



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 12 September 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 12 September 2017

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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
22nd Meeting 2017, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

Claudia Beamish (South Scotland) (Lab)

*Donald Cameron (Highlands and Islands) (Con)

*Finlay Carson (Galloway and West Dumfries) (Con)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Emma Harper (South Scotland) (SNP)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

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

*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Donald MacRae (Water Industry Commission for Scotland)

Alan Sutherland (Water Industry Commission for Scotland)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 12 September 2017

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning and welcome to the 22nd meeting in 2017 of the Environment, Climate Change and Land Reform Committee. We have apologies from our colleague Claudia Beamish.

I remind everyone present to switch off mobile phones and other electronic devices, as they may affect the broadcasting system.

Under agenda item 1, do members agree to take items 4, 5 and 6 in private?

Members *indicated agreement.*

Water Industry Commission for Scotland

10:00

The Convener: Agenda item 2 is evidence on the Water Industry Commission for Scotland. We are joined by Alan Sutherland, the chief executive, and Donald MacRae, the interim chair. Welcome, gentlemen. Members have a series of questions to ask you, and we will move straight to those questions, if that is okay. Emma Harper will kick off.

Emma Harper (South Scotland) (SNP): I have a simple question about how the Water Industry Commission has performed over the period 2015 to 2021. Can you tell us about the role that the Water Industry Commission has played in facilitating a successful performance in the past few years?

Alan Sutherland (Water Industry Commission for Scotland): It may be best to split that into two areas. In financial terms, we have been consistently ahead of budget and have returned money both to Scottish Water and to licensed providers, so we have underspent our budgets. We have achieved that while doing all the jobs that we have to do. I am not aware of any of our published deadlines or internal deadlines that we have not met.

We have continued to work with the Scottish Government, the Scottish Environment Protection Agency, the drinking water quality regulator for Scotland and Scottish Water to ensure that the levels of service that customers get across Scotland are generally improving. That does not mean that everyone gets a perfect service all the time, and there is no doubt that there will be some examples of issues with service, but the levels of service that are being provided are generally getting much better. For example, one of the areas in which we have been encouraging Scottish Water to do much better is the management of leakage, which has gone from being about 1.1 billion litres a day to just over 450 million litres a day—that is down to an economically sustainable level, taking into account environmental costs as well.

The Convener: I seek clarity on that point. Are those figures for measured leakage in the public supply?

Alan Sutherland: That is correct.

The Convener: I do not mean this as a criticism, but you do not know what is happening with private supplies—on agricultural land, for example.

Alan Sutherland: That is quite correct. This is not always well understood, it has to be said, but once the water supply crosses the curtilage of a property, it is the responsibility of the property owner to maintain the pipe structures and deal with any leaks that arise.

The Convener: The activities of the water supplier can impact on that. If the supplier suddenly turns the water pressure up on its pipework, that can blow the pipes on a private supply.

Alan Sutherland: It certainly can. One would hope that, in most cases, Scottish Water would warn people who could be affected by that.

Emma Harper: You have suggested that leakage is one of the aspects that you will consider as part of the three-year investment review. Can you speak about other areas on which you anticipate the interim review will focus?

Alan Sutherland: The interim review is not an activity that is ours alone: the Scottish Government has rather an important say in respect of its priorities; customer views will be taken into account through the input of Citizens Advice Scotland; we will hear the views of the Scottish Environment Protection Agency and the DWQR; and Scottish Water will have its own priorities, which may be more operational or focused on service levels.

I suspect that growth will be an important factor in the review. There is increasing evidence of a need to respond to increases in housebuilding, population shifts and smaller households.

The resilience of the system will be an issue. There are still many areas in Scotland where quite large numbers of people are supplied by one source of water or one key pipe. If that one source or pipe were to encounter a problem, that community could be without water for an extended period. There is a range of issues as well as the on-going challenges of meeting environmental standards, such as the water framework directive.

David Stewart (Highlands and Islands) (Lab): Looking at the measurement of performance, I think that it is fair to say that Scottish Water is an improving and improved organisation. I welcome some of the positive performance indicators over the past 12 months. It is important to put that big picture on the record.

I want to clarify a couple of points. It is your job to monitor Scottish Water. What is your role in the development of the targets that are laid down? Do you alone develop the targets or are they set in conjunction with the Scottish Government and Scottish Water? What is the target development process?

Alan Sutherland: It happens at three levels. The Scottish Government will set a series of objectives for the industry at the start of each regulatory review period. The Government can update those. The commission's job is to set prices that are consistent with Scottish Water meeting those objectives at the lowest reasonable overall cost.

Those objectives are tracked by the output monitoring group. The minutes of the group's quarterly meetings can be found on the Scottish Government's website. That group is chaired by the Scottish Government and involves representation from the drinking water quality regulator, the commission, CAS, the Scottish Public Services Ombudsman and Scottish Water. The group looks through all the capital projects to ensure that those that are not on track are identified and that proactive steps are being taken to deal with them. That is the first level.

The second level is the long-term measures that we use, such as the assessment of overall performance, where the same factors—about 15 of them—are measured in the same way every year to allow us to track progress. Performance is measured on an indexed score basis. To give the committee some idea of where we are with that, when we first measured Scottish Water, it scored about 130 to 140 points out of a maximum of 420, but it now regularly scores about 400. That shows you how far Scottish Water has come over time.

In the most recent price review, the commission asked a customer forum to work with Scottish Water and agree its business plan, within range parameters that were decided by the commission. As part of that work, some new measures were identified that it was considered would be useful, such as the reputation of Scottish Water among its customer base and an aspiration to be a genuinely leading service company.

