman (North East Scotland) (Con)

\*Mairi Evans (Angus North and Mearns) (SNP)

John Finnie (Highlands and Islands) (Green)

\*Rhoda Grant (Highlands and Islands) (Lab)

\*Jamie Greene (West Scotland) (Con)

\*Richard Lyle (Uddingston and Bellshill) (SNP)

\*John Mason (Glasgow Shettleston) (SNP)

\*Mike Rumbles (North East Scotland) (LD)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Martin Dorchester (David MacBrayne Ltd)

Robbie Drummond (David MacBrayne Ltd)

Fergus Ewing (Cabinet Secretary for Rural Economy and Connectivity)

Allan Gibb (Scottish Government)

Elinor Mitchell (Scottish Government)

Eddie Turnbull (Scottish Government)

Annabel Turpie (Scottish Government)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Rural Economy and Connectivity Committee

*Wednesday 25 January 2017*

*[The Convener opened the meeting at 09:32]*

### Clyde and Hebrides Ferry Services

**The Convener (Edward Mountain):** Good morning. Welcome to the third meeting in 2017 of the Rural Economy and Connectivity Committee. Everyone present is reminded to switch off their mobile phones.

Apologies have been received from John Finnie.

Agenda item 1 concerns the Clyde and Hebrides ferry services. We will take evidence from representatives of David MacBrayne Ltd on ferry services in Scotland. I welcome Martin Dorchester, the chief executive, and Robbie Drummond, the group finance director. I invite Mr Drummond to make an opening statement, but ask for it to be kept as short as possible.

**Robbie Drummond (David MacBrayne Ltd):** I am the group finance director of David MacBrayne and Martin Dorchester is the chief executive. We are pleased to be here this morning to talk about the David MacBrayne group and the contract to run the Clyde and Hebrides ferry services.

We were delighted to win the contract, and I would like to publicly thank our many supporters across Scotland for the visible and positive support that we received. I particularly want to acknowledge the cross-party support that we received from MSPs and MPs, including some who are here today.

For those who are not aware, the David MacBrayne group is a private company that is solely owned by the Scottish ministers, governed under the Companies Act 2006, with an independent board that is appointed by the Scottish Government. We are proud to be owned by the people of Scotland and we are aligned to delivering the policies and objectives of the Scottish Government. We are also proud to be a living-wage employer and to have been named the Scottish living-wage employer of the year in 2016. We aim to recruit locally in order to support local sustainability and community success.

Over the past few years, we have undertaken a series of improvements in terms of safety, new technology and customer communications. Our success in offering a good and safe service has

been validated externally with a series of national and international awards. We have also worked well in partnership with our colleagues in Transport Scotland and in communities to deliver significant changes to improve our services, including new routes, increased sailings and, indeed, new vessels.

Last year was an important one for the group. Of course, the key highlight was the award of the eight year, £1 billion CHFS contract, which started in October 2016. In addition, our expertise was recognised by the Ministry of Defence, which awarded us a 35 year, £1 billion contract to operate Marchwood, the ministry's key strategic military port. That contract supports our ambition to move into new markets and use our skills, knowledge and experience to drive a much wider benefit for Scotland.

I will focus some brief comments on the CHFS contract. Three parties are involved in managing the services, and each has its own set of responsibilities. Transport Scotland is responsible for the procurement of the services, setting the service specification for routes and timetables and setting the fares and other policies, such as future vessel and infrastructure investment. The second party is Caledonian Marine Assets Ltd, which is wholly owned by the Scottish Government, although it is entirely separate from David MacBrayne Ltd. CMAL is responsible for procuring and owning the vessels, which are funded by the Scottish Government, leasing the vessels to the ferry operator and owning and maintaining the 22 harbours. The third party is David MacBrayne Ltd, which is responsible for operating the public service contract, which we do through our subsidiary company, CalMac Ferries Ltd. The contract stipulates that we lease the vessels from CMAL and that we pay harbour access dues to CMAL and other independent port operators.

Our aim is to deliver a good service for our customers and to create long-term sustainable economic value for our communities and the Scottish Government. However, we recognise that we operate an ageing fleet, sailing into ageing port infrastructure, and face increasingly difficult weather conditions on the west coast of Scotland. Inevitably, those factors will impact service, but we work hard to minimise that disruption and to communicate changes to our passengers.

Digital connectivity is also challenging across our network. We have invested in improved connectivity across our 80 sites, which has been much more difficult than we originally anticipated. However, that investment will offer an improved service for all our customers—tourist and business—which will help to support economic sustainability.

We work really hard to retain the support of our communities and key stakeholders, and we are therefore grateful for this opportunity to talk to you in that context. Martin Dorchester and I are happy to take questions from the committee.

**The Convener:** Thank you for that opening statement. Mairi Evans will ask the first question.

**Mairi Evans (Angus North and Mearns) (SNP):** You mentioned how the David MacBrayne group of companies is owned, managed and financed. Could you give us some more details on that?

**Robbie Drummond:** The David MacBrayne group is a private company that is owned by the Scottish ministers and run as a private company. We do not receive any direct grant in aid, and we go out to win public contracts and earn profits through those contracts.

**Mairi Evans:** Could you say more about the finance side?

**Robbie Drummond:** We bid for and win contracts, and are paid to run those contracts. We are paid a level of subsidy to manage the CHFS contract. Likewise, we are paid to run the contract for Marchwood. We do not receive any direct grant from the Scottish Government.

**The Convener:** The Marchwood contract is obviously quite financially significant. Could you explain your involvement in it and say a little bit about what is being done there?

**Robbie Drummond:** Certainly. That is a long-term contract. Marchwood is the key military defence port from which munitions and goods go out across the world. Our role is to act as a sub-contractor to the MOD to manage the port and the operations. There is a wider opportunity to commercially develop some of the site to bring into the port new services and operations that would generate additional revenue for the group.

**Martin Dorchester (David MacBrayne Ltd):** It was great to hear you ask my finance director to be brief, convener. That was terrific and I will make a note of it.

I will address two points, the first of which is on our structure and ownership. If you think of us as a private company with shareholders, our shareholders are the Scottish Government. We generate revenue by bidding for and winning contracts, which gives us a mix of fare-box revenue from customers and what we sell through retail and the amount of subsidy that is aligned to a contract. That is how we generate our revenue.

On Marchwood, I will phrase things slightly differently. We bid, as a joint venture, to win a contract to deliver services in Marchwood, but we will not deliver the services. We set up an

organisation there that we sit behind, and it will procure from us the services that it needs on things such as finance and marketing. We do not go in there day to day and run the organisation; we sit above it and it delivers the contract. We will get the fee for the services that we provide and when that business generates its margins at the end of the year we will get the premium from that. Does that help?

**The Convener:** It is obviously an important contract that could lead to other things, if ports or hubs were established elsewhere.

Do you invest the premium that comes back from that in ferry services that you are providing in Scotland, or does it go to the shareholder?

**Martin Dorchester:** It could do both. We have the same discussion that anyone would have with the shareholder, in which we say how much profit we have made. Within the CalMac contract there is a clawback facility that pulls it back in. There would then be the opportunity for the DML group to consider what it wanted to do with its profits and how it should invest them. As you would expect, we would talk to the shareholder about how we wanted to invest in future.

**The Convener:** When do the contracts start?

**Martin Dorchester:** We took official handover on 1 December 2016 and it is a 35 year concession, which the Scottish Government might want to consider for ferry services as well.

**The Convener:** So the year end for the reporting period will be December 2017.

**Martin Dorchester:** The operating year end will be December 2017, but we will report on the fiscal year: April to April.

**The Convener:** At that stage we will be able to see how much money you will be investing back into the ferry service.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I have a very small question. I know that you ran an Irish ferry service for either Northern Ireland or the Irish Republic. Is it part of your business plans to opportunistically bid for contracts outwith Scotland where it appears that that will complement what you are doing and enable you to make money?

**Martin Dorchester:** Yes. We actively look at what opportunities are out there and we do what all businesses do: we look at the risks around those opportunities and ask ourselves whether we believe that we can—to be blunt—make money out of them.

**The Convener:** Gail Ross has a quick question on the back of that.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** Do you operate any routes at a loss?

**Martin Dorchester:** We could get into a discussion about what we mean by "loss". The reality is that we run a fundamental lifeline service. If you look at it discretely, yes, we run at a loss. However, we bid for the contract and get the subsidy plus the revenue to do that.

**Robbie Drummond:** To clarify, all our contracts, including the CHFS contract and, indeed, the Gourrock to Dunoon contract, are run profitably.

**Rhoda Grant (Highlands and Islands) (Lab):** Will you be bidding for the northern isles ferry service?

**Martin Dorchester:** We absolutely will.

**Jamie Greene (West Scotland) (Con):** I know we have a lot to get through, so I apologise, but the opening statement opened up a raft of questions for us.

**Martin Dorchester:** It was meant to do the opposite, Jamie.

09:45

**Jamie Greene:** It was very informative. Perhaps, for the committee's benefit, you could provide post the meeting a nice little flowchart of how the companies interlink. I was interested in the arrangements for the leasing of vessels and the relationship with the franchise. It is all a bit confusing, to an extent.

Your shareholders are the Scottish Government, which is issuing tenders for new services. You were successful in one of those tenders and will probably bid for others in the future. Given that situation, have you ever come across any conflict of interest in the sense that it is absolutely in the Government's interest to give contracts to a company that it already owns as opposed to going out to the wider commercial market? That is not a criticism; it is just an observation.

**Martin Dorchester:** I have heard companies say that we did not win the tender and I say, "Well, we did." There are strict rules on the governance of the issue of contracts and those contracts are then published for people to see. We are confident that we as a company do not get a free pass, but win what we compete for. The committee scrutiny and the scrutiny that the civil service that issues contracts is put under show that that is the case. We are confident that we compete and win on a level playing field.

**Peter Chapman (North East Scotland) (Con):** Good morning, gents. You have just won the new contract, which kicked in on 1 October. Congratulations on that. One of the key things that

you said during the bidding process was that you would increase passenger/vehicle traffic by 10 per cent and commercial traffic by more than 12 per cent over the contract period. I am interested in how you intend to do that. If you do not manage to do it, what effect will it have on your finances and the need for taxpayer support to see you through?

**Robbie Drummond:** There are two key ways in which we want to grow passenger numbers. The first is by working harder on how we work with local organisations and market our services. Can we work with our partners and target our customers better? We are investing in some technology that allows us to target customers better and offer more interesting routes for them to get on to the islands and use the services that are there, perhaps considering some of the off-peak areas. Some really clever, commercial, targeted marketing will help with that. We are working closely with VisitScotland and local marketing organisations on that.

Capacity constraints are an issue for us, particularly in the summer. We have some initiatives to consider how we ensure that the vessels travel as full as possible. We are thinking about how to solve that technically and how we reduce the number of no-shows and ensure that people can get on the boats. That will help to increase the revenue.

We are confident that, over the contract period, we can grow revenue by 10 per cent. We have committed to doing that. You talked about risk. If we do not achieve that, the risk sits with us. It is a fixed-price contract and, if we do not achieve the target, we will have to deal with and manage that.

**Peter Chapman:** If you do not achieve it, will the taxpayer not end up with a bill at the end of the contract period?

**Robbie Drummond:** As I said, it is a fixed-price contract, so the amount of subsidy that we receive over the eight years is the amount within which we have to manage. If we do not generate the amount of fare-box revenue that we need, we will have to address that.

It is worth pointing out that we also talked about increasing our on-board spend. We have initiatives to make that more effective and provide a better, more attractive service for customers in our food and retail offerings. That will help with the objective of growing revenue.

**The Convener:** However, deficits in companies fall to the shareholders, surely.

**Martin Dorchester:** If we do not hit our revenue targets, we have to cut our cloth accordingly. That is how we operate as a business. As Robbie Drummond said, it is a fixed-price contract. There is no get-out-of-jail-free card for us.

**The Convener:** Are you saying that there would be no more money and it would just be a reduction in services?

**Martin Dorchester:** No. I am saying that we would have to find other ways of managing that. If we think about it in terms of layering, we have a specified minimum level of service because we run a lifeline service, so that will not diminish. Built above that, we have revenue projections for things that we could do. We would know what money we would have to invest in marketing to drive sales for those projections. However, if money was not available, we would have to cut our cloth accordingly without diminishing the level of service.

**The Convener:** Do you want to follow up on that, Stewart, or do you have a question on something else?

**Stewart Stevenson:** It is a tiny point. I just heard a reference to a 10 per cent revenue increase, but my notes say that it is a traffic increase. I want to be clear which it is.

**Martin Dorchester:** It is revenue.

**Stewart Stevenson:** Thank you.

**The Convener:** The next question is yours, Stewart.

**Stewart Stevenson:** My question can be dealt with very briefly.

**Martin Dorchester:** You are managing us very well.

**Stewart Stevenson:** I am a techie, so there is a danger. I want to ask about smart cards, which you are introducing. What do you think the benefits of smart cards are? My wallet increasingly has smart cards. I have two ITSO smart cards—ITSO is the United Kingdom Government standard that is used widely by transport organisations. I want to be clear that you are seeking to ensure that your smart card service will not be exclusively available through a smart card that has “CalMac” on it. People who want to use smart ticketing want to have one piece of plastic only for that. That is also an issue for other transport organisations, but where do you stand on it?

**Robbie Drummond:** Any technology that we introduce is introduced for the benefit of customers. Smart and integrated ticketing will drive real benefits for customers. However, you can be assured that any technology that we will use will be integrated with that of other transport operators, including rail and bus operators, so the smart cards will be interchangeable in that sense.

It is wrong to look just at smart cards, though, because the next technologies are looking at using mobile phones and credit cards in the same way—that technology is coming down the line. We will

be clever at how we introduce the technology that we will use. We are talking to our partners in the transport industry and to Transport Scotland to ensure that we have the right solution.

**Stewart Stevenson:** So when a customer buys a through ticket that covers the cost of ferry and rail, they will be able to use their smart rail card, for example.

**Robbie Drummond:** Yes, that will be the intention.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Good morning, gentlemen. In order to win contracts, companies sometimes make quite a lot of promises. For example, the new Clyde and Hebrides ferry services contract indicates that CalMac will, among other things, create a new director of community and stakeholder engagement post, retain its head office in Gourock and ensure that all existing routes and services will continue to operate as before. In addition, there is the fundamental promise in the contract that CalMac plans to increase opportunities for local employment, including more apprenticeships. Where will CalMac do that and how will it do that?