David Stewart: Thank you. That was a lot of detail but, to cut to the key point, water leakage is a concern that I have as a member of the committee and of previous committees with responsibility for Scottish Water. Colleagues have raised the issue, too. Scottish Water loses roughly a third of all its water. The current target for leakage, against which, as you know, it has a double tick, is 500 million litres a day. It is difficult for members of the committee and, I am sure, the public to visualise that so, before the meeting, I looked it up and found that it is equivalent to losing two Commonwealth pools full of water a day. That is horrendous for climate change.

I accept that there are two ticks in the box, as there is an improving position. However, any ordinary observer would say that having a target of losing two Commonwealth pools full of water per day is not great. It is like saying that your team lost

11-nil one week and 10-nil the next and has therefore improved—well, yes, it has, but my point is that the target seems immensely high and easy to achieve. Do you have a role in saying that we need a realistic target? A target that says that we can lose a third of all that we produce does not seem to me to be a good indicator. I accept that progress on the other indicators is very good, and I started my comments positively, but do you accept my point? Could you say, “This target is ludicrously high—let’s get real on water leakage”?

Alan Sutherland: Actually, I could not. I am afraid that I have to disagree with you.

David Stewart: That is fine.

Alan Sutherland: The reason why I say that is that, initially, we worked on the basis of what it would cost customers to reduce leakage. For every litre of water that is saved, there is a saving in the energy costs of treating that water, the chemical costs and so on. Ultimately, over time, as leakage is reduced, the treatment works that are needed could be slightly downsized and therefore savings would come from that. If we look at it purely on the basis of that calculation, the level of leakage that would be balancing and entirely neutral for the customer would be higher than the level of leakage today.

The reason why the level is where it is today is that we are starting to take account of things such as the environmental cost of using water, which is not an exact science. People can have different views, depending on how they value the environment and on the amenity value that they ascribe to water. Doubtless, that will change over time. We see signs that communities and customers across Scotland are starting to value those issues more, but we still have to do quite a lot on that to justify spending customers’ money, which is what we are doing, to fix more pipes, which is what we need to do to reduce leakage. There is a combination of two things.

David Stewart: Just so that we are clear, you are saying that you are comfortable with the target, as are the Government and Scottish Water.

Alan Sutherland: Yes. I think that the target is quite challenging.

David Stewart: Obviously, there is a wider issue about climate change, which I am sure other members will take up.

I am conscious of time, so I will move on. Another area where performance was not so good was the delivery of projects. As you know, the target was 28, but 22 were delivered. I know that you are not fully responsible for the issue and that Scottish Water has to answer for it, but you may well know the answer to my question. Two of the main reasons that are given for that performance

are planning constraints and construction constraints, but not much is said about borrowing constraints. Was there any difficulty in delivering the projects because sufficient borrowing was not available? I know that around £120 million a year is required. Did that borrowing come on stream? If it did, why were the projects not delivered on time? Is that an issue in delivering the projects?

10:15

Alan Sutherland: It could be an issue, as we look forward. However, at this point, Scottish Water’s cash balances are very substantial. Given the amount of cash that Scottish Water is sitting on, it would not seem prudent, purely from a customer perspective, to pay interest on money that is not actually needed. I completely accept that interest rates today are at historic lows, but, likewise, as we all probably know, the interest available on cash balances is close to zero. Therefore, I do not think that there is a constraint.

To the two factors that you mentioned, I add the fact that, in the early stages of regulatory periods, there are often projects on which we know that something needs doing but we are not completely certain how best to solve the problem, including whether it will require the application of more innovative techniques or even non-engineering ones. Quite often, in those early stages, it can take a bit of time to formulate projects that are at the early stage of being transitioned from needs and twinkles in the eye in terms of desired outcomes into defined projects with budgets, contractors and the requisite planning permissions in place.

David Stewart: I understand the point that you make. However, I want to pin you down on the previous point. My understanding, from previous committee consideration of the business plan, was that Scottish Water would require borrowing of £700 million over a six-year period in order to fulfil its objectives and complete its projects. It did not complete its projects—it was six projects short—and borrowing came to roughly £120 million a year. You will not necessarily have that figure in front of you today, but will you confirm—either now or in writing—whether I am right on the business plan and the amount of borrowing over the past six years? Presumably, if Scottish Water does not have sufficient borrowing, it will not be able to complete its projects on time.

Alan Sutherland: I certainly was not trying to be evasive. I apologise if that is how it came over, but that was not my intention: I was trying to be as helpful as I could be.

The regulatory period runs from 2015 to 2021. Over that period, we believe that Scottish Water will need £720 million-worth of borrowing. It entered into the period with a slightly higher

amount of cash than we had expected. In addition, it had some benefits from rates rebates and it has continued to improve its overall efficiency. As of today, Scottish Water has plenty of cash. To deliver the rest of the capital programme that it has to deliver between now and the end of March 2021, the best estimate, as outlined in Scottish Water's delivery plan, is that it will need the full £720 million of borrowing that was promised by the Scottish ministers, who are on record as saying that that borrowing will be forthcoming. As members of the Scottish Parliament, committee members will see that coming through in the usual budget round or will be able to challenge that if they do not see it becoming available.

David Stewart: I will finish on a key point, convener. Why did Scottish Water not deliver the 28 projects that it had promised?

Alan Sutherland: For the two reasons that it has given you, on land availability and planning permission. I add a third reason, which is that there is an issue in the early stages of a regulatory period—which I have seen over three or four such periods, so I can look back and see that there is a pattern—in that we often end up including things for delivery that are not as well defined, and certainly not as well costed, as they need to be in order to be delivered effectively.

If we are going to set prices for six years, which is desirable, we want to be as clear as possible about the benefits that can be delivered over that period. However, until we can work out a better way of dealing with the front end of the capital programme, I suspect that, if you ask me back in six years' time, I will be telling you about a similar pattern at the start of the regulatory period.

David Stewart: Thank you.

The Convener: I want to explore the exact role that you play. Let me take as an example a major infrastructure project such as the Shieldhall project, which my colleague Angus MacDonald and I visited. It is very impressive, but it is now alleged that it is behind schedule, and shopkeepers in Glasgow in particular are claiming that there has been an impact on them and that their business has suffered. Can you briefly give us some oversight of that project and tell us whether it is on track or behind schedule? If it is behind, what role, if any, do you play in monitoring that and pushing it along? Finally, when businesses say that they are suffering from Scottish Water's activities, do you have any role in encouraging Scottish Water to provide compensation?

Alan Sutherland: First, on the timeliness of the tunnel, I am not aware of its being late at this point. According to the reporting that is being

provided to the outputs monitoring group, it is on schedule. I am just not aware of any such delay.

Engineers tell me that all tunnelling projects are by far the riskiest things to be tackled, so there must be a chance that, as with any tunnel, there could be problems. As I understand it, the reason why Glasgow has only one underground line is that ground conditions in the city are particularly challenging for tunnelling. There are things that will need to be dealt with but, as of today, the project appears to be on target.

As for the impact on communities, that is not an issue that we would typically get involved in. I believe that Scottish Water is quite responsive to well-evidenced claims of impacts that it has had on communities, but you might well know more about that than I do, as you will probably have had constituents raising issues directly with you.

The Convener: To be clear, then, there is no oversight of how Scottish Water responds to such complaints.

Alan Sutherland: If a customer were to complain to Scottish Water and felt that they had not had satisfaction, they could—and should—refer their complaint to the Scottish Public Sector Ombudsman, which has the power to resolve the issues arising.

The Convener: But you have no role in that respect.

Alan Sutherland: No.

The Convener: Okay. Let us move on. I call Kate Forbes.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I want to ask about non-household customers, specifically with regard to the market in England. The commission

"has consistently stated that a competitive retail market south of the border would benefit customers in Scotland through increased numbers of retailers and greater competitive pressures."

How do you see that happening in practice? How will the opening up of the non-household market in England affect the provision of water services in Scotland?

Alan Sutherland: Not as positively, I fear, as I might have hoped, simply because the way in which the authorities in England have decided to set prices and market rules has made it more difficult for retailers to be as proactive in addressing customer needs as we think appropriate. The positive dynamic that I think we saw in Scotland since the market was opened in 2008 was substantially about licensed providers trying to sell customers additional services that would benefit them by potentially reducing their water usage or as a result of looking at some of

the process engineering. In that respect, various case studies involving different licensed providers are available. That sort of activity looks less likely to happen in England, because the margins that are available for retail services seem to us to have been disproportionately allocated to the wholesale network side of the business as opposed to the retail side, so I do not think that there will be as much benefit.

Kate Forbes: If there is less benefit, will there be any adverse cost implications?

Alan Sutherland: There should not be in Scotland. We have tried to make sure that the market rules in Scotland have been updated and changed to ensure that Scottish customers—both household and non-household—are fully protected. For example, one of the steps that the commission took was to increase the prepayment that a licence provider has to make to Scottish Water.

If a licence provider were to hit financial difficulty and go out of business—given that the margins in England are so much lower than we believe they should be—there would be no impact on Scottish Water business, because the provider would have prepaid and there would be time to resolve any issues that arose.

We are being very vigilant on that and on things such as the sales practices that are being adopted and activities to block switches. We are being very attentive to potential bad behaviours. We have seen an increase in some activities that we would consider not to be in the interests of customers.

Kate Forbes: Is that in Scotland or England?

Alan Sutherland: In Scotland, since the market opened in England in April. However, at this point I am reasonably comfortable that we are taking the steps that we need to take to ensure that customers in Scotland will not incur any detriment from that.

Kate Forbes: What evidence would you look at to give you comfort that—putting England aside—the non-household retail market in Scotland is working efficiently and effectively?

Alan Sutherland: Essentially, we look at what is happening with customers and establish whether there is any sense that they think that they are not getting value for money. I am not aware of any evidence of that.

Kate Forbes: What evidence would you look at to determine whether customers feel that they are getting value for money?

Alan Sutherland: We would look to establish whether there have been complaints, articles in papers and that sort of thing about issues arising.

We do not see much of that. Sorry, but I have lost my train of thought for a second.

Donald MacRae (Water Industry Commission for Scotland): We have looked at the market studies.

Alan Sutherland: Yes. We are looking at the switch patterns. When we designed the market, we were determined that the smallest business could switch, that people would want to supply that small business and that it would be protected if it wanted to switch and protected if it did not. Those things are still pretty high up on our radar.

Kate Forbes: Thank you.

10:30

The Convener: I want to build on the point about customer satisfaction. Last year we had Business Stream's chief executive, Johanna Dow, in front of the committee. I raised with her the issue of requiring customers—in particular, agricultural customers—to pay bills within 14 days. In response, Business Stream indicated to the committee that it would introduce 21-day payment terms for customers that were not currently under contract with Business Stream—that is, new customers. In response to a letter that we sent to you, Mr Sutherland, you said:

"In our view, a 21 days' payment term for customers is in line with industry standard practice."