**Martin Dorchester:** One benefit of our shareholder structure is that we have envelopes within which we can choose how to spend our money. What I mean by that is that I do not necessarily have to go for the cheapest deal for something; if the money is in my envelope, I can spend it locally, so that is what we do. We have committed to supporting local businesses. For example, over 60 per cent of the food that we sell on board our vessels now comes from local suppliers. We can now give them three, five or eight-year contracts, which enables them to get through the hard period of survival that all organisations go through. We advertise locally, so our first-cut recruitment for that is from local businesses.

Because of the way in which we are structured, we do not go and give money, as it were. However, we support local businesses with longer-term contracts or with employment. Along with Highlands and Islands Enterprise and other organisations, we run the vital spark programme, which operates out of Dunoon, Rothesay and Campbeltown, to generate start-up businesses. The benefit that we bring is that, if someone has a start-up business and it is a good idea, we will give them a three-year contract.

What we do on apprentices is, in a way, both sad and good. CalMac is the largest employer of apprentices in maritime shipping, with 30 a year. Despite the size of the maritime industry, we are the largest player in it with regard to apprenticeships. It is a big challenge. We take on an apprentice and put them through their training.



They then have to get employment somewhere else to get their deep-sea training, so we keep our fingers crossed that, further down the line, we will get back the investment that we have put up front.

We bake in those commitments as key performance indicators—as measures for us as a business—so every year we will do that, and then we will seek to grow it. Over the past five years, we have consistently grown our business and, at the same time, we have grown the number of people who we recruit into our business. We have a relentless focus on doing that. I understand Richard Lyle's point about companies making commitments. That is one of the commitments that we are more comfortable delivering against, and it is a great benefit.

**The Convener:** Thank you. We will move on to a more specific area.

**Jamie Greene:** I will move on to the Gourrock-Dunoon ferry service contract, which is relevant in my region. I am sure that other members will come in off the back of my questions.

In light of the lack of information from the Minister for Transport and the Islands on where we are with that, can you shed some further light? Specifically, has Argyll Ferries submitted a bid? We know that there are four unnamed participants on a short list for that service. After your answer, I will ask for some more specifics on the route and the nature of the contract.

**Robbie Drummond:** On the specific question of whether we have submitted a bid, we have entered into the initial process, which was to qualify through the pre-qualification stage for the next round. We submitted a bid under the name of CalMac Ferries Ltd.

**Martin Dorchester:** Is everyone clear on how the bid process works?

**The Convener:** You can explain it, but I ask that you or Robbie Drummond do it as briefly as possible.

**Robbie Drummond:** The bid process usually works like this. The initial stage, which is called by different names, is usually a pre-qualification stage. That is when the whole range of people who want to bid for a contract is brought down to a short list. That is the stage that we have been through, under the name CalMac Ferries Ltd.

The next stage is for the tenderer, in this case Transport Scotland, to issue what is called an invitation to tender—an ITT. On the back of the invitation to tender, the procurer will invite bids. The short list of parties will then have a period to submit their bids into the process. That might take anything from one to three months, depending on the size of the contract.

**The Convener:** That is helpful.

**Jamie Greene:** One of the peculiarities of the Gourrock-Dunoon contract is that there is a passenger service as well as a vehicle element. Our briefing note says:

“Bidders have been asked to tender for a passenger service, whilst being encouraged to provide an unsubsidised vehicle carrying service.”

That is quite a loose term. Do you have any comments on the relationship between the subsidised passenger service and the commercial viability of a vehicle-carrying service? I have had representations from various community groups on both sides of the river that are concerned about the nature of the company that is awarded the contract and whether there will still be a vehicle service, given that it cannot be subsidised under state-aid rules. Do you have comments or views on that issue?

**Robbie Drummond:** As of today, the Gourrock-Dunoon service is only a passenger service. The service down the road is a vehicle service. We have not seen the invitation to tender, so it is difficult to comment, but my understanding is that, once it is issued, it will be open for bidders to bid on either a passenger-only or a passenger and vehicle service.

The decisions that any bidder will have to make will be based on the passenger bit being subsidised—it can be paid for running the passenger bit—but the vehicle service having to stand on its own two feet and be profitable. That cannot be subsidised or cross-subsidised. Any bidder will have to go through the process of determining whether it can put on a vehicle service and make it run profitably, when there is a very competent operation down the road that is already running vehicle services. It is difficult to comment further until we see the shape of the invitation to tender.

10:00

**Jamie Greene:** Can you confirm, for the record, that you have submitted a bid for the passenger-only element and that you have yet to establish whether you will submit a bid for the vehicle element?

**Robbie Drummond:** No—we have not submitted a bid yet. All that we have done is pre-qualify. To pre-qualify, a bidder must demonstrate that they are financially sound and that they have the necessary competence and capability. On that basis, the procuring body selects the companies or individuals—in this case, there are four—that it thinks are best placed to offer the service. We have not done any more than pre-qualify.

**Jamie Greene:** Okay. I think that one of my colleagues wants to ask a specific question about the prerequisites of the tender.

**John Mason (Glasgow Shettleston) (SNP):** Convener, I am happy for Jamie Green to finish his line of questioning before I come in.

**Jamie Greene:** Okay. I have a brief question about the requirements to have half-hourly services at certain peak times and to use vessels that are a minimum of 40m long on the route to make it a robust service. I now understand that you have not submitted a bid. What are your views on those two parameters for the tender process? Do you have any thoughts on whether those things are achievable or doable?

**Martin Dorchester:** Anything is achievable or doable; it is a question of how much you are prepared to pay for it. You asked about the requirement to use a 40m boat. I currently run a 67m boat on that route.

For clarity, the reason why no bid has been made is that there is nothing to bid against. Once we see the shape of the invitation to tender, we will make a decision. We are talking about a procurement cost of £30 million for a 40m boat, which is a big cost. That is worth noting. If the invitation to tender says to provide a 40m boat and a half-hourly service, we will calculate how much that costs. That is how we would put our bid together.

**Jamie Greene:** Thank you.

**John Mason:** I am a Glasgow MSP and I use the ferries occasionally, although I am not that familiar with them. It puzzles me—I think that it would puzzle my constituents—why, when we have a stand-alone commercially viable ferry service that operates roughly between Gourock and Dunoon, we are even thinking about subsidising another one. When it comes to the bus services in Glasgow, for example, if there is a commercial route, we cannot have a competing subsidised route.

**Martin Dorchester:** I am not sure what you want me to say about that. I run a business, and if someone puts out a contract, I will bid for it. The decision about whether to put out a contract is not ours to make.

**John Mason:** I accept that that is a policy question.

I have another question, which you might not be able to answer, either. If I had a pot of money for a subsidy, should the first thing on the list be what, in effect, is a second ferry between Gourock and Dunoon? Perhaps your service has some specific benefits. Is it better than the other service because it is more town centre to town centre and it links with the railway? Is that part of the issue?

**Martin Dorchester:** Yes. I will be brief. The passenger-only Gourock to Dunoon ferry serves the railhead at Gourock and is a town centre to town centre service. The Western Ferries service, on the other hand, is a linkspan to linkspan service that is predominantly geared to driving traffic. The Gourock to Dunoon service provides a ferry between a railhead and a town centre. That is how it is set up.

**John Mason:** How do the passenger numbers compare at the moment?

**Martin Dorchester:** I do not know about the figures for Western Ferries, because it carries predominantly vehicle traffic. We carry 300,000 to 350,000 foot passengers a year.

**The Convener:** Thank you for answering that. We take the point that the question about why we need a subsidised service on the route is one that we will have to put to the minister when the opportunity arises.

**Martin Dorchester:** Please do not tell him that I said that.

**The Convener:** Stewart Stevenson and Rhoda Grant have questions.

**Stewart Stevenson:** This question may be seen to be rhetorical. Given that the town centre to town centre sailing is about 50 per cent longer than the linkspan to linkspan sailing that is operated by the commercial operator, is it not fundamentally difficult to make a vehicle service commercially viable when the cost of the sailing—which is where a lot of the costs are going to come—is 50 per cent higher without particularly obvious benefits? When there were two vehicle sailings, the commercial operator got something like 85 per cent of the traffic anyway. Is it not always going to be a very big commercial ask to make a vehicle service from town centre to town centre work?

**Martin Dorchester:** Yes.

**Robbie Drummond:** That is a fair comment. As I said earlier, when the ITT comes out, we will have to make an assessment about whether we will bid for the passenger element. If we want to bid for the vehicle element, we will need to know the commercial parameters of that and how we could make that work from a standing start of zero traffic. That would be hard.

**The Convener:** Thank you, Martin, for your short answer to that short question from Stewart Stevenson.

**Rhoda Grant:** My constituents in Dunoon tell me that they want a town centre to town centre service that is reliable and comfortable. One of the on-going issues has been that the service is not altogether reliable and, even when the boat can

sail, it is not very comfortable and does not feel particularly safe. That is why some of the things that we have been talking about may end up in a tender document. Is there a way of ensuring reliability and comfort other than by saying that the boat should be 40m long and should carry cars as well, which would make it a bigger boat? Is there another way to address the concerns that may be more cost effective?

**Martin Dorchester:** To be brutally honest, I am not sure that there is. We would never run an unsafe service, but the reality is that we run two small boats on the Clyde and there is some challenging weather on the Clyde. Also, to address Stewart Stevenson's point, there are speed restrictions on the Clyde. That is a challenge unless we use a big, heavy boat. However, if we moved from using MV Ali Cat and MV Argyll Flyer, which cost between £5 million and £8 million, to using a 40m-plus boat, which would cost between £25 million and £30 million, there would be a substantive step up in costs.

There are things that we could do with the timetable; there are things that we do to manage the service better; and we are working to improve the facilities on our vessels. We would bid better this time than we did last time, and we would make improvements that we perhaps should have made six years ago. There is room for improvement, but some of it is at the margins. If you want a significant improvement, the cost will be significant.

**The Convener:** Thank you. The next question is on a slightly different subject.

**Gail Ross:** Good morning. I want to touch on the Scottish ferry services plan, which runs from 2013 to 2022. My question is in two parts. The first part is specifically about the Clyde and Hebrides service contract, which sets out a number of long-term developments such as additional sailings and continued improvement of winter services. Can you provide a progress update on the delivery of those requirements under the plan?

**Martin Dorchester:** We have made a number of those on-going improvements to the services that we run to Barra, from Oban to Craignure, and to Colonsay, and the things that we are doing now are an iterative part of that. Timetable enhancements have been, in part, delivered—we are part of the way through that work—and we are deploying the vessels in line with that. As the new tonnage comes on, over the next two to five years, that will allow us to further develop the services. We are on track with our progress.

**Gail Ross:** That is good to hear.

The plan also outlines a schedule of harbour works at Wemyss Bay, Tarbert and Gourock, and it proposes replacing four vessels by 2019 and six

vessels by 2025. How are you getting on with that?

**Martin Dorchester:** We are on track. The work at Gourock is 99 per cent done—we always end up with little bits of snagging—and the work at Wemyss Bay has been completed. I encourage anyone who has not been there to go there, given that road equivalent tariff is in place there and it is commutable from Glasgow. We are on track, as we hoped to be.

**Gail Ross:** Good. What feedback from the public has there been?

**Martin Dorchester:** We get mixed feedback, as members can imagine. One of the fundamentals is that we deliver a lifeline service, and the moment I start to close down infrastructure, challenges are created for communities that have only the ferry. I think that we managed Gourock and Wemyss Bay very well.

I do not know whether anyone here has been to our offices in Gourock. From my office, you can see when one of the bigger boats comes in—we usually run the small boats out of Gourock. When we closed Wemyss Bay and brought people from Bute to Gourock, it was, with the best will in the world, tough for people to walk up and down the gangplank with their shopping. We helped as much as we could. If you talk to people now, you will get very positive feedback. There are still things that we could do better, but the interface has improved. The work was done to time, which is a benefit, but there is still more to do. I think that the feedback has been pretty good.

**Gail Ross:** Thanks.

**Rhoda Grant:** I want to ask about MV Lord of the Isles. It had a period in dry dock and then a thinning of the structure was discovered and it is away again. Why was that not discovered when the vessel was in for maintenance? My understanding is that that thinning was discovered before Christmas, but the vessel ran until after the Christmas period. How crucial are those repairs if it was still able to run?

**Martin Dorchester:** I wish that my technical director was with me now.

Has anyone been on MV Lord of the Isles? I know that Stewart Stevenson has, and I think that Rhoda Grant has. It has 5,000 tonnes of metal, and the spots of damage were about as big as the area around the top of the glass of water that I am holding up. Because of the severity of that damage, that work had to be done. A person could drive to the garage with a crack in their windscreen, but they would not carry on with a service. There was that element.

When vessels go into dry dock, they go in with a large work schedule of what we do, which we

monitor. The challenge is that MV Lord of the Isles is a 30-plus-year-old vessel that has gone through major surgery in dry dock. That is deep, invasive work. When it came out, we found that there were some more latent issues with it that we needed to look at. Therefore, it is back in now, and it should be back out next week. That is my understanding from yesterday.

We can run with and manage a fault. It takes quite a while for our ships to go in and get docked. I could put in a vessel that needs a minor piece of work, but that could tie it up for a week, as it might need to go down or up to a yard to have that work done. A minor piece of work on one of our vessels is quite major, and such work could not be done while the vessel sat in the port. Therefore, MV Lord of the Isles had to go off.

I think that I may have made a long answer wrong.

10:15

**Rhoda Grant:** And it is due to be replaced by 2025—is that right?

**Martin Dorchester:** I think that that would be a really good thing.

**Rhoda Grant:** You are not giving a commitment. [*Laughter.*]

**The Convener:** That was a nice try, and a good dodge from Martin Dorchester.

**Rhoda Grant:** I have a couple of questions about the Mallaig to Lochboisdale service which, in the wintertime, is perhaps not as frequent as people would want it to be. There are also issues about reliability. I visited Mallaig harbour and its staff were unaware of any issues with the harbour, so I am not quite sure where the reliability issues come from.

**Martin Dorchester:** Mallaig and Lochboisdale are the two most difficult ports to take a vessel into. Getting MV Lord of the Isles into Mallaig is one of the most difficult things to do. We have to be realistic about that. If you imagine trying to do a handbrake turn with a 90m vessel weighing 5,000 tonnes, that is not far short of what we do in Mallaig. The reliability of the service in the winter is affected by that, as going in and out of Mallaig and Lochboisdale is a real mariner's challenge.

There is an area where we, as a company, need to be strong going forward. I will generalise slightly, but Rhoda Grant will know the issues. We spend an awful lot of money in berthing fees for people to keep updating their harbours for us so that we can make decisions for masters coming in based on very recent knowledge. One of the challenges is that, for a long time, we have had older ports and infrastructure and not everyone

has perhaps been as on top of their ports as we need them to be, or as we need to be. We now have a summer service between Lochboisdale and Mallaig, which gives masters more confidence—they are learning about going in and out of those ports. I believe that the winter service will start to improve because the masters will have confidence from having gone into the ports so many times.