Do you therefore agree that it would be reasonable to introduce a 21-day payment regime for all customers and not just new ones?

Alan Sutherland: That sounds attractive, but I am not sure that it is quite right. I say that because, for the customer who decides that they do not want to do anything differently from what they have always done, the payment term is 21 days after the receipt of an invoice. That payment term exists. If a customer chooses to do something different and move to a different retailer, they might be able to get extended payment terms. We are aware of some customers who have chosen to prepay retailers by quite substantial margins, before they even get the service, in order to win themselves bigger discounts. I do not think that it would be a sensible step for us to take away the ability of a customer to choose to take a different price and a different set of payment terms if that is what they want to do.

It all depends on the sort of business you are. I completely accept that, for an agricultural producer or any seasonal type of business, cash flow during a year can be a big issue. If the bill comes at the wrong time of year, that can be problematic. However, I am not sure that going from 14 days to 21 is going to particularly help a business that gets

80 percent or so of its cash in in the last three months of a calendar year, because of its seasonality.

I think that it is better to have the safety-net contract, which has the 21-day payment term, but to allow customers to seek out a retailer that can be properly supportive. I am aware of one retailer, for example, that has an affinity arrangement with NFU Scotland. I could be wrong, but I assume that that retailer, in having that partnership, has taken account of some of the pressures that exist for farmers.

The Convener: Who is that retailer?

Alan Sutherland: Castle Water.

The Convener: Okay, but you see the point that I am getting at. If memory serves, we were told by Scottish Water that it pays its bills on a 28-day cycle. It is a bit odd that it pays on that basis yet it expects its customers to pay within 14 days.

Alan Sutherland: Was that Scottish Water or Business Stream?

The Convener: It was Scottish Water. I think that Business Stream eventually indicated that it did the same.

Alan Sutherland: Scottish Water's payment terms are essentially a question for it to manage. We would look at its working capital balances and make sure that they were reasonable. Clearly, if it is running bigger working capital balances, that costs customers money, so it is a question of Scottish Water balancing that. As I said, Scottish Water has a lot of cash on its balance sheet, so it will not necessarily be as focused on getting cash in quickly compared with a business that is running a very unhealthy overdraft.

It is not appropriate for me to comment on Business Stream. It is one of 20-odd retailers in the market. Yes, it has a big market share, but it is for each retailer to be able to justify to its customers its business practices and offerings to them.

Angus MacDonald (Falkirk East) (SNP): I will pick up on that previous point. Should WICS have the power of oversight of how Scottish Water and Business Stream conduct their business, such as on the payment terms?

Alan Sutherland: To be honest with you, no. If an issue does not impact on the customer, I am not sure that you would want an economic regulator to start to interfere in the detailed financial management of a company. That crosses the line from regulation to management or control.

If Scottish Water aspires to be trusted by its customers to serve Scotland and trusted on the good words that it tries to live by, clearly, the onus should be on it to justify its business practices and

to be a good corporate citizen. From time to time, Government expresses views on the payment terms that all public organisations ought to adhere to. As far as I am aware, any examples of Scottish Water not settling an invoice are because it believes that the service has not been provided.

Angus MacDonald: I will move on to resources. We know that you have a small team of about 20 staff, based in Stirling, and that your annual budget is about £3.4 million. You have a policy of growing talent internally. Are there challenges in attracting and retaining staff with the necessary skills, given the expertise that is required?

Alan Sutherland: Yes, unfortunately. I was talking to Donald MacRae about that issue just before we entered the committee room. We have an issue with getting the right quality of staff. We have consistently emphasised quality over quantity. Over the past 17 or 18 years, that has been the right thing for us to do, but it is getting more difficult to recruit.

Three to five years ago, when the economy was in a less good place, some of the big professional firms were recruiting less and it was maybe a little bit easier at that point. However, we have just been trying to find experienced analysts and we have had an incredibly poor response to advertisements. It is not a matter of pay. It would be convenient to be able to come to you—or to the Government—and to tell you to pay the staff more and it would be fine. That is not the issue. There is a genuine limit to the amount of analytical talent that we are producing, for whatever reason. I suspect that our Stirling location is not necessarily the most attractive for people who see themselves as having an economic or financial career.

Angus MacDonald: I am sure that there are a few members around the table who would disagree with that.

Alan Sutherland: A lot of my staff would disagree with that point, too. However, it is not easy to retain staff. At the moment, our average retention rate is probably something of the order of 24 to 30 months for young people. Given that it probably takes us around 12 to 15 months to get someone to the point at which they are very productive, that means that we are often not getting more than a year out of someone before we have to start the cycle again.

Angus MacDonald: Are you saying that the policy of growing talent internally is not working as it should?

Donald MacRae: We are getting enough talent to ensure that we are doing our job. Are we getting as much choice as we would like to get? No. Are we able to build in a bit of resilience such that, if someone leaves, we can continue as is? No, I do

not think that there is quite enough resilience in the system for my liking.

Angus MacDonald: We know that the £3.5 million that WICS requires is funded by levies on Scottish Water and suppliers to the non-household market. You might have partially answered this question in response to Kate Forbes's question, but do you believe that WICS demonstrates value for money?

Donald MacRae: If you were to compare our budget per connected customer of Scottish Water with that of economic regulators south of the border, you would say that our cost per customer is either at or below that of those other regulators. Given that they are very much larger organisations with very many more customers and benefit from real economies of scale and, in the case of the Office of Gas and Electricity Markets, scope, I think that we are pretty cost effective.

John Scott (Ayr) (Con): I declare an interest in that I own a water retailing company that is registered but not trading.

I congratulate you on your work on water leakage reduction, as mentioned in response to Dave Stewart's question about the target. Certainly in my constituency, Scottish Water's work has made a huge difference, and I welcome that, as well as the attitude of Scottish Water at all times when I have reported leaks to it.

We are seeking an update on progress on the 2021 to 2027 strategic review. Will you identify the key milestones ahead, including, potentially, the committee's involvement? Of course, Brexit will have to be factored into those considerations. The key headings in the Scottish Government's commissioning letter were capital maintenance; resilience; strategic capacity; private finance initiative funded projects; partnership projects; and supporting innovation. Will you give us an insight into what you think will emerge in those areas in the period from 2021 to 2027?

Alan Sutherland: In this regulatory period, three of the old PFI contracts that were entered into in the late 1990s will run their course. At this point, we are unclear about what the condition and operating capacity of some of the assets that will come back to the public sector will be at the end of those contracts. It is one of those situations in which we are hoping for the best and preparing for the worst. Scottish Water is doing an on-going piece of work in that regard, and we are in close dialogue with it about the potential implications.

Innovation is a really interesting issue and is probably something that is relevant to your committee. The evidence is that we are not going to build our way out of climate change and that we are going to have to find different and better ways of doing things. That might well involve working

with farmers to allow land to flood and finding appropriate compensation and reward schemes to manage water better within catchments.

10:45

We are also going to have to deal with shifts in demographics. For example, the increasing trend of population shift towards the east of Scotland and new-build property there will put serious pressure on existing assets, perhaps by the end of the 2020s, and that will have to be thought about.

Innovation will be key to solving some of those problems. Scottish Water has made what I would call a fairly good start at trying to apply different techniques and solutions to problems. I think that it has a lot further to go—and I think that it would say the same. Therefore, one of the things that the commission did in its methodology was to ask whether anything in its regulation of Scottish Water was making it more difficult for it to take an innovative decision or to do something in a more innovative way. The answer to that question, I think—and we put our hands up to this—is probably yes, for reasons that would include, for example, the way in which we have looked at payback on projects. We would look at projects purely within a regulatory control period, instead of saying, "Actually, this might pay back over 10 or 12 years."

Frankly, our society has to get better at not jumping down the throats of public organisations such as Scottish Water if they try something that is on the frontiers of technology or process, say, and it does not quite work for whatever good reason. If we want our water industry in Scotland to be truly world leading and innovative, we will have to accept that some of the things that get tried might not work. That might be a bit of a culture shock for us all, but there will be situations in which stakeholders, including the Scottish Government, will agree among themselves to try something that they recognise pushes the boundaries of what might be possible and, in such cases, we cannot then come back and say to Scottish Water, "Naughty boy—you got that all wrong." We have to get our approach there right, because it is really important that we have the scope and climate for innovation.

The other big theme of the price review is wanting Scottish Water to continue to build the trust of its customer base and to continue to make progress. That means dealing with all sorts of issues including payment terms, leakage reduction and responsiveness to customers. Again, if we want Scottish Water to be a genuine beacon of what Scotland can achieve, we need progress to be made on that sort of thing. For example, what sort of involvement does Scottish Water have in schools in communicating the value of science,

technology, engineering and mathematics skills? I know that it does some of that already, but is there more that it can do? As we probably all know, there are real benefits in educating people when they are at school, communicating some of the excitement of an engineering—or, indeed, an economics—career and building the industry's reputation at the same time. The whole trust issue is really important.

With regard to Scottish Water's assets, I have already referred to resilience. I suspect that the Scottish Government and Scottish Water will agree with our view that there are probably too many communities with single water sources. That is something that we need to think about and address to the extent that we can address it.

My final point relates to a much longer-term challenge. Scottish Water has assets with a replacement cost of something like £60 billion. Today, it invests around £300 million a year in maintaining and replacing those assets; at the moment, it invests about £550 million a year, at 2012 prices, but a large part of that is for improving things. If you are spending £300 million a year on maintenance and replacement of an asset base of £60 billion, you are assuming—as the wonders of arithmetic will tell you—that all of your assets will last on average 200 years. Given that that includes everything from information technology and vans on the one hand to the sewerage system on the other, that is quite an ambitious figure. As a result, it is really important that we look at how much we spend on maintenance and at when we need the money, not necessarily because we need a lot more money now but because at some point, perhaps a long way out in the future—perhaps not even by the time my children are my age—customers will face some quite sizeable demands in order to replace assets that, fortunately, our Victorian ancestors built with a degree of robustness that we should be proud of and grateful for.

John Scott: Thank you very much for that extraordinarily comprehensive answer, which I welcome. I must say that, given the level of scepticism that there was when it was first created, Scottish Water has done very well, and I think that the commission has played an important part in that.

I am not sure whether this is entirely appropriate, but I want to make a plea for the work programme over the coming period to cover external sewer flooding, particularly in Prestwick in my constituency, where it has been an on-going problem for 40 years. Time after time, I am told that there is no money from Scottish Water for this, because of Government policy to make my constituents' lives better, but they are suffering at the moment because the ability to address a

problem that I dare say can be found elsewhere in Scotland is lacking. Could that be included in the work programme—and the sooner, the better, given that Scottish Water has plenty of money at the moment?

Alan Sutherland: I am not sure that I said that Scottish Water had plenty of money at the moment—I think that I said that it had a large cash balance—

John Scott: It is cash rich.