In addition, we are getting much better at ensuring that the ports and harbours that we are going into are getting dredged and repaired properly. That gives the masters confidence that when they go in they will not scrape the bottom. It might be worth sharing, for when there is a challenge for anyone across the network, that we operate on 1m clearance going into some of our ports and harbours. The bottom is 1m off the boat and we regularly come close to grounding. Most people think that it is the wind that creates a problem for us. It is not just the wind—it is also the sea swell and the sea state. When we go in, we have got very little clearance across the bottom of the boat.

We are doing a mixture of things that will improve Mallaig to Lochboisdale over the next few years. One of the biggest of those is the fact that we are doing the summer service now, which helps us for the winter service because we are getting a better understanding of the route.

**Rhoda Grant:** Will you be listening to people's wishes and aspirations for more ferries in the winter?

**Martin Dorchester:** I always listen to them. Whether we can afford more ferries is a challenge for us.

The second issue relates to something that was said earlier. We run in the region of 5,000 empty sailings. Part of the reason for that is that, in the winter, the capacity in our vessels is colossal. Over a full year, we run at about 30 per cent capacity. It is almost like saying that the M25 is not that busy at 2 o'clock in the morning, which is true. In the winter, our vessels very rarely run full or half full. The issue is how we best manage that level of capacity. Where we can, we will, and we have done that pretty frequently.

**Rhoda Grant:** I have a final question about the Mallaig to Armadale service. MV Coruisk was built for that run. More bespoke boats are being built, so that they fit with the harbours and the journey requirements. The ferry has been moved and, as you can imagine, the people in Mallaig and Skye are unhappy about that.

Last summer, a lot of businesses lost money because buses could not get across to Skye. Given that Mallaig was the last place where a bus could be taken over the sea to Skye on a ferry,

which is what tourists want to do, it seems a bit perverse to remove the ferry from that route when it was built for that purpose. If the boats that are promised for routes are moved elsewhere, the service will not be improved. What comfort can you give to the folk in Skye and Mallaig that they will get their boat back?

**Martin Dorchester:** I cannot give them the comfort that they will get their boat back. I have been pretty clear about the matter. This year, we are putting a two-boat service—MV Loch Fyne and MV Lord of the Isles—on the Mallaig to Armadale route. I could make a whole raft of points about that but, in general, we have put substantive support—marketing, commercial and other help—into that route. The number of people using the route was up year on year. There are challenges to how we market it. We have a limited number of vessels to deliver a limited number of services and we have to manage the network as best we can. We are committed to supporting the Mallaig to Armadale service. We regularly meet local residents and talk to them about some of the issues.

Skye is a great tourist destination. We have put in place a robust service there for this year. We need people to get behind the service and to support it as best they can and we will support them as best we can. We have put the best service that we can on that route currently.

**The Convener:** I will interrupt at this point. I am grateful for that full answer and, because I have an interest in Skye, I perhaps let you go on longer than I should have. We are quite tight for time, so I would urge everyone to keep the questions and the answers as short as possible.

Gail Ross has a follow-up question. We have four questions after that and a limited timescale.

**Gail Ross:** If you cannot answer my question now, I would appreciate it if you could provide a written response to the committee.

On the Mallaig to Armadale route, you operated a single vessel in 2015 and three vessels in 2016 and you will operate two vessels in 2017. What is the difference in operating costs in those three years?

**Martin Dorchester:** I would have to come back to you on that.

**Gail Ross:** I would appreciate it if you could.

**The Convener:** I am happy for there to be a written answer to the committee on that issue.

**John Mason:** I will combine two questions. How does co-ordinating your timetables with rail or bus services—for Ardrossan and Largs it would be rail; for somewhere like Kennacraig it would be bus—

work and are there penalties for either side if you miss each other?

**Robbie Drummond:** We work very hard to try to make sure that we are co-ordinated, and we spend a lot of time working with communities and trying to match up the rail and the bus timetables with our services. That is not always possible, but we try as hard as we can to do that. One of the—

**John Mason:** Do you set the ferry timetables first and expect the trains to fit in—or vice versa—or is it not as simple as that?

**Robbie Drummond:** It is not as simple as that.

**John Mason:** You do not need to go into all the detail.

**Martin Dorchester:** We would like it to be that simple.

**Robbie Drummond:** Clearly, we cannot demand that rail matches our services, so there is a discussion—a negotiation—with other transport operators. The discussion involves communities. In our bid, we made a commitment to appoint a full-time transport integration manager. Their full-time role will be to work with the other transport operators and communities to try to ensure that it is as connected as it can be.

**John Mason:** If the train is late and you wait for it, is there a penalty for you?

**Martin Dorchester:** Potentially—it depends on how late it is and how long we would be delayed.

**Robbie Drummond:** How our contract works is that we are penalised when we fail to meet our reliability targets, when we do not sail, and we are penalised on punctuality grounds. For the shorter routes, the penalties start when we are five minutes late; for the longer routes, the penalty start time goes up to 20 minutes. There is a penalty regime if we sail late. Clearly, waiting would have an impact. It would also impact on the passengers, so it is not as easy to say that we would wait on the train, because there might be other passengers impacted with further and on-going transport and connections.

**John Mason:** That is fine.

The other area that I want to touch on is disability. Clearly, you are running quite big ferries and quite small ferries. I was on Muck and Eigg not so long ago; the boat goes in and the wave comes across and you jump to avoid the water. Obviously, if you are in a wheelchair you cannot do that.

Where are we on disabilities? Is there a limit that you cannot go beyond for the smaller islands?

**Martin Dorchester:** Yes and no. We work closely with different organisations to improve

access, but the reality is that the ferries are 35-year-old pieces of kit and they were built in different times. We incorporate access into new build when we can.

If you have been on Muck and Eigg, you will know that, locally, islands and communities find their own ways to deliver access, and we work closely with them. The nature of some of the islands that we go to and of the infrastructure means that it is difficult to change things.

**Robbie Drummond:** In our bid, we made a commitment to spend significant amounts of money on improving the facilities in the vessels and ports and we are running equality impact assessments to see what we can do at a reasonable cost.

**John Mason:** It is always easier with the bigger boats in the bigger harbours; the smaller boats and smaller ports are more difficult.

**Robbie Drummond:** Yes, that is right. We are running impact assessments and are committed to spending some money. We are trying to do what we can.

**The Convener:** It would be useful to have an update on that when you have come to decisions. The whole aspect of access is important.

**Richard Lyle:** It is an experience to go on a ferry. I would love to go to all the places that Rhoda Grant and John Mason have mentioned. You see the films of people going “doon the watter”, as they used to say. It is a wonderful experience and I have promised myself that, when I retire, I will go round Scotland on your ferries to all those wonderful places.

How do you take the views of your passengers and freight customers, and how do you report on the actions you take in response to what people say? How do you tell customers how you will improve the service?

**Martin Dorchester:** We do what you would expect all transport operators to do. We run surveys and focus groups and capture passenger experiences. Any committee members who represent areas on the west coast will know that our customers are not shy in coming forward and seem quite familial. We get a lot of feedback locally that people send us. We capture that and send it back out to people. We attend regular ferry user groups and take feedback, not only about timetables but about the experience and what can be done to improve it.

We do standard benchmarking against other operators. We look not just at other ferry operators but at who is the best at what they do in other areas. We look at what Virgin Atlantic is doing on planes, for example.

We do all the bog-standard things—surveys, user groups, focus groups. We have much more community activity and engagement than most other organisations do. To go back to Rhoda Grant’s point, it is good and bad depending on the wish list that people hit us with.

**Richard Lyle:** The point is that you are part of the community and like to blend in with the community.

**Martin Dorchester:** We do that when we can.

**The Convener:** Thank you. That concludes the questions, although we had a few more that we wanted to ask you. Before I address those, does Martin Dorchester or Robbie Drummond want to make a brief closing statement to cover anything that we have missed that you would like to bring to our attention?

**Martin Dorchester:** Thank you for being so gentle with us, which we appreciate. On the point on timetables, there is a nuance that should not be forgotten, which is the tide. One of our challenges is that if a boat hangs about too long, it will not get out of the harbour. That is an interesting debate to have with the train people.

Will someone from the committee trigger a request for the things that you have asked us for, or do you want us to take the points away and feed material back?

**The Convener:** The clerks will write to you with a list of the questions to which we are expecting answers. We may add one or two more that we did not ask today because of the timing.

**Martin Dorchester:** In five years of running CalMac Ferries Ltd, I have found that it is a simple but complex business. Do not be afraid to phone and ask us anything. We are happy to share what we do and any information, if it helps to generate a better understanding. Robbie Drummond is more open than I am, but we are a pretty open organisation. Please feel that you have an open invitation.

**The Convener:** Thank you both for coming; the committee will engage further with you this session, as we become clearer on things that the Government is doing.

Thank you for the invitation to spend time with you. Some committee members may be worried about the handbrake turns and small clearances that are involved, and we may avoid those particular routes. We would like to engage with you. Thank you for the evidence that you have given us this morning.

I will suspend the meeting to allow the witnesses to change over.

10:30

*Meeting suspended.*

10:35

*On resuming—*

## Common Agricultural Policy Payments

**The Convener:** Item 2 is evidence from the Cabinet Secretary for Rural Economy and Connectivity on common agricultural policy payments. The session is intended to allow the cabinet secretary to update the committee following the evidence that he gave us in September 2016.

The cabinet secretary is joined from the Scottish Government by Elinor Mitchell, who is director, agriculture and rural communities; Eddie Turnbull, who is head of agriculture and rural communities information systems; and Annabel Turpie, who is chief operating officer, rural payments operation. I welcome you all.

Cabinet secretary, would you like to make an opening statement? I remind you that we are short of time, because there are a lot of questions on what is an important subject. I urge everyone to be as brief as possible.

**The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing):** Good morning, everyone. Thank you for inviting me to the committee to update you on CAP and on the extremely important fishing negotiations and their outcome.

Putting the 2015 CAP payments on a stronger footing and ensuring smoother delivery from the rural payments and services online payments system have been, as members know, my key priorities, and they remain so. They have been my key priorities since the inception of my role as cabinet secretary. As members know, we are making strenuous efforts to put the CAP futures programme and the 2016 payments on a better footing. That is what I promised at the outset that I would do, and that is what we are doing.

That has included reviewing staffing and team requirements, and we have put in place a new governance staffing arrangement. I am pleased to introduce today the leaders of that new—or nearly new—team. They are Elinor Mitchell, who is the director of the agriculture division and is the senior responsible owner for the futures programme; Annabel Turpie, who is the chief operating officer for rural payments and leads on ensuring that payments are being made and that we have in place systems and processes so to do, as well as on ensuring that we have CAP compliance; and Eddie Turnbull, who is the head of the information systems division, which is responsible for the provision of information technology services to the directorate, and whose role in the CAP futures

programme is to ensure that we get the IT programme that we need to deliver the CAP payments.

We have made a great deal of progress on the 2015 payments since my statement to Parliament in September. This committee received a copy of the economy director general's letter to the Public Audit and Post-legislative Scrutiny Committee, which provides a summary of recent progress. Since 8 December, an additional 1,658 payments have been made to customers, which is an increase in the total number of payments from 38,340 to 39,998. The value of payments made across pillar 1 and pillar 2 schemes has risen from £448 million to £455 million. For our basic payment, greening and young farmers schemes, which are the largest element of CAP funding, 99.7 per cent of estimated eligible claimants have now been paid, with payments totalling £343 million. For beef and sheep schemes, which make up the remaining element of our pillar 1 funding, we have paid 99 per cent of eligible claimants, with payments of a total value of £36 million.

Creating a dedicated payments control room has played a large part in turning around our payments performance, by enabling better co-ordination and quicker resolution of issues. For businesses that are awaiting payment, the national loan scheme that I established has provided much-needed support.

The president of NFU Scotland welcomed the loan scheme as going some considerable way towards filling the gap in the rural economy. The facts show that 16,357 businesses received more than £145 million to provide cover for the 2015 payment scheme. A large number of them have now received substantive payment.

In relation to 2016 CAP payments, my overriding concern is to ensure that rural businesses—our farmers and crofters—receive the 2016 payments as soon as possible and that we continue to support and grow the rural economy. As at 23 January this year, 13,172 businesses have been paid more than £271 million in loans until the 2016 payments are made.

Following the successful delivery of the majority of the 2016 loan payments, I decided to close the loan scheme to general applications on 20 January. A small number of top-up loans continue to be processed for businesses that have recently had a transfer of entitlements confirmed. Our loans team is working proactively with those businesses to ensure that any additional support is processed properly. Delivery confidence is improving and our attention is now firmly focused on meeting our commitment to complete the processing of 2016 pillar 1 payments by the end of June 2017, which is within the European Union's prescribed payment period.

I draw the committee's attention to a consequential factor around the recovery of loans, which I recognise is—understandably—an interest for members of the Public Audit and Post-legislative Scrutiny Committee. By recovering loans primarily through offsetting against the grant that is due, we have taken the initial decision to schedule recovery of such loans. That is necessary to recognise that expenditure on loans added risk to the Scottish Government budget. In practice, there should be no material detriment to anyone, as all applications should be handled within the overall payment window.

On the software side of things, we have received assurances from our contractor, CGI, that the IT system functionality for the 2016 scheme will be delivered early in 2017. I met Steve Thorn, CGI's UK president, on 15 December and on 12 January to make clear the seriousness of the situation. He has now personally overseen the introduction of key contingency steps to deliver the IT. I am sure that members will want to get more detail about that, which I will not go into now; Annabel Turpie will be able to do that.

We are much clearer about the risks in the delivery of new IT functionality and how those risks should be addressed. The more robust testing methods that have been introduced pre-launch mean that the system is much more reliable and better meets the working practices of area offices and headquarters staff, as well as our customers, at the first time of asking. My officials are continuing to work closely with the IT contractor and we are monitoring the situation. There is also a continued focus on delivery and support for farmers in our area offices and here in Edinburgh, and I am being kept fully in the picture.

It is worth reminding ourselves why we are here and why we decided to build bespoke software. We were responding to clear asks from the rural sector, which wanted three regions, not one. We also faced a significantly reformed, delayed and complex regulatory requirement regime from Europe. The business case to automate some of that was strong then and remains strong now. A compliant CAP IT system will provide value for money. I am seeing progress, but significant programme and technical risks remain, which I am absolutely focused on.

I am seized of the on-going challenges as we approach our key deadlines; notwithstanding those challenges, I expect the programme to deliver the necessary components for CAP compliance within its £178 million budget. The original decision to develop a bespoke IT system was sound. The cost of the futures programme, which has helped to deliver our online payment system, represents about 4 per cent of the £4.45 billion of CAP funds that are due to be delivered to

Scottish farmers under the new CAP regime by 2020.

Because of the complexity of the new CAP, attempting to deliver it without a bespoke IT system would have resulted in significant EU penalties. Our benefits analysis demonstrates that developing a CAP-compliant system will avoid potentially £276 million of financial penalties up to 2021-22.

10:45

To deliver compliance within the budget, we have proactively improved quality and driven down costs by negotiating a number of improvements and changes to the contract with our main supplier. We are happy to answer questions from members about that.

On lessons learned, a number of interrelated factors have led to the issues that we have experienced with the CAP futures programme. We have implemented the recommendations of a number of audits and reviews to improve the situation, which is not characteristic of IT projects in the Scottish public sector. There are examples of good practice, including the Scottish electronic tax system, the building and planning business transformation programme and the Scottish wide area network public services programme. It is important to explain that we are applying lessons from other projects, and lessons from CAP are being fed back to other public sector IT projects. The Scottish Government has recently introduced new assurance processes that provide for a more robust and interventionist approach.

On staff involvement, my officials are working very hard indeed to get the payments out. I am in daily contact with my senior officials as we drive forward delivery of the CAP futures programme to ensure that support is provided to rural businesses. I have visited many of the rural payments and inspections division offices; staff on the ground have a key role, and their feedback is crucial.

I will cut out some of my statement, convener, because I see that you are becoming somewhat impatient—perhaps not unreasonably so. However, we are doing a lot of work, and I think that it is reasonable for me to point some of that out.

I hope that I have provided assurance that the work that we are undertaking is having a positive impact on the completion of the 2015 payments and on putting the 2016 payments on a better footing.

**The Convener:** I am not becoming impatient—I am simply aware that committee members have a lot of questions. We are always grateful for your



full answers, so I would like to get some answers to specific questions.

Before we get into the questioning, Peter Chapman and one or two other members would like to declare their farming interests.

**Peter Chapman:** I declare an interest in a farming business back home.

**Stewart Stevenson:** I have a registered agricultural holding of 3 acres, from which I derive no income.

**The Convener:** I declare an interest as a partner in a farming partnership.

The first question comes from Peter Chapman.

**Peter Chapman:** We are—sadly—still awaiting some 2015 payments. I thank the cabinet secretary for the updated information that he has given; it is good that something like 99 per cent of the pillar 1 payments have been made, but substantial moneys are still outstanding for pillar 2 payments. The biggest area is the less favoured area support scheme moneys. Approximately 2,400 farmers are still awaiting those payments, and £17.5 million is outstanding. That money is seriously late, and we need an explanation for why the process has taken so long.

**Fergus Ewing:** Thank you for that comment. I am pleased that you, as a farmer, recognise that the 99 per cent performance figure is good, but I accept that it is not good enough. LFASS payments are perhaps the most significant area in which we have yet to complete the 2015 payments.

I will state the figures in the round and then pass over to my officials, who can provide a bit more detail. This area is extremely important to me. An estimated 11,380 businesses are eligible for less favoured area support and 7,532 payments have been made. The amount that has been paid is £46.7 million and the percentage of those who have been paid is 79 per cent. The number of businesses that are still to be paid is 2,408, which equates to a total of £18.8 million in unpaid moneys. However, I understand that a substantial proportion of that has in effect already been paid through the loans system. I will explain that.

The LFASS claimants were entitled to claim loans on their payments, which were risk assessed up to 100 per cent. I appreciate that an average refers to a cohort and that any individual case is very serious but, on average, each loan amounts to about 80 per cent of the total. The point that I am making is that, although the payments are not fully completed, in the round, most of those who are entitled to LFASS payments will have received a loan and the average loan will be about 80 per cent of the total. I say that not in any way to excuse the fact that we

have not completed the job but to put the situation in context.

I know from speaking to Richard Lochhead that there is always a tail of cases in which CAP payments have not been made within the recognised time limits, on both sides of the border. Sadly, the tail is far more bushy this year than it was in previous years.

**Annabel Turpie (Scottish Government):** I will add a bit more detail to the figures. There are 2,408 payments still outstanding, in respect of which people will receive payment—that is, the loan is not the total money that they will receive. The cabinet secretary has referred to £17.4 million, of which £13.6 million has been paid out in loans and will be recovered against the payment, which leaves £3.8 million still to go to farmers.

**Peter Chapman:** When do you think that you will complete the process? When will all the payments be made?

**Annabel Turpie:** The delay in payments relates mainly to common grazing provision, which will be addressed in the next release of functionality. That will be in place by the end of the first week in February, and I would expect payment after that. I would like to update the committee when we have more certainty about that date, as it is not helpful if we give a date and do not keep to it. That is what is holding up the payments.

**Peter Chapman:** The other significant part that is missing is land managers options payments, which you seem to be struggling with as well. What is the explanation for only 70-odd per cent of them having been paid?

**Annabel Turpie:** We are now at 77 per cent and 471 LMO payments are outstanding, which are worth £500,000. We are doing our utmost to process those payments, but I believe that some of them are subject to the same release of functionality. I cannot give you a precise figure for how many of those payments are being dealt with, but we are steadily decreasing the number. I can write to inform the committee of that if that would be appropriate.

**Peter Chapman:** So the IT system still cannot handle those cases. That is the problem—that is where we are at.

**Annabel Turpie:** The next release of functionality will aid that—that is correct.

**The Convener:** I would like to ask two questions to follow that up. Regarding the 2015 payments, can you confirm that everyone has been sent a letter explaining exactly what the payment is for? I am still hearing that some people have not had a letter. Where are we on that, please?

**Annabel Turpie:** Payment letters went out for the beef premium, greening and young farmer schemes. However, the reductions and exclusions letter, which explains exactly what makes up the payment letter, has not gone out yet. Again, that information is dependent on the release of functionality, and I am sorry to say that I do not think that it would be realistic to say that that release will happen before the middle of March, which I know is deeply unacceptable. However, that is what I believe to be the case. I am trying to be realistic and to give deadlines to which we can keep.

**The Convener:** The problem is that some people who are completing tax returns have no idea exactly where the money is coming from. Also, they do not know what has been added or subtracted or where the payment is, so they do not know how to budget for future years. That is deeply regrettable for people who are trying to run businesses. Do you agree that the letters are becoming more vital with every day that passes?

**Annabel Turpie:** I absolutely agree. We have mentioned letters before, and the issue was picked up in the PAPLS Committee and during the director general's appearance at committee in September. Elinor Mitchell may want to say something about that.

**Elinor Mitchell (Scottish Government):** Effort is continuing in order to ensure that we get the letters out. I appreciate the importance of people understanding not just the amount of money that they will receive, but the reductions and exclusions, so that they can understand whether their payment is correct. However, anyone who can access the system online can log in and see their payment amount, so for accounting, bank and tax purposes, each person can find out the exact amount of money that they will receive. Anyone who is struggling to do that can contact their local office for help.

**Stewart Stevenson:** The convener mentioned tax returns; there is, of course, a box on the tax return form in which people can say whether figures represent estimates rather than final figures. Have you had any indication that HM Revenue and Customs is alert to particular issues that might exist for farmers and that it is taking a responsible attitude in respect of figures being estimates rather than final figures?

**Elinor Mitchell:** As I said, the information is available to people if they log on to the system—they can find out the exact amounts. However, the information that is missing is the reductions and exclusions. That information will be in the letters, which they will not get for some time.

**Stewart Stevenson:** Yes—but I will press you on my question. I want to know that HMRC will not

pursue people who clearly demonstrate that gaps in the information that they provide to HMRC relate to the exclusions to which you have referred. Of course, you are not responsible for HMRC, and I am not suggesting otherwise.

**Elinor Mitchell:** I go back to the point that the amount of money that individuals will receive is available for them to know. I have had no contact with HMRC.

**The Convener:** Gail Ross has a short follow-up question, then we will go to Richard Lyle.

**Gail Ross:** I will ask later about disallowance and EU penalties. Does the Government's having not sent out letters to people incur EU penalties?

**Elinor Mitchell:** No.

**Richard Lyle:** I do not think that this question has ever been asked, so bear with me. We have quite a number of schemes in agriculture—basic payments, greening, young farmers, beef and sheep, rural priorities, land managers, less favoured area support and the options scheme. Why do we have so many schemes? Who made us have all those?

**The Convener:** That is obviously a question for the cabinet secretary, but I think that he is gathering his thoughts. I can delay bringing you in and bring Annabel Turpie in, just now.

**Fergus Ewing:** No—I do not need a delay. I am just amused by the question. In a sense, it is a perfectly pertinent one—particularly for people who are not versed in all the acronyms and all the different schemes. They might look a bit perplexing to the outsider; they are sometimes perplexing to insiders.

I will try to answer the question. Plainly, the purpose of the schemes is to provide financial support to our farmers, crofters and land managers. The schemes have largely been influenced by EU policy. It used to be the case, of course, that the system was based on production, but that system became unpopular—perhaps because of food mountains. The system was therefore changed at the behest of the EU in about 2003 and member states were given three options for introducing the new land-based payments scheme, which has led, in turn, to a proliferation of schemes.

Schemes here have been devised by the Government in Scotland, working with representatives of the farming and crofting sectors, and principally with the NFUS. We—quite rightly—still work very closely with those representatives.

The situation at the moment is that we must allocate 4 million hectares' worth of new payment entitlements, for about 400,000 fields, in three

payment regions, for more than 18,000 farmers. I understand that the average field is the size of several football pitches. Each field needs to be mapped in a certain way, with a number of location points taken in order to establish the exact location of every single boundary. That work is required by the system because a digital map is required. The system has proved to be immensely complex. I say—with the benefit of hindsight—that perhaps all those who have been involved, including representatives of farmers and Governments, might have traded a bit of complexity for some administrative simplicity.

11:00

I do not know whether members have any appetite for looking at the future of farm payments. I certainly do, because if the UK Government intends that we come out of Europe in March 2019, there will be only two more years of the CAP and I have no idea what will replace it. I note, based on a statement that she made recently, that Liz Truss does not know, either. As a pointer for the future, it should be recognised that there is a trade-off to be made in order to avoid a system that is so complex to administer that we have to devise a very complex IT system. I hope that Annabel Turpie will have the chance to explain exactly what we have been doing over previous weeks—she has been leading the work in a very vigorous and determined fashion—to implement one of the most complex IT systems that exists. Your question hit the nail on the head, Mr Lyle.

**Richard Lyle:** The Government is partly to blame for that complex system. Is the NFU also partly to blame, because it prompted the Government to develop all those systems?

**Fergus Ewing:** I am not interested in blame; I am interested in responsibility. It is reasonable for me—without getting pious about it—to make the point that I have not shirked my responsibility. I have been open and transparent. I do not think that any minister has been subjected to so much scrutiny on an issue over so prolonged a period. I do not object to that, convener, because that is the committee's job. No cabinet secretary has been more transparent about the issues that they face, or gone into more detail about the issues—and rightly so.

In the future, all of us who will have a duty to devise a perhaps different system, will have a responsibility to bear in mind and to recognise that how the system is administered is almost as important as the content and the substance of the system itself. I do not make that point as a plea in mitigation but, rather, as a pointer to the future. I do not know about you, but I am starting to think more and more about what we will do should Brexit go ahead—in particular, if it is a hard Brexit

and especially if it happens in March 2019. In that case, there will be only two years left of the CAP, so when will we start looking at what we will do? However, I am happy to go over all the minutiae; in fact, I wanted to say more about the rural priority payments just to put things in context.

**The Convener:** I am sorry, cabinet secretary, but I must ask you to stop there. The committee will look at post-2020 agriculture and everyone will welcome processes that will make it simpler. The very fact that the RPID budget has gone up from £34 million in 2014-15 to £62 million in 2017-18 suggests that we do not have a simpler system, so we will need to look at that in the future. I believe that the committee has an appetite for doing that. I thank Richard Lyle for his question. Gail Ross has a question on a different subject.

**Gail Ross:** Because I am on this committee and the Public Audit and Post-legislative Scrutiny Committee, this is—rightly—the issue that I have scrutinised most. I thank you for your and the Government's transparency.

I want to go back to disallowance in late 2015 payments. Elinor Mitchell told the Public Audit and Post-legislative Scrutiny Committee that the worst-case scenario estimate of disallowance for late payments was about €5 million. Does that estimate relate to late payments just for pillar 1, or for pillar 1 and pillar 2? If it relates only to pillar 1, are there estimates for pillar 2?

**Elinor Mitchell:** We are penalised only in relation to pillar 1 payments, so the estimate of up to €5 million relates only to pillar 1 payments. In order to finalise the figures, we are still in regular contact with rural payments agencies in the other parts of the United Kingdom. The estimate has not changed.

**Gail Ross:** Have you estimated potential disallowance for any other infringement of EU CAP rules? How are other parts of the UK getting on with their administration?

**Elinor Mitchell:** It would be premature of us to estimate other disallowances—the audit processes have just started. We have had two European audits so far and others are planned—European Court of Auditors audits will be starting. There is a process of negotiation that goes on between those audit processes. We are informed of findings, then we negotiate and discuss with the auditors and come to an agreement. Until we are clear about what they have found, we would not estimate disallowance in relation to anything that they have come up with.

**Gail Ross:** How are other parts of the UK getting on?

**Elinor Mitchell:** For the reasons that the cabinet secretary outlined, Scotland finds itself in a

more complex situation in relation to the system that we are trying to process and the payments that we are trying to make. It is fair to say that Scotland has found it difficult to make CAP 2015 payments. However, Scotland is not the only part of the UK that has benefited from the extension of the penalty-free period, and no part of the UK has finalised the numbers yet. We are still agreeing a position.

**Gail Ross:** Is there a timescale for the European audits?

**Elinor Mitchell:** We have a schedule of audits that we can share.

**The Convener:** I am happy for you to answer briefly on the timescale, if you want, Elinor.

**Elinor Mitchell:** Certainly. The first beef 2016 audit was in April and was completed in June. A desk audit on the national reserve also took place in June. The next audit that we expect will be on land-based measures and will start in October.

We had the first European Court of Auditors audit, which is called the DAS audit, in November 2015. The 2016 audit was in June. The audit of the introduction of BPS was in October and we expect the next audit—of greening—in March.