Alan Sutherland: It also has a lot of things to do, and it will need Government borrowing by the end of the period.

Sewer flooding is, if not the most disgusting thing that can happen to a customer, right up there among the most disgusting—I am not entirely sure what could be worse. The hierarchy is that we seek to deal with any sewer flooding incident that is internal to a property, as that is probably the worst of the worst, and then external flooding cases are dealt with typically according to some degree of priority based on whether they are near schools or public buildings or whether they are causing disruption to health or any wider disruption.

It would be nice to believe that we could resolve all the aspects of external flooding, but my earlier answer about our not being able to build our way out of climate change applies here, unfortunately. We are getting an increasingly unpredictable pattern of intense rainfall that is causing a lot of pressure on the sewerage system, and the Government is going to have to think about a series of policy decisions. The prioritisation of external sewer flooding will be one of those—and you can be assured that the customer voice is strongly advocating that more be done about that—but there are wider challenges to do with the management of surface water, such as highway drainage and who pays what and why. For example, water customers pay all the costs of highway drainage, which puts quite a burden on the sewerage system. Is that the correct way of paying for that drainage? That is a policy decision for the Government; it is way beyond the remit of the commission or even Scottish Water.

Such things impact on the extent to which we manage surface water through the existing sewerage system or through sustainable drainage systems and other methods. The more that we can get surface water out of the sewerage system, the less likely it is that we will have sewer flooding events, but it is a broad challenge. Scottish Water is doing increasing amounts of modelling of water flows within catchments and now understands far better how a deluge of rain at some point in the geography that it serves will impact on its system and where overflow events may occur. We are

now in a much better place than we were, say, five or 10 years ago because the technology for modelling has moved on dramatically, which is very positive.

Nevertheless, the unfortunate individual who is on the end of a sewer flooding incident finds the experience horrible—there is no other word for it.

John Scott: I am grateful for your answers. Thank you very much.

The Convener: I am going to bring Mark Ruskell in to explore the Brexit issue that John Scott touched on. Before I do that, let me take you back to a comment that you made about building trust and the need to tackle the difficult issues. One such issue—certainly from the perspective of the agricultural community—is the absence of a market code or licence requirement for proactive monitoring and meter reads or a requirement to notify customers in the event that high consumption is identified. Business Stream tells us that it has measures in place to allow it to identify such incidents and that it will endeavour to contact customers. However, the reality out there is that, in many cases, that does not happen and we end up with farm businesses—which, generally speaking, are in difficult financial circumstances—running up huge losses relating to water loss. We also know that there is the possibility of water shortages in parts of Scotland in the decades to come, so this is a hugely important issue. Do you recognise the need for a market code or licence requirement to tackle the issue?

11:00

Alan Sutherland: There may be a better way of tackling it. The frequency of meter reads is never going to be more than once a month or whatever. If a leak starts on day 2, in the best-case scenario someone will read the meter, think, “That’s ridiculous. That can’t possibly be right,” and alert the customer. However, there will still have been a month of a lot of water leaking out of the system.

The best way forward for customers, particularly where they have extended pipework—such as on an industrial site or a farm—might be to fit a logger onto the meter, which can be done cheaply these days. That will give them pretty immediate information about the water flow through the meter and highlight quickly whether the usage pattern is unusual. Industrial estates are an example. The production patterns and the amount of water that is being used might be in line, but suddenly there is an issue with the pipework and the water usage spikes. That information is real time in many cases, and people in the industrial world use it proactively to identify leaks. A farm that is involved in irrigation will have high water usage for a period, and the information from the logger could

tell the farmer if water is suddenly being used when he does not expect it to be, giving him a sporting chance to do something about a potential problem.

The Convener: Could I clarify that he or she would bear the cost of installing the logger and would be responsible for checking the information—as opposed to the supplier?

Alan Sutherland: That is not necessarily the case. Some licence providers have fitted loggers as part of the service package, and some monitor the logger results on behalf of their customers. People could do it for themselves—the capital cost of fitting a logger is not big—or might not face that cost in a service contract with a licensed provider.

The Convener: You have highlighted some good practice examples. How would we roll those out across the sector without regulatory interference?

Alan Sutherland: I am happy to take away to consider the issue of whether it should be standard practice to fit a logger in all circumstances. Scottish Water has some water meters where fitting a logger can be problematic, but that is much less of an issue now than it was three or four years ago. Technology is moving on pretty rapidly and there are opportunities for customers.

The Convener: I welcome that undertaking. I invite you to write to the committee once you have had time to reflect on that approach. Thank you—that will be useful.

Richard Lyle (Uddingston and Bellshill) (SNP): My question is about your previous comment about highway drainage. I have always contended that not enough is done to empty gullies and drains. On some roads and highways, most drains are silted up and covered over. Is it your responsibility to discuss that with Scottish Water or local authorities?

Alan Sutherland: What you have seen might be what happens, unfortunately, when someone has the benefit of a service—in this case, drainage—that they do not pay for. The people who manage the highways do not pay for the service that is provided, so they might not be as keen as they would be if they were paying to have those gullies cleaned out.

Richard Lyle: Is cleaning the gullies not a responsibility of the commission?

Alan Sutherland: No.

Richard Lyle: Thank you.

The commission introduced a customer forum as part of its strategic review of charges for 2015 to 2021. You had a legacy report from that customer forum and a report from Professor

Stephen Littlechild. Peter Peacock has now been appointed as the chair of the customer forum. What progress has been made in establishing the forum for 2021 to 2027, and how is it made up? What is its status and what influence does it have on the 2021 to 2027 strategy?

Alan Sutherland: The customer forum is now fully up and running. All the members are in place and have had a series of initial meetings with the commission, Scottish Water, SEPA and the DWQR, so the process is under way. The forum's remit is defined by a tripartite agreement between the commission, Scottish Water and Citizens Advice Scotland and its aim is to agree Scottish Water's business plan. The commission will publish against all the key inputs of that business plan what it perceives to be an acceptable range for those numbers. In effect, the idea is to allow a group of customers, acting as a conduit for wider community and customer views from across the country, to finalise priorities with Scottish Water. That is within the framework of the ministerial objectives and principles of charging, and below the ministerial objectives and principles of charging there is the view of the commission on efficiency challenges and that sort of thing.

Richard Lyle: Mr Peacock has described the forum's task as

"bringing the customers voice to the table".

Are there customers on the forum, or is it made up mainly of appointees?

Alan Sutherland: I guess that we are all customers.

Richard Lyle: Yes, but I mean ordinary customers—Mr and Mrs Joe Public.

Alan Sutherland: I will talk you through the process. The forum has 12 members. The three partners, by agreement, appointed Peter Peacock as the chairman. In addition, three licence providers have representatives on the forum who were chosen by their fellow licence providers. All licence providers were invited to nominate themselves or others to sit on the forum, and they were narrowed down to the three who are there. Citizens Advice Scotland then ran an open, advertised process to find household customers who were interested in sitting on the forum, which led to the appointment of the remainder of the forum members.

Richard Lyle: That is what I wanted to hear.

Is the forum adequately resourced? You said that it will get an increased budget. What is the budget and how does it compare to the budget of the previous forum—how much has it increased? You also said that you will extend the remit of the 2021 to 2027 forum. How do you intend to extend the remit? What is the increase in the budget, how

does it compare to the previous budget and what is the extent of the remit?

Alan Sutherland: The budget is just over £800,000 for the next three years, which is about double what was spent the last time around. I do not know whether the forum will spend the whole budget, but that is the money that we have provided for in the knowledge that we could do more to understand what is important to customers.

I will give you a flavour of that. We are trying to go beyond standard research techniques and look at some of the developments in behavioural economics and behavioural insights to see how customers really react. Economists are taught that we are all terribly rational and always do things that are in our interests. I do not know about you, but I do not do that, although I sometimes wish that I did. Using behavioural insights, we can try to understand what we could do to encourage customers to do what we want them to do or what customers want us to do. That is one of the reasons for the increased budget. Another reason is that there is a little less certainty about what the budget needs to be.

Richard Lyle: You made a comment on the budget at the start indicating that the organisation underspent its budget. How much did you underspend by and will you give some of that money back to Scottish Water or the other bodies from which you get funding?

Alan Sutherland: In the past three years, the least that we have given back in one year is about £100,000.

Richard Lyle: I compliment you on underspending your budget. I wish others would underspend theirs.

The Convener: I am going to let Mark Ruskell in now. I apologise for not letting you in on the Brexit discussion, Mark. When you have finished this point, perhaps you can move on to Brexit.

Mark Ruskell (Mid Scotland and Fife) (Green): It would be quite a jump.

Do you feel that the customer forum adequately addresses the public interest? I will give you two examples. I have received a lot of emails recently from communities that are concerned the spread of giant hogweed, which is a non-native invasive species—you will probably see some around the corner from your office if you go to the waterworks there—in Scottish Water's assets. It is a public health issue and there is a lot of community concern. The other issue relates to microfibres in the marine environment and the lack of investment in the water industry to screen those out.

Those two issues are fairly new to me, but there is clearly public concern. How does it work with

those issues? Is it SEPA's role to work out whether those issues are significant enough for Scottish Water to invest in tackling them, or is that down to the customer forum? Where do those issues sit in the current framework?

Alan Sutherland: They could sit in one of three places. We would expect to get guidance from the Scottish Government about relative priorities. The issues could sit within the framework of environmental legislation, which is principally European. As the committee will be aware, there are increasing signs of Europe consistently tightening standards and setting challenges to make progress as a society—those challenges are pretty welcome to most of us. Secondly, SEPA will make an assessment of what it should focus on, within that legislative framework and the Government priorities. Thirdly, there will be a customer view on many of those issues. As I mentioned earlier, we are seeing a more proactive view coming from communities across Scotland about the quality of the environment that they are experiencing. I suspect that that will continue to increase.

Mark Ruskell: Is that feeding into the customer focus group?

Alan Sutherland: It will do, but we are at an early stage. We have specifically asked the customer forum to reach out to different communities, both geographically and in the sense of having a common interest, in order to bring such information into the discussion.

There has been the Sky ocean rescue campaign on plastics in rivers and oceans and so on. There is increasing awareness and I am sure that such issues will rise up the agenda.

Mark Ruskell: You touched on European environmental regulations, which brings me to Brexit. As I see it, there are two main areas to consider. First, what is the future of those environmental regulations and how will that impact on the future investment programme?

The second question is about market liberalisation and the potential trade deals that may come post-Brexit. This committee asked about the impact of the comprehensive economic and trade agreement—CETA—between Canada and the European Union and we had the response back that Scottish Water had not considered the impact. I think that it had considered the impact on the services that it delivers in Canada but not the potential impact on its status as a public operator, which conceivably might be challenged under future trade deals.

On the issues of environmental regulations and standards and trade deals, what do you see in your crystal ball for the water industry in Scotland?