**The Convener:** The next question is on errors and overpayments.

**Peter Chapman:** We received a paper late last night in which you identified that, since your last committee appearance, there have been more errors in payments—we see that another 15 duplicate-payment errors with a total value of £490,000 have been identified. It seems that there is a shocking never-ending catalogue of errors in making the payments. That standard of operation is totally unsatisfactory. Something must be seriously wrong. You say that it is just a staffing and human-error issue but—surely to goodness—we need to get it right. It is totally unsatisfactory that another 15 people have been paid double and you have to ask for it back.

**The Convener:** Are those duplicate errors different to the ones that were disclosed on 24 November?

**Elinor Mitchell:** Yes.

**The Convener:** They are a different set of errors.

**Elinor Mitchell:** Yes—new errors were discovered that affect 15 businesses. I outlined at the PAPLS Committee some of the measures that we have put in place to try to get to the bottom of the erroneous payments. I should say that the error was made some time ago, but was discovered only recently.

What was unusual about the payments—and why the error was not discovered in checks that we did previously—was that they were made in euros rather than sterling. When we make a payment in euros, we have to extract bank details from the locally held system and then make the payment through the normal Scottish Government processing system. The first time we tried to make the payments to those 15 businesses, which was on 24 October, there was no European bank detail. Therefore, we went into the system, added the detail and the payments were subsequently made on 23 November. Unfortunately, although we were informed by email that the payments had been made, we did not use that information to update our master spreadsheet, which we held locally, so the payments were made again at the next payment run on 23 December. It was another human error and was made within the loans team. The difference was that it was a payment in euros rather than sterling, so the changes that we had made did not pick it up.

Since then, we have made some changes to our processing to make sure that such an error is not made again. We have taken all end-to-end processing for all euro payments back into a single team. A shared mailbox is used, so reliance on a single member of staff to take action has been removed. We have introduced a checklist approach to payment processing in advance of all payments, and we continue to implement recommendations from previous internal audit work on use of spreadsheets, which has been done on various teams. There is a training exercise in place on use of spreadsheets, which all staff who work on them are going through.

**Fergus Ewing:** I will add a couple of general points. It is in the nature of the human species that we are fallible. When it comes to managing a group of people who are doing their best to get payments out to farmers, we should remember a number of things. First, the people in the RPID offices are absolutely determined to get payments out. Also, we have talked about the audit system: under EU rules, no payment can be made until it has been fully checked and validated. Penalties for errors are substantial, and the consequences for farmers of making errors are disproportionate—that opinion is probably common ground.

I know that some of the staff who made errors felt absolutely hellish about it. There are two things that I could have done: I could have beaten them around the head, in which case they would just have been demoralised and felt worse. Alternatively, I could have said, as I did, “You did a great job in getting the loan scheme out.” The big picture is that they got the loan scheme out, and that the payments were received earlier than they had ever been, at a time when, I understand—I

am not a farmer—many farmers do their financial planning. That is just before the year end, in the dark nights when there is not so much that can be done on the farm. That was a calculated decision. The staff bust a gut to get the loan scheme payments—worth £272 million—out to about 13,000 people.

It is true that errors were made, but we will always make errors; errors were made in previous years. Members should read chapter 12 of the book, “The Blunders of Our Governments”, which is entitled “Farmers fleeced”. It reveals the errors that were made by our counterparts down south. I am afraid that we will never be able to avoid errors, but the best way to get the job done is to encourage and thank the staff, instead of there being an endless process of blame ascription and repetition of errors, in particular when most errors can be quickly corrected and all cases—as we have heard from Elinor Mitchell—can be sorted out.

That is the approach that I take. It is up to each of us to decide how we conduct ourselves and how we want to proceed. I ask members to spare a thought for the staff who are doing their best, under huge pressure, to get the job done well—I thank them for it.

**The Convener:** Thank you for that, cabinet secretary.

I would like to make an observation, and I think that we share common ground on this: the penalties that farmers face if they make a mistake are disproportionate. Farmers find it a difficult process. I know from filling in the forms how difficult it is not to make a mistake, even when you have double-checked them. Therefore, it is always nice to hear that you are aware of that and will bear it in mind when the department becomes aware of mistakes.

Elinor Mitchell told us about the €5 million that may be asked for by the EU. Where is that allowed for in the budget? What contingency has been made for its payment?

**Elinor Mitchell:** I will say two things. There is 1 to 2 per cent disallowance every year, and provision is made for that in the Scottish Government’s accounts. In relation to the potential risk of having to pay €5 million, I cannot tell you specifically where provision is made for that in the accounts, but I can write to the committee on that point.

**The Convener:** It would certainly be helpful to know where in the budget that €5 million will appear.

**Stewart Stevenson:** I have a technical accounting question on that. Are you treating it as a liability or as a contingent liability? If it is the

former, you must make financial cover; if it is the latter, you do not need to.

**Elinor Mitchell:** I will cover that point in the update that I provide to the committee.

**The Convener:** The next question is about the CAP futures programme. I noticed that Annabel Turpie wanted to come in on that, so this might be her moment.

11:15

**Fergus Ewing:** Could I just add something first? I should perhaps have signalled earlier.

Elinor Mitchell is all over this case. She has talked about a penalty of €5 million, and that is €5 million too much. However, let us recap on what the situation looked like when the Auditor General’s report was published—that was the day I was appointed, and I can assure you that it certainly concentrated the mind. The report said:

“A range of financial penalties is possible, with the potential range between £40 million and £125 million”.

At that point, we were looking over the edge of a cliff, quite frankly, because such a hugely substantial penalty would have been financially devastating.

We are not proud of the fact that there is a €5 million fine—that is not good, but it is a far improved position from the one that we faced on the day I took this job.

**The Convener:** In May 2016, Audit Scotland said that the total costs of the CAP futures programme would be £178 million—I believe that the costs rose to that level in 2015, from £102 million in 2012 and £128 million in 2014. Interestingly, I note that Audit Scotland also said in its May briefing that it does not believe that the programme will ever deliver value for money.

The programme costs will be about £178 million, including £51.6 million of projected costs in 2016. The draft budget for 2017-18 includes £42.2 million for CAP compliance improvements. What is that £42.2 million for?

**Elinor Mitchell:** I will hand over to Eddie Turnbull on that point, but first I say to the committee that the CAP futures programme will close as planned on 31 March 2017, and the funding for that programme will be £178 million. Because of the difference in the financial years and the work that has been done, we will take some of the money from the £178 million into next year. However, the overall cost of the programme will be fixed at £178 million.

Eddie Turnbull can give you more detail about what the £42.2 million and other estimates will provide.

**Eddie Turnbull (Scottish Government):** I will start by setting the issue in context. The initial build in 2015 created the foundation for a CAP-compliant system that would minimise the risk of disallowance and penalties. I think that members are familiar with that. We created what we called the minimal viable product—that was the foundation for certain things that had to be set up. In the past year, we have added new functionality, within the £178 million total that the convener spoke about. There are three features of that design that we are carrying over into the next year: the accounting element; the land parcel information system element; and the claims-to-payment functionality. We estimate that that will amount to roughly £6.7 million, which was in our budget this year and which, in effect, we need in our budget next year. That is the first call on the sum that you mention.

Of the remainder, around £23.5 million is for further IT development, which is about maintaining the solution that we have. We cannot just leave what we have built; it has to be maintained. Further, we still have to add functionality to that, such as any amendments that we need to put in place for the 2017 single application form processes. We have identified the types of amendment that we require, so we have an estimate of the cost of adding the functionality throughout the year.

The £12 million that we have left is for the futures programme's transition back into the core business, particularly the area that I manage. We have a number of costly legacy IT systems that run in a different environment from the one that we have invested in for the futures programme. It is my plan—the directorate's plan—to move those over, so that we do not have to maintain two environments.

**Annabel Turpie:** We are planning to fund the transition of the CAP futures programme back to the Scottish Government across the information systems division and RPID. We will also fund a mixture of temporary and permanent staff. To refer back to what the minister said at the start of the discussion, those staff will undertake the intense technical work that needs to happen on land review visits and digitising maps.

**Eddie Turnbull:** It is for a mixture of IT and the new duties that the area office staff will have to undertake.

**Annabel Turpie:** And headquarters staff.

**The Convener:** Does Peter Chapman want to follow up on the futures programme?

**Peter Chapman:** No—we have had a fair answer on that one.

**The Convener:** I am sorry to ask this after that lengthy discussion, but is Audit Scotland wrong when it says that the programme will not deliver value for money? Will it deliver value for money? I am unclear as to whom to believe.

**Annabel Turpie:** I do not have the Audit Scotland report in front of me, but my understanding is that it said that the system would deliver CAP compliance. CAP compliance is the avoidance of penalties to a greater or lesser extent than we would usually seek to do. I believe that the £178 million will deliver a system that allows us to avoid penalties to a greater or lesser extent than we have been able to do in every other year.

**The Convener:** So, in May 2017, when Audit Scotland reports again, it will say that the system is good value for money.

**Annabel Turpie:** I would hope that it would report that the £178 million that we have invested gives us a system that allows us to process CAP payments in a way that maximises our opportunity to avoid penalties.

**The Convener:** So it is good value for money.

**Annabel Turpie:** It will allow us to avoid penalties which, as the minister said, would have been catastrophic.

**Mike Rumbles (North East Scotland) (LD):** I want to focus on and drill down into the loans scheme. Helpful information was provided to us last night, but I am more concerned about the information that has not been provided.

In 2015, £455 million of support was given out to our farm businesses. However, the loans scheme for 2016 has only given out £271 million. From my figures—I have had to work this out myself—if the level of support is the same as it was in the previous year, £184 million has not gone into our rural economy. Can you confirm whether that is correct?

You said that loans payments were made to 13,172 farmers. Again, we have not been given the figures, but I believe there to be about 18,000 farm businesses. I need to find out, and I am sure the committee would benefit from finding out as well, whether you are saying that more than 25 per cent of farm businesses have not received any payment or loan payment—a quarter of our farm businesses have received nothing. Correct me if I am wrong, but I would like to know the answer.

Those are the two elements that I would like some clarity on, please.

**Fergus Ewing:** I will start off before passing over to Annabel Turpie to respond on the detail.

Mr Rumbles makes a perfectly reasonable point. We will provide all the data, if we have not already done so. We will happily supplement whatever

data we require to provide to ensure that the committee has all the facts—there is no doubt about that.

I have talked in detail about the loans scheme for which I am responsible and I will not repeat my previous comments. In principle, the desire was to urge all farmers to take advantage of the national payment. We took reasonable steps to do that through publicising it in the general and specialist press, and I think that there was a fairly widespread awareness of the scheme in the farming community.

We did not stop there. We did not just do it once—we did it several times. Our aim was that anyone who wanted to take the payment could do so. We also explained that, although it is described as a loan—it is also described as a national payment—there is no interest, except in the very unusual event where there is an overpayment in total after the claim has been assessed, and there needs to be a recoupment, and then that recoupment is not paid within the allocated time.

We took some time to encourage the take-up of loans. We reiterated and reiterated that message, and I think that it was generally communicated effectively. However, we found out that, as Mr Rumble says, about 13,000 of 18,000 or 19,000 people took up the loan. This is new information for the committee, because I do not think that I have been before the committee since this occurred. I asked the very same questions—“How’s it going? What is the take-up rate?”—quite early on, and it was lower than I thought it might be.

We therefore asked the senior officials to do a survey—an analysis, or a phone round. Annabel Turpie can give you a bit more detail about that. The survey showed that many farmers had decided, for a variety of reasons, that they did not want to take up the loan—it could have been that their financial circumstances did not require it—and they chose not to apply. That may seem to be a strange decision but it is entirely up to each individual whether they avail themselves of a scheme that the Government provides. That is, substantially, the commonsense explanation. However, I know that more detail requires to be given, so I ask Annabel Turpie to provide it.

**Annabel Turpie:** On your first point, Mr Rumbles, this was the national basic payment support scheme, which was not looking at pillar 1 and pillar 2—it was just looking at pillar 1. You are correct. We looked at what the 2016 entitlements were likely to be so that we knew that we were offering loans with the lowest level of risk to the Scottish Government and therefore public money. As you know, we set the loan at 80 per cent in

case there were changes, and we had a cap of €150,000, which we felt was fair.

Our latest figures show that all but 88 applicants have been offered a loan. Those 88 have not been offered a loan because we are still working through transfers of entitlement and they do not have a letter of comfort. We are prioritising them, so we will get in touch with them when we can ensure that we can pay a loan.

**Mike Rumbles:** The first part of my question has not been addressed yet. I said that £455 million was put into the rural economy in 2015, but the figure was £271 million in 2016. I am really trying to get to the facts. The difference between the two figures is £184 million. Am I correct in saying that £184 million has not gone into the rural economy?

**Annabel Turpie:** Yes, because the loans that we paid were not from the £455 million; they were from the pillar 1 element.

**Mike Rumbles:** I understand that. I just wanted to check that that was correct. All that I am doing is drilling down into the figures. Am I right in saying that more than 25 per cent of Scottish farm businesses have received nothing—in other words, they have received no farm payment from their entitlements, and no loan has been offered to them?

**Annabel Turpie:** That is right—they have not taken up the offer of a loan. The exception is the 88 applications that we are working through to ensure that we can offer those farm businesses a loan with appropriate levels of risk to the Scottish Government.

**Mike Rumbles:** That is devastating for our rural economy. There are normally variations but, ever since devolution, that money has been paid out in December. I know that there is a June backstop, but normally the money goes out in December. It is part of the remit of the committee to look at the interests of the rural economy in Scotland. What we are seeing here is that there is a fantastic amount of money—£184 million—that is not out there.

**Annabel Turpie:** If I may come in—

**The Convener:** Briefly.

**Annabel Turpie:** Of course. As I understand it, the pillar 2 schemes were never paid at that point in the cycle. Just as a clarification—

**Mike Rumbles:** Yes, but the vast majority of the money has normally been out there in December. Thank you for your comments. My understanding is absolute correct.

**Stewart Stevenson:** I have a wee techie point. I want to be clear about what is meant by “farms”. I imagine that not every farmer is entitled to any

payment. I believe, for example, that there is a snail farm on one of the islands, which I do not think is likely to receive any subsidy. When we talk about the number of farms, are we including farms that would not in any event be entitled to payments?

11:30

**Annabel Turpie:** No, we have—

**Stewart Stevenson:** So it is just those that are entitled to payments.

**Annabel Turpie:** We have offered loans on the basis of the 2016—

**Stewart Stevenson:** I am talking in the generality of the numbers. When we talk about farms, are we talking about farms that would expect a payment of some kind?

**Annabel Turpie:** Of course—yes.

**Stewart Stevenson:** That is all I wanted to know.

**The Convener:** I believe that Peter Chapman has a brief follow-up.

**Peter Chapman:** This is a very important part of the whole thing. You said that 88 farmers had not received an offer of a loan because of difficulties with transfers of entitlements. Transfers of entitlements have caused huge problems all the way through the scheme. It is one of the biggest issues that I get letters about on a regular basis. Transfers of entitlements seem to have been one of the biggest problems. I wonder where you are with that issue, because I still get lots of letters from folk who are at their wits' end because we cannot get transfers of entitlements done. Why has that proven so difficult?

**Annabel Turpie:** I would like to write back on that, if that is acceptable. I do not want to give incorrect information.

**Peter Chapman:** Okay.

**The Convener:** We will move on to the 2016 payments. Rhoda Grant has a specific question on that.

**Rhoda Grant:** First, I will ask a quick supplementary. The loan applications are closing. In previous evidence, we were told that there was a deadline for getting in an application to guarantee payment. Now it seems that, if you did not apply by 20 January, you will get no loan and you cannot go back on that, even if your payment is further delayed. I thought that there was always going to be a backstop—that if you changed your mind, you could apply for the loan.

**Annabel Turpie:** We have decided that we need to focus resources, as you can imagine, on

processing 2016. We have asked area offices to contact everybody who has spoken to them about a loan but has not taken one up, to let them know that they should get in touch. We have said in the communications around the loan that if anybody is experiencing hardship, they should, of course, get in touch with us about it.

As for general applications, we feel that September to January is actually quite a long time frame. We have worked hard with partners to make sure that the information is out there. However, we are retaining a level of flexibility in that if there are people who have specifically asked about loans but have not taken one up, they are being contacted. Of course, we urge anybody who is experiencing hardship to get in touch if they do not already have a loan.

**Rhoda Grant:** If someone's payment is delayed indefinitely and they experience hardship, can they then come back and make a case to access the loan programme?

**Fergus Ewing:** Yes, they can. Also, specifically on those entitlement cases, for the reasons that Mr Chapman identified, people will not be penalised because they were not entitled to apply for a loan when the loan scheme opened at the beginning of November. Each of those 88 cases will be contacted to ensure that they are aware that, because of the lateness in determining their entitlement application through transfers, they will be entitled to a loan. In other words, it would be wrong to have penalised them simply because of our lateness. I think that that is the principle that we applied.

Back in October, we urged everybody to apply for the loan at the beginning of November and to do so quickly, in order to get the money out. The NFU worked pretty closely with us. My understanding is that the NFU was satisfied that that was making a positive difference in most cases.

**Rhoda Grant:** Can I ask whether any of the payments due for 2016 have been made? I know that loan payments have been made in lieu of them, but have any of the proper payments been made?

**Elinor Mitchell:** The payments have not started yet.

**Rhoda Grant:** When might those payments start to be made?

**Elinor Mitchell:** There is one final functionality drop that we need to put in place. We are working very closely with our contractors to ensure that we are doing absolutely everything that we can to get that in as quickly as we can. As the cabinet secretary said at the start, we will not promise to meet dates that we cannot meet. We are over



schedule on the predicted date of getting that release drop, and we are working with our contractors on a daily basis to get the drop in as quickly as we can.

**Rhoda Grant:** How quickly will payments be made once that happens?

**Elinor Mitchell:** Once we have the functionality drop, it will be a matter of weeks. We will then start to make payments.

**Fergus Ewing:** Would it be helpful if Annabel Turpie or Mr Turnbull explained what the process involves? That is absolutely crucial and an explanation from them might help the committee to understand how we are dealing with drop 6.

**The Convener:** Yes, that would be very helpful, cabinet secretary.

**Eddie Turnbull:** Will I go first?

**The Convener:** I am sorry, but I am conscious of the time, so a brief and succinct answer would be very much appreciated.

**Eddie Turnbull:** Absolutely.

The focus has been on improving quality. I know that, in the past, the system has not been reliable, so our focus over the system's past few releases has been on absolutely ensuring that it works first time. That is the point to note.

We have worked with our technology delivery partner, CGI, to get a detailed programme over this phase. We can track the number of errors or potential defects that are in the system that is being developed on a day-by-day basis, and we are monitoring that on a day-by-day basis. That was not previously the case.

In this window, we are also looking at the nature of each of the faults and understanding how they impact on the payments, what particular payments they will impact on, and how we can ensure that we can fix them first, whatever the priority will be in respect of the size of the payment or whatever.

It is a joint exercise, and we are really pushing the contractor to deliver. As Mr Ewing said, he has had a number of meetings with the senior UK lead for the contractor to absolutely emphasise the importance of meeting our deadline.

I will not go into the detail of our quality process, but I am happy to share that in writing with the committee, if it so desires.

**Annabel Turpie:** From the release of functionality in November, area offices have been processing the 2016 claims very hard. They have looked at priority errors and data errors so that we have the right information in and the SAFs are completed as much as they can be. With the new functionality coming in in February, as per the

current timetable, they will move on to the next stage of processing, which is about assessing the information that we have collected. A number of claims will go through without touching the side. They will not require any manual input whatsoever, and they will go to a ready-to-pay status. Area office staff will pick up others. They are truly expert in assigning their staff, so the more experienced staff will go to the more complicated cases where more judgment is required. They will work with headquarters on all the technical regulatory questions that need to be addressed, and they will do all that work planning.

We are looking at the work planning on a weekly basis, and we will go down to a daily basis when the technology comes in so that we ensure that area offices are completely supported, that they support each other, and that we are taking sensible scheduling decisions to allow as many claims to be processed as quickly as possible.

At the start of any SAF process, once we have the ready-to-pay pot, there is a period of around two and a half weeks in which our finance colleagues have to do their checks to ensure that the right amount has been done. That is absolutely right to ensure that payments are compliant with all the regulation.

To answer Rhoda Grant's question, when drop 6 comes in, there will be a gap of around two and half weeks for claims that go straight to payment, because finance colleagues have to do the necessary checks.

That is the order. We are working extremely hard to ensure that we are on top of work planning, that we are thinking about the tasks that have to be done, and that, although getting that work done is a priority, we are monitoring all the other work that should also be done. The reality is that staff are under pressure, and that requires a lot of attention to ensure that we do not accidentally drop balls.

**Elinor Mitchell:** I will add one point to round that off. You have heard from Eddie Turnbull and Annabel Turpie on these points. I know that it is not ideal to come before a committee at a time when we would expect to start making payments and not be able to give you a date. However, what gives me confidence in the process is the regular daily, weekly and monthly schedule of organisation and governance that we now have in place. Eddie Turnbull talked about the errors that are coming through the system, and for the first time there is an agreed process in place that triages the errors—it looks at whether they are critical for payment or not critical for payment.

Our attention is focused on what needs to be done by the right people at the right time. Annabel Turpie has daily meetings with staff and

contractors to make sure that the focus is on the critical path to delivery. We are turning all our attention to ensuring that we can start to make payments to the farming community as quickly as possible. I am confident that we are doing everything that we can to get that done as quickly as we can.

**The Convener:** I will stop that line of questioning and go to Richard Lyle, who has a question on the technical stock-take review.

**Richard Lyle:** You have answered some of the questions that I was going to ask. In December, an official from the Scottish Government told the Public Audit and Post-legislative Scrutiny Committee:

“We are undertaking reviews of a technical nature in the agriculture, food and rural communities futures programme, and that process will start shortly.”

Another official said:

“It is a technical stock-take review to look at the IT system as it is now and to stress test it under several headings for gaps”.—[*Official Report, Public Audit and Post-legislative Scrutiny Committee*, 8 December 2016; c 22.]

What information can you give us about the technical stock-take review that you commissioned? What will it seek to achieve, and when will it report?

**Fergus Ewing:** Eddie Turnbull can answer that.

**Eddie Turnbull:** I will keep this brief and give you some assurance. I see the review as a vital piece of work that is important for the solution that we have got in place to meet the needs of the rural community. It is also important for me. Why? Because I am now going to have ownership of the system. As the programme comes to an end, it is mine and I want to ensure that what I am managing is properly built and meets the need.

The process is under way and we have an independent contractor in place who has been given all the technical documentation that they need. They have been given access to the system to look below the bonnet—if I can put it that way—and poke about in there to understand how it is built. They have also undertaken a good number of interviews with key technical folk within the programme. The contractor has been very open about letting the independent reviewer come in, and we will have an initial report by the end of January—next week. I will take an initial view on that, and there is provision for a deeper dive into any areas where we think that there are fundamental flaws in what has been produced.

**The Convener:** Would you like to follow that up, Richard, or are you happy with that answer?

**Richard Lyle:** You will get a report at the end of January. Will we get a copy of it or will it be confidential?

**Eddie Turnbull:** Some elements of the report will be confidential because they are commercially sensitive and others because their publication would compromise the system’s security. The report will be developed in such a way that the key recommendations will be shareable, but the detail of how we might have to fix the system will not be shareable.

**Richard Lyle:** Once we have fixed it, will it stay fixed?

**Eddie Turnbull:** The first thing that will come back is an understanding of what we need to do to fix it—if we need to fix it. That is the next stage. We can then see where that takes us.

**Richard Lyle:** So, everybody’s money will be sailing out to them the next time they are due to get any.

**Elinor Mitchell:** As Eddie Turnbull highlighted, CAP 2015 was the building of the base system and CAP 2016 was adding on functionality to get to this point, where we still have things to do. From 2017 onwards, it will be more about care and maintenance of the system, although there will still be annual updates for me to do every year. Undoubtedly, in CAP 2017 we will still be catching up with all the work that we have been doing in 2015 and 2016. Therefore, my best estimate is that, by CAP 2018, we will probably be in a better place in terms of running the system on a normal cycle.

The other thing that I would add to what Eddie Turnbull said about the technical stock-take review is that we should not forget that this is not all about the IT system. A huge number of headquarters staff and area office staff effort goes into working with the farming community to ensure that they are ready and able to go through the process of payments at the right time.

In addition to the technical review, I commissioned an internal delivery review, to ensure that we were doing everything that we possibly could, at the right time and in the right sequence, to give us the best chance to act as soon as we got the IT in place. That came back with good ideas and recommendations for what we might do. Annabel Turpie is taking that forward.

11:45

**The Convener:** I will leave that there, as we still have quite a few questions to go. I ask John Mason for the next question.

**John Mason:** Audit was mentioned briefly, so I will touch on that. If I understand it correctly, Audit Scotland is quite involved in the detail. It reports to the National Audit Office, which pulls things together for the whole of the UK. We mentioned disallowance. My understanding is that, if Audit Scotland was not happy with aspects of what it saw, there would be issues such as whether the Scottish Government could continue to be a paying agency, reimbursement of funds to the EU and so on. Do you have any concerns around that area?

**Elinor Mitchell:** You are right that Audit Scotland is asked to provide assurance to the National Audit Office and others about the auditing that is going on. It would be not be right for me to report to the committee about the on-going discussions that we are having with Audit Scotland on recent audits and what it has or has not found. There is a fairly lengthy process, in which it will present us with initial findings, then we will have a discussion with it and agree whether we think that what it has found is accurate. We have not finalised that process yet, and it would be premature of me to comment on whether it has found anything of concern.

**John Mason:** Am I right in saying that the process will be finalised quite quickly? It is suggested that Audit Scotland is reporting in mid-February.

**Elinor Mitchell:** There is a deadline of the end of February, which we want to extend. Because of the nature of the delays that we experienced before, we have written to the Commission to ask for a derogation. We have not heard back from it yet; we are waiting to hear.

**John Mason:** So something will happen: either the derogation or—

**Elinor Mitchell:** Yes.

**John Mason:** Something will happen fairly soon and you can report back to the committee then.

**Elinor Mitchell:** Yes, we can.

**Mike Rumbles:** We know that the European Commission and the European Court auditors also examine the Scottish Government's performance directly. They carry out farm inspections and assess the distribution of funds, such as LEADER funds. The Government has stated that the most frequent issues that arise in those audits are overdeclaration of land and, in the area of cross-compliance, ear-tagging failures and so on.

Will you tell the committee about the direct European Commission audit process and the European Court of Auditors audit process for CAP in Scotland? Once you have enlightened us about those, will you tell us whether any irregularities have been highlighted by those processes?

**Elinor Mitchell:** As I mentioned, we have had a number of audits by the European Commission and the European Court of Auditors. We can share with the committee the schedule of the audits, if that would be helpful.

It really is too early to say whether they have come up with any areas of concern. As I said, there is a process: the auditors write to us and give us an initial assessment of what they have found. We have further meetings to discuss with them the nature of what has come up.

As you can imagine, and as the cabinet secretary has already highlighted, it is a very complex set of regulations. Often the individuals who come, particularly when it is a European audit, pick on individual cases. The regulations are open to a number of interpretations. In the past, there have been occasions when the auditors have interpreted them in a particular way and perhaps found fault in what we have done. After discussion and further exploration of why we have implemented things in a particular way, they have come to a different view.

It would be premature for me to discuss the findings of any particular audit, because they are subject to discussion and further agreement.

**Mike Rumbles:** When will you be in a position to do that?

**Elinor Mitchell:** Not for some time. For example, the beef audit took place in April 2016 and we are having the bilateral on 9 February. After the bilateral there will be a further process of emailing between the two organisations to come to an agreement on the final position. These things take some time.

**The Convener:** I think that it is fair to say that the committee will need to look carefully at the Audit Scotland report, which will be published in May, in seeking to build a picture of the future.

Jamie Greene has a question that builds on something that the cabinet secretary mentioned earlier.

**Jamie Greene:** Indeed it does. First, it is worth saying—no one else has said this—that, while it is the committee's job to hold the Government and the cabinet secretary to account, we should acknowledge the hard work of the staff in many of the area and local offices in getting the payments out. I want to put that on the record and thank the staff for the work that they do.

My question relates to previous comments about the complexities of the subsidy system in Scotland and the UK, and its relationship with Europe. I hope that the cabinet secretary will answer the question in the spirit in which I ask it. Given that there is a very complex funding mechanism that involves the UK Government, the

Scottish Government and—at present—the European Union, what provisions is the Scottish Government making for a post-Brexit scenario in Scotland? If we are to have the opportunity to reinvent a system that is currently so complex, I would hope that members of the Scottish Government are at the very least having initial thoughts on what a future payments system or a future subsidy system might look like. That question is not politically motivated; it is a genuine opportunity for the cabinet secretary to share his views on the matter.

**Fergus Ewing:** It is a perfectly fair question. I appreciate your remarks about the staff, and I am sure that all members of the committee would express the same sentiments.

We have carried out a great deal of work to look ahead to what might happen post-Brexit. That work is predicated on the caveat that no one is sure exactly what is going to happen—that is a matter of fact. Nonetheless, Roseanna Cunningham and I have held a variety of stakeholder sessions. I have held numerous summits on various aspects of the rural economy, as I described last week in the debate on rural funding.

Just last Monday, we held an event specifically on food and drink and agriculture, looking forward at what might happen. There seems to be a feeling of apprehension mixed with a sense of opportunity, depending on the views of the people to whom one speaks. We have been doing a great deal of work in order to discuss what is happening with senior people in the industry, and I think that there is an appetite for that discussion. We have held a number of stakeholder sessions, and I have met Andrea Leadsom and George Eustice.

As was highlighted in the chamber debate last week, we need clarity on funding. We need to devise policies for what will happen post-Brexit, and we believe that we can do that better in Scotland. I hope that that will prove to be the case, whatever the outcome of Brexit.

Without reasonable clarity on what the funding will be, it is impossible to come up with any scheme. There anent, I seek to engage positively with UK ministers, and I have made that point in the chamber. I had a meeting with Andrea Leadsom—in this room, actually—back in October or November; it was fairly cordial.

However, I should point out—this is not meant to be political—that there was a clear agreement that Andrea Leadsom, my counterparts from the Welsh and Northern Irish Administrations and I were to have met tomorrow. That agreement was fixed several weeks ago, but it was unilaterally cancelled. Roseanna Cunningham and I, both of whom were due to travel to London tomorrow,

found that very disappointing, not least because we have prepared a paper that sets out the details of the position in Scotland, with relevant information for our colleagues in the Department for Environment, Food and Rural Affairs and in the other devolved Administrations. It was really disappointing and, to be frank, not particularly respectful to have a meeting between several parties, who are supposedly being treated as equals, cancelled unilaterally by one of the parties. Nonetheless, one puts those things aside, and we will go on and seek clarity on the matter.

However, if Brexit is to go ahead in April 2019, we are only just over two years away. I gather from the hints and leaks that came from the Oxford party conference earlier in the year that there is to be a green paper. A green paper is a high-level document. If there is to be a plan for the 2019-20 financial year, the amount of time that is available to devise such a plan is very small indeed. If one links that to the fact that, as was said by many members in the debate on forestry yesterday, this is an incredibly long-term industry and that farmers themselves, as I understand it—Mr Chapman and the convener will know this better than me—have to plan not just one year but two years ahead, it is really not a political point to say that we are already behind the curve in respect of working together with the UK Government on a plan.

Since the motion that was passed by a substantial majority last week, our task is to seek a fair funding solution—I think that that was the terminology that was used—but until there is clarity about the amount of funding that will be available to replace the current funding, we really are running out of time.

There is a related question, which is perhaps what Mr Greene was asking about—are we to use this IT system that has been devised at enormous expense? It would be pretty crazy not to. We have the IT system and we have a digitised map, which is always being updated because boundaries are always being changed. We have that facility but we do not know whether there is any plan to continue with basic payments, for example. What DEFRA wants is the subject of a lot of speculation in the press but, as the cabinet secretary, I can only go on hard information and that has not just been in short supply—there has not actually been any.

I am very keen to answer the question in the spirit in which it was intended—namely, not in a political, partisan way—but I will just make a plea to my colleague Andrea Leadsom. Please come to Scotland; please tell us what your plan is; please tell us whether the clear undertaking, without a shadow of a doubt, that George Eustice made that the existing level of funding at £2 billion would be

maintained, will be kept; and please share with us what your thoughts are about a good plan for rural Scotland and rural Britain; we are ready to work with you—let us have that meeting that you cancelled last week and let us get round the table with something on the table and discuss it in a constructive fashion.

**The Convener:** Thank you, cabinet secretary. I think that Mike Rumbles wants to come in next—that will be the last question before my question.

**Mike Rumbles:** Thank you, convener. The cabinet secretary referred to the motion that was debated last week and I was very pleased that the cabinet secretary accepted my amendment—in fact, every MSP across the chamber voted for it at decision time. The effect of my amendment, which the cabinet secretary accepted, was to suggest that an expert group be set up from all the stakeholders who are relevant to this process in order to advise the cabinet secretary. I know that that was only a week ago, but does the cabinet secretary have any idea when that might happen?

**Fergus Ewing:** We have appointed four rural champions. I made that announcement last week, I think. They are all very well-respected senior figures with expertise. We are already consulting and advising a group of people but not in the specific form that we have agreed to do following our amicable discussions last week, followed by our support of Mr Rumbles's amendment. I expect to make an announcement regarding that fairly soon, but we have not yet put a timescale on it.

However, as I am sure that many or perhaps all committee members have been doing, we have been in almost continuous discussions with leaders of each section—with Jim McLaren at Quality Meat Scotland, with Sybil and George in the sheep sector and with leaders in the forestry sector—in order to work together to find a way forward, building on the tremendous success in so many areas of farming and of rural life.

I am sure that we all wish to build on that success, while answering, if we possibly can, the questions about labour, the free movement of labour, the continued ability to have a workforce in forestry, farming, food processing and fish processing; about access to the markets, which we have taken for granted; and about the ever-increasing worry about tariffs. Until we get more clarity on all those matters, it is pretty difficult, if not impossible, to come up with the plan that I am sure we would all wish to see.

12:00

**The Convener:** Thank you, cabinet secretary. There are two questions outstanding, but I am mindful of the time and of the fact that we need to move on to fisheries. One of the questions relates

to new entrants; another is a question that Stewart Stevenson wanted to ask. I would like to submit those questions to you in writing after the meeting, and I ask that you respond to them as a matter of urgency.

Before I ask you whether you would like to make any concluding remarks, I want to pick up on two comments that you have made. One was about the importance of planning, and the second was about the importance of hard information. In light of the fact that you consider those things important—I know that farmers also consider them important—will the 2017 payments be made in December this year, as such payments have been made in the past?

**Fergus Ewing:** Are you talking about next year's payments?

**The Convener:** I am talking about the 2017 payments, the forms for which will be submitted this May. Will they be paid in December, as has always been the case in the past, except for the two strange years that we have had?

**Fergus Ewing:** I will answer your question in my own way. Our first task is to complete the 2015 payments and to get the 2016 payments on a proper footing. I am very conscious that many farmers have made it clear to me that what they have found particularly irksome is that the promises that were previously made about when payments would be in their bank accounts were, in some cases, not kept. I could not count the number of farmers with whom I have had a general discussion who have made that point, and I think that it is one that is very well made. Therefore, I am not going to overpromise and underdeliver.

However, what I can say—with respect, I do not think that I have made this absolutely clear, and it is important that I do so, because I think that it is what farmers want to hear—is that I am confident that, this year, the substantial majority of farmers will receive their pillar 1 payments within the allotted timescale as prescribed by the EU, which expires on 30 June. I wanted to make that clear to the committee.

As Elinor Mitchell has clearly laid out, we had a number of problems in 2015, we have solved a number of them and we have paid out 99.7 per cent of pillar 1 payments. Building on that success, I expect that the performance in 2017 will be better. However, there are various reasons in relation to inspections and other matters—about which I will be happy to write to the committee—why the practice under the new CAP system is more complex than the previous practice. Elinor Mitchell might want to add to that.

**The Convener:** I have made a specific point of not looking back at the past. I accept that you

were given a difficult situation to deal with, and I echo the comments that committee members have made about the hard-working people on the front line who are trying to deliver payments. I specifically asked whether the payment that is due will be made in December 2017. In your answer, you said that the timescale in which it will be paid will extend to June 2018. My problem is that I have seen it in writing that there will be no loan scheme for 2017. Therefore, I am trying to identify whether farmers will have to make their own arrangements on the basis that there is no guarantee that they will get the money that would normally be paid in December until June of the following year.

My question is, when will that money come and what do farmers need to do?

**Fergus Ewing:** I am not going to overpromise and underdeliver. I have said that I am confident that, this year, the substantial majority of farmers will receive their pillar 1 payments within the prescribed timescale—namely by 30 June—and I expect improved performance in the subsequent year.

As far as financial decisions that are taken about the year after that are concerned, I can come back to the committee on that, if it would like me to do so. I would be happy to provide more detail about why, under the new system that we have under the CAP, there are practical problems that prevent the previous practice of payments being made in the month of December from being replicated. I would be happy to write to the committee about that, because I do not want to provide an off-the-cuff or simplistic solution—I want to avoid that—and I think that that is what farmers would expect. I will provide more detail on that in writing, if you wish, because I appreciate that the clock is against us, although I think that Elinor Mitchell is straining at the leash to add something that I might inadvertently have omitted to mention.

**Elinor Mitchell:** Not at all. I just wanted to add to the point about the complexity of the regulations that we are working with and the decisions that we are making around the regions. That, layered with the geography and topography of Scotland, means that the amount of work that staff need to do on an annual basis in relation to inspections, including on the digitising of maps, is such that it would be incredibly difficult to get all that work done by the end of the year—by the end of December—for the SAFs 2017. As the cabinet secretary said, the European regulations make it very clear that all the checks must be done before a payment is made, so we would be in danger of disallowance if we were to make payments in advance of that.

**The Convener:** Thank you for that answer. I had assumed that, because the CAP futures programme would have been delivered and would

be working on time by that stage, the extra staff who have been taken on to deal with the problems with that would have been moved over to inspections and that, therefore, farmers could have hoped to receive their payments by December, but I will leave it at that. I look forward to receiving the cabinet secretary's written response.

Are there any brief closing remarks that you would like to make, cabinet secretary, before we move on to deal with fisheries?

**Fergus Ewing:** No, I think that I have covered everything.

**The Convener:** Thank you.

I suspend the meeting while we rearrange things for the next part of the meeting.

12:06

*Meeting suspended.*

12:09

*On resuming—*

## Fisheries

**The Convener:** Item 3 is an update from the cabinet secretary on his participation at the recent European Union agriculture and fisheries council. Mr Ewing is joined by Allan Gibb, who is acting deputy director, fisheries, at the Scottish Government. The cabinet secretary will make a brief opening statement.

**Fergus Ewing:** Every autumn, the Government participates in a suite of international negotiations to agree fishing quotas for the Scottish fishing fleet in the coming year. Our negotiating approach continues to place a key emphasis on behaving as a responsible fishing nation by respecting scientific advice and driving towards sustainable fishing levels for all stocks to protect that precious resource for future generations. At the same time, we need to balance that with the socioeconomic impacts and the risk of choke problems that would be created under the landing obligation by excessively sharp cuts in quota.

This was the third December council at which fishing opportunities were set under the rules of the reformed common fisheries policy, which aims to have all stocks fished at sustainable levels by 2020 at the latest. The overall package concluded at the council was very positive indeed. There are increases in the catching opportunities for 16 out of 23 key Scottish stocks, which will potentially be worth an extra £47 million to the industry in 2017. Notable outcomes for the North Sea included increases of 17 per cent for cod, 17 per cent for whiting, 53 per cent for saith, 20 per cent for monkfish and 46 per cent for prawns. Each increase is hugely important to those fishing sectors.

Particular reference should be made to the outcomes for North Sea cod and whiting. Due to the Scottish Government's direct involvement in the EU-Norway talks, we were able to turn around the difficult advice for those stocks into more reasonable outcomes that still fully respect the science and continue to move them forward to sustainable fishing levels but provide a bit more time for the industry to adjust to the phasing of those stocks into the landing obligation in 2017.

For the west coast, important outcomes were increases of 59 per cent for saith, 9 per cent for hake and 45 per cent for Rockall haddock and a rollover for whiting. For the pelagic sector, there were increases of 14 per cent for mackerel, 73 per cent for blue whiting and 104 per cent for Atlanto-Scandian herring.

Renewal of the EU-Faroes agreement will continue to provide the Scottish white-fish fleet with important access to around £2 million of additional opportunities in Faroese waters. Thanks to pressure from the Scottish Government, the level of Faroese access to EU waters to fish for mackerel was brought back to the negotiating table for the first time in three years.

Alongside those stock-specific outcomes, we have made significant political gains this year. At the EU level, we have secured a new flexibility arrangement that allows Scottish vessels to fish up to 10 per cent of their quota for west of Scotland haddock in the North Sea. That will reduce both operating costs and the risk of choke for the Scottish fleet.

At home, we have for the first time secured agreement from the UK to top-slice the UK Arctic cod quota, which was purchased primarily with Scottish blue whiting in the quota swaps process at the EU-Norway talks, to create a UK pool of swap currency to bring in additional North Sea quota where there are risks of choke under the landing obligation. That is an extremely welcome development. However, both the Scottish Government and the UK Government still consider that a better balance could have been struck in the agreement with Norway, particularly with regard to securing increased quota for the EU of important North Sea stocks.

Alongside the international negotiations, my officials and I have held a series of meetings with industry representatives about the implications for Scotland if it is no longer part of the common fisheries policy. We are working together very closely and constructively to ensure that we fully understand all the issues and what is required to get the best possible outcome for the fishing sector. I have also called on the UK Government to give the fishing industry a guarantee that it will not trade away access to UK waters as part of negotiations for the exit from the EU.

It is clear that the autumn negotiations are a complex and unpredictable process, with no certainty or guarantees. However, I was very pleased that, through my involvement and that of my officials—it is not an exaggeration to state that our officials are highly respected across the EU and very often take the de facto lead in the negotiations—the Scottish Government has delivered the strongest possible package of outcomes for the Scottish industry in 2017.

12:15

**Mairi Evans:** Thank you for the update, cabinet secretary. My first question was going to be about the outcomes, so I am glad to hear that the meeting was so positive and that so many gains

were made. Given the information that you have given us, do you think that it will give a boost to the fishing industry in Scotland? What will be the impact on employment?

**Fergus Ewing:** The outcome was a very good one. The industry is mostly doing well, although it is hugely disparate. In the week before the fisheries negotiations, Allan Gibb and I visited the Peterhead market and were told by the workforce that the amount of fish at the market was the highest ever. That is just a straw in the wind, perhaps, but it is an indication that the industry is doing well.

The delivery of £47 million worth of extra quota was a tribute to the hard work that is done throughout the year by Allan Gibb and his team and a tremendous result for Scotland. At the same time, the problems of the landing obligation—particularly the choke species—are very serious indeed, and no doubt we will come on to that.

The outcome of the negotiations was very good. Do not take it from me—one of the leaders of the fishing industry who were present at the talks said just after their conclusion that there is not a better-served industry than Scotland's in any of the EU nations so far as working with the industry and representing its interests is concerned. That was fairly positive.

**Peter Chapman:** My question is about the UK concordat and fisheries management. The concordat is an agreement between the UK Administrations. There seems to be some conflict—I wonder what status the concordat has, given that there is consultation on-going in England but there appears to be no consultation in Scotland. We hear that the English fishermen are concerned that some 1,500 tonnes of English quota has been taken out of the Humberside area and given to Scotland. I do not understand what is going on. Can we have some clarity on where the concordat is?

**Fergus Ewing:** I will bring in Mr Gibb in a moment. The concordat is an agreement between the UK fisheries Administrations. It is not legislation and does not establish legal obligations. Members will be familiar with such concordats, because there are various of them.

The new concordat provides for enhanced controls over transfers of fishing vessels between UK countries and for greater devolved control over shares of UK quota. Once those powers are established—and only then—the Scottish Government will put in place new rules that will allow fixed quota allocation units to move from a Scottish to a non-Scottish licence, but only when a Scottish vessel moves to operate permanently in another part of the UK.

We published a consultation on the quota allocation in 2014; the quota allocation is the substantial issue that falls to be determined after—and only after—the concordat is finalised. We had, in effect, agreed the terms of the concordat some considerable time ago and therefore did not think it was necessary for the UK Government to enter into that consultation. We did not have a consultation because we did not consider that there was any purpose in having one; it was something that had been agreed.

It is fair to say that its finalisation was delayed by the UK Government because of the referendum and possibly the Scottish parliamentary elections. In mid-year, after they were over, we sought to have the matter finalised, and it was then that the UK Government said that consultation was necessary, although it was not. However, we are very keen to get on with formally announcing the decisions in relation to the fixed quota allocation system, because they are essential to further investment in the industry; that is one of the consequences.

Mr Gibb might want to add something in relation to the 1,500 tonnes issue.

**Allan Gibb (Scottish Government):** The cabinet secretary has been very comprehensive on the concordat. It is a revision of the first concordat, on which none of the Administrations consulted. Carrying out a consultation is a new choice by England—by DEFRA officials and Mr Eustice—and that is fine, as it is in their gift. The consultation concludes at the end of February and we will take it from there. We do not expect any change, as the concordat has been agreed at ministerial and official level.

The concordat allows greater control and allows the certainty that the cabinet secretary needs over Scotland's quota shares. It would be unacceptable for the cabinet secretary to make a decision or a recommendation—or to take forward a proposal—on protecting and delivering economic growth for the Scottish fishing industry, only for somebody else in the UK to undermine that work. He needs that certainty before going forward and, primarily, that is its purpose.

The issue of the 1,500 tonnes is completely separate. It relates to a National Federation of Fishermen's Organisations news release from just before Christmas that was picked up in January. It demonstrates that the NFFO is not particularly happy with some decisions that were made—I will not make a judgment about whether it should be happy or otherwise. As the cabinet secretary indicated, the 1,500 tonnes is the result of a top-slice and, in our opinion, that results from an extremely well-evidenced and logical case that it should not go to one company and that it should be kept centrally to appease and to help with



potential choke species under the landing obligation. That was the right thing to do and it was right for Scotland to get some benefit.

Why should Scotland get some benefit? Scotland—not the UK, but Scotland—is the second largest contributor of all member states to the EU-Norway negotiations and agreement. The Arctic cod that comes into the EU is primarily purchased by blue whiting. Scotland holds 99.3 per cent of the entire blue whiting quota for the UK, so we could say that Scottish blue whiting purchases Arctic cod. Not a single kilogram of Arctic cod goes to a Scottish fisherman; every single fish goes down to England. That is why it was right that we redressed the balance.

**Fergus Ewing:** This was the subject of discussions between me and George Eustice on two or three occasions prior to the December negotiations. In other words, it was largely an infra-UK issue. The Scottish fishermen involved felt that they had had a very unfair deal in which fish that they believed should have been fished by Scottish fishermen were being top-sliced and applied to a company in England.

Far from Scottish fishermen complaining about this deal, it is a success story for the Scottish industry and I was very pleased—I have to say this and I want to be reasonable—that Mr Eustice made the deal. I worked very hard with him to get the deal for Scotland and, eventually, he was persuaded that it was the right thing to do. I can assure members that there are no fishermen complaining about it in Scotland.

**Peter Chapman:** What species are involved in the 1,500 tonnes? Is that specified or is it just a tonnage of fish?

**Allan Gibb:** It is 1,500 tonnes of Arctic cod and, as it all went to a single company, we do not fish it in Scotland. As the cabinet secretary suggested, in partnership with the UK and with the support of the UK fisheries minister, we will look to swap the 1,500 tonnes with other European countries that fish that fishery in order to bring in fish that will benefit the Scottish and the wider UK fishing fleets that focus on choke species. Target species would be, for example, North Sea cod, haddock, saith and monkfish.

**Rhoda Grant:** The landing obligation has been mentioned. What progress is being made to allow it to work properly, with reference to choke species and the like?

**Fergus Ewing:** The landing obligation policy was introduced to tackle a problem that most—if not all—of us found to be pretty repellent: the practice of discarding, which meant dead fish being thrown over the side rather than being landed and used. That was perhaps the consequence of EU policy that caused the most

concern among not just fishing communities but the wider public, because it seemed to everybody to be a waste. The landing obligation is a well-intentioned policy that is designed to tackle that and bring it to an end, and I think that everybody, including fishermen, supports that.

The problem is that the way in which the obligation is implemented causes a risk of choke. That refers to species that can prevent the full prosecution of quota for one species because of the risk of fishermen catching another species for which the quota has been exhausted. If someone runs out of quota for haddock and cod and they are fishing for other species, but they have a bycatch of haddock and cod, that can stop the prosecution of their main fishing effort. The consequences are potentially catastrophic because, if they cannot go out and fish, they have to tie up and cease operating. It is a bit like asking Marks and Spencer to shut its shop premises in February—it is not much more complicated than that. The landing obligation issue concerns the way in which the European Commission seeks to implement the obligation.

I could say lots of things about the landing obligation but, to cut to the chase, it seemed to me from attending the November Council of Ministers and listening to the Commission's response to just about all the member states that took part in that council debate—they all, to a greater or lesser extent, expressed concern about the consequences of the implementation of the choke species arrangements as planned—that the big problem was inflexibility. The time in which implementation is sought is perhaps not practicable, yet the Commission did not appear to be willing to extend the timescale.

Much good work has been going on, and we have referred to work that we have done to try to address the situation. The Arctic cod deal, which has enabled quota swaps to take place, will relieve pressure on some quota species in the North Sea, which is good, and other methods are allowing quota to be transferred between the west and the north. The Commission is also allowing de minimis exemptions and carry-forward of quota. There is a plethora of devices or policy tools—I have a list here.

I have reached the conclusion, subject to discussions with the industry, that the policy is being introduced too quickly and too inflexibly, and the consequences of that speed and lack of flexibility could be extremely serious for those who are involved. The results and outcome of December's negotiations perhaps allayed some of the concerns that exist, but I know that the likes of the Shetland fishermen, for example, are extremely exercised about the issue, as Tavish Scott has reminded us from time to time.

I do not know whether Allan Gibb wants to add anything.

**Allan Gibb:** The outcome of the negotiations included help going forward. We have taken a transitional approach to avoid what is commonly known as the big bang—that is, everything coming in on day 1 in January 2019. For example, big increases in saith quota will be helpful, as that comes under the landing obligation in the North Sea and potentially elsewhere. We will see what the regional groups have to say on that. Scotland, as well as the UK, has a full seat on the groups that I attend.

I reiterate that there are probably answers to every potential choke species, and there are not as many choke species as you might imagine. As the cabinet secretary said, the problem is the inflexibility of the system and the timescale, and some of the answers are not particularly attractive—I will not say whether they are unattractive to us or to other member states. That could mean changing things that have been fixed in statute for several decades, such as relative stability. I do not think that that could be done in a few months or a year, and there lies the challenge.

The cabinet secretary referred to the most significant development. Other member states, the UK and Scotland recognised the issue and raised it above the regional groups, which are dealt with by officials such as me, to the Council of Ministers arena, where it can be properly discussed and the complexities can be recognised, although the Commission seemed more to note it than to do anything else.

12:30

**Rhoda Grant:** The situation seems a bit strange. In past years, it was fine to throw dead fish over the side of vessels, but they could not be landed without penalty. The cart seems to be going before the horse. We should have had in place policies to deal with people who deliberately went to fish choke species and to allow choke species to be landed and used. Everyone signed up to the new policy, but it seems to have been taken in without looking at the implications of how it would be implemented. Will there be more time to allow the policy initiatives that deal with the issues to be implemented, or should we be really worried about that?

**Allan Gibb:** That is fair comment. That is a consequence of the codecision process, in which the Council and the European Parliament work together. There was strong public demand to deal primarily with the waste issue and the food element as opposed to necessarily science, although the two aspects obviously go hand in hand.

Senior Commission officials reflected to me that the view was, “Yes, we know we don’t have the answer, but there are four years, and surely we’ll have the answer before that all comes in.” That has proven to be highly optimistic and unrealistic, but that was the view that was taken at the time.

We are now getting to the point at which people will have to reflect. It will not be for me to suggest that there should be a delay, that the Commission or the European Parliament will condone anything or that there will be adjustments, but they will certainly have to reflect on the fact that the available time to deal with horrendously complicated issues does not appear to have been enough.

**Stewart Stevenson:** I very much welcome the cabinet secretary’s remark in his opening statement that he is seeking to ensure that we do not trade away permanent access to UK waters when we leave the CFP. That is exactly the commitment that we want to hear.

Mr Gibb just said that some things cannot be done in a year or a few months, but there is a degree of urgency if the UK Government’s timetable is that we are 25 months away from leaving the CFP.

I will pick up the issue of access. Eight days ago, the UK Prime Minister said that her objective is a proposed free-trade agreement between Britain and the European Union. I do not think that anybody in the Parliament is likely to object to that objective. She went on to say:

“I do not believe that the EU’s leaders will seriously tell German exporters, French farmers, Spanish fishermen ... that they want to make them poorer”.

That is a worrying indication, if not confirmation, that fishing interests in Spain seem to be on the Prime Minister’s list of things in which she has an interest. She has said nothing about fishing interests in the UK and in Scotland in particular.

How are discussions on that issue proceeding? Can we get the point across that fishermen in Scotland and, I suspect, in the rest of the UK are looking to the new fishing opportunities as a key way of underpinning the long-term future of their industry and therefore that what happens in the next 25 months—and, indeed, rather earlier than the end of that period—is vital?

**Fergus Ewing:** On what I have done, I have of course met Andrea Leadsom and George Eustice; indeed, I have met Mr Eustice on many occasions. As I have said before, I have a good working relationship with him and I respect him. There is no doubt that he is a clever individual. I have specifically asked—at every formal meeting, I think—the very simple question, “Can you please give a guarantee that in the wider Brexit negotiations you will not trade away rights to

permanent access to Scotland and the UK's waters?" I have not yet got an answer to that question.

Like Mr Stevenson, who has long represented fishermen and fishing interests, I do not think that that question will go away. This is not a politician's question or something that is relevant only to the chattering classes; this is something that our fishermen feel strongly about—they feel it in their bones. Our fishermen, most of whom probably voted for Brexit, see enormous opportunities—Bertie Armstrong calls it a sea of opportunities—because they envisage having the ability to fish for the fish in our waters and UK waters. That is simple, and if those fish are to be traded on a permanent basis, that will cause a lot of anger. The assumption at the moment is that that will not happen. I think that, as far as fishermen are concerned, the whole point of Brexit is the ability to fish all the fish in our waters, not just the relatively modest proportion of the stocks that they currently fish.

I have specifically asked Andrea Leadsom and George Eustice about this on several occasions—and answer comes there none. The answers that I get include, "Well, there are always negotiations between member states." Yes, there are, but they are annual negotiations on quota swaps and the fixing of total allowable catches, as we have just described. They are not about the permanent trading away of access. There is a clear distinction to be made between the two.

I will not launch into a political tirade about the matter. All that I will say is that it is a serious issue that is not going away, and I will continue to press the question. Until we get an answer, we cannot go about the serious task of devising a fisheries policy that will operate in these islands.

I am pleased to have had the opportunity to answer Mr Stevenson's question, and I hope that one day George Eustice might—I do not know—come to Scotland and take the opportunity to answer it himself in his own words, rather than my answering it in mine. That would be a good thing.

**Stewart Stevenson:** Are you suggesting that it would be useful to the general proposition of taking the question forward—it might also be the case in relation to agricultural issues, which we have been discussing in relation to our coming out of the common agricultural policy—if Andrea Leadsom and/or George Eustice appeared in front of the committee, to see whether we could achieve success on an issue where, thus far, your success has been deferred?

**Fergus Ewing:** It is really for the committee to decide what it does and whom it asks to attend but, in the interests of good dialogue—I note, convener, that members of your party have

exhorted me to get round the table with the UK Government but, sadly, the meeting with Andrea Leadsom that we planned weeks ago and at which we would have done so was cancelled—I think that I would turn the argument round and say that we should have a dialogue with parliamentarians, too. I would be surprised if they did not relish the opportunity but, as I am sure members will agree, the question of who is invited to a committee is a matter for Parliament, not the Government.

**The Convener:** I am sure that the committee will decide who it is appropriate to invite and will cast its net wide. Do you have any final comments before I close the agenda item?

**Fergus Ewing:** I am pleased to have had what I think is the first opportunity to discuss at length the interests of fishing. As members know, the topic is highly complex and really important. I have welcomed the opportunity to have this initial discussion, but I hope that, although the committee has many responsibilities and topics to cover, it will come back to the important issue of fishing. It is a vital part of our rural economy and society, and it is right for us to continue to give it a lot of attention and to have a lot of discussion about it, particularly if we are to come up with our own fisheries policy.

**The Convener:** Thank you for giving your time and providing two updates today, cabinet secretary. I also thank Allan Gibb for his attendance and for the information that he gave. You are right, cabinet secretary, that we will be looking at fisheries during the year.

I suspend the meeting briefly to allow the cabinet secretary and Mr Gibb to depart.

12:40

*Meeting suspended.*

12:41

*On resuming—*

## **Subordinate Legislation**

### **Seed (Miscellaneous Amendments) (Scotland) Regulations 2016 (SSI 2016/434)**

**The Convener:** Ladies and gentlemen, agenda item 4 is consideration of subordinate legislation. In relation to the regulations, which are subject to negative procedure, the committee is asked to consider any issue that it wishes to raise in reporting to the Parliament. Members should note that no motions to annul have been lodged and that no representations have been made on the regulations.

If members have no comments, do we agree to make no recommendations on the regulations?

**Members** *indicated agreement.*

**The Convener:** That concludes the committee's business. I remind members that at its next meeting, on 1 February, the committee expects to take evidence from the Minister for Transport and the Islands on rail services and to hold its first evidence-taking session on the Scottish Government's draft climate change plan.

*Meeting closed at 12:42.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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