11:15

Alan Sutherland: The Scottish Government has said that, whatever happens with Brexit, it intends to respect EU directives and it will seek to at least match required EU standards. We are quite good at that relative to a lot of countries in Europe. We are not perfect—we have further to go—but we have made a lot more progress than many parts of Europe and we are probably much more straightforward in our reporting than many parts of Europe. We can be proud of that. That does not mean that we have got to where we need to get to, because I do not think that we have.

When I was first appointed, I got a document on 1 November 1999 from Sarah Boyack, who was the transport and environment minister at the time, called quality and standards I. It said that, in seven or eight years, we would have met all the environmental standards that we had to meet and the bubble of investment would go away. It is now 17 years later and, looking ahead, I think that we will probably continue to invest around £200 million to £250 million in today's money in improving our environment for at least the next 14 to 15 years. There is an on-going commitment to substantially improve the quality of our water and our environment.

Mark Ruskell: So you do not see a change happening in relation to that? For example, there is an EU directive to restore all water bodies to good ecological condition by 2027—that takes us into the post-Brexit period. That is in the programme—will it continue with no change?

Alan Sutherland: At this point, all the planning that is being done in the industry is towards meeting at least those standards and maybe more advanced standards beyond that.

Mark Ruskell: And in terms of trade deals?

Alan Sutherland: On trade deals, I am afraid that you are talking to the wrong person. I might be an economist, but I am afraid that I gave up studying international trade when I left university.

Mark Ruskell: So who is looking at that issue? The response that we got back from Scottish Water is that there has been no assessment of the impact of CETA on Scottish Water's public status in Scotland. Do we just assume that everything is fine?

Alan Sutherland: I am a regulator—I am never going to assume that anything is fine, because that is anathema to my way of doing things. If I were in the Government's shoes, I am sure that I would be carefully assessing the impact on public bodies in Scotland and the wider United Kingdom because we are, in that sense, very different from North America. North America may well have lots of not-for-profit structures, but it does not have

public trading corporations in the way that we do, so there are issues there.

The Convener: Perhaps we should draw the issue to the cabinet secretary's attention.

Alan Sutherland: I am sure that the Government is thinking about it; it does not need me to tell it to do that. There will probably be issues for this Parliament and the Westminster Parliament to consider.

Mark Ruskell: If there was a trade deal on the table that opened up the market in household water supply, for example, what would your role be in informing any debate on that? Would you comment on that? Would you point out the pros and cons in economic terms, or would you just not comment?

Alan Sutherland: We would always comment on where the customer interest lay. As you will probably be aware, the Westminster Government floated household competition for water services in England. This is a purely personal view, but I think that that would be a derisory idea here. The reason for that is that the differences in costs for customers who live in different parts of the country are very significant. Even the cost of issuing a bill in responding to a customer's needs in, say, the Western Isles, is a multiple of what it would be for a customer in the central belt. Unless we arranged the market in such a way that there were social protections and the universal service obligation was properly protected, we would unleash a series of forces that I suspect most people would consider highly undesirable. I do not think that household competition is a very sensible thing, but that is something for others to decide on.

If there was a requirement for that competition, I am sure that it would be possible to work out a series of arrangements that could substantially mitigate, if not eliminate, some of the potentially detrimental societal impacts. That is not to say that competition could not bring benefits, because competition has historically brought the benefits of innovation, reformed processes and reduced costs. However, whether those benefits would more than offset the issues that I have described is a judgment about trade-off that I guess you in this Parliament would ultimately have to make.

Donald MacRae: Convener, can I just note that those remarks were made on a personal basis and are not the views of the commission, which will not have a view on that issue.

The Convener: I think that Alan Sutherland made it clear that those were his personal views. Thank you for that.

Finlay Carson (Galloway and West Dumfries) (Con): I apologise for jumping back somewhat to the issue of the customer forum. What remit or

influence would the customer forum have on the likes of water charging for community organisations? Over the past 18 months, I have had a lot of correspondence from constituents who are concerned about the level of water charges. There seems to be a push for community organisations to become charities in order to mitigate those charges. What influence or remit would the forum have with regard to that and could it potentially look at other issues? For example, ex-Forestry Commission houses in my constituency did not have mains water and there are now issues around getting them a decent water supply. Where would the customer forum come in to ensure that such communities come under the remit of Scottish Water?

Alan Sutherland: Those are two different issues. The charitable relief scheme is a matter purely for the Government. The rules of the scheme are set by the Government and have been refined over time to target those who are believed to need the most support. Others will judge how effective that is, but, whenever any form of benefit is handed out to some but not all, there will be people on the margins who are either very pleased that they get it or very displeased that they do not. It is a matter for the Government, so your questions on it should probably be directed to the Government. The commission, Scottish Water and the forum might have different views on the matter, but it is not something that we would get involved in.

The second issue is the connection of the 2 or 2.5 per cent of households in Scotland that are not connected to mains water. That is probably a growing issue. In many cases, people are quite happy with that, because they have a reliable source and they are happy with the standard. Theoretically, such sources are required to meet the same water quality standards as the public network. That is policed initially by local authorities, with the drinking water quality regulator having ultimate oversight of what local authorities are doing. There is growing evidence that there are issues with sufficiency and quality for some people who are on private supplies. However, the cost of connecting those properties is often significant and there are questions about who should pay the bill—how much should be paid by the householder, how much should be paid by other customers and, potentially, how much should be paid by taxpayers. Ultimately, a decision needs to be made. My sense is that it is probably a growing issue.

Finlay Carson: Could the customer forum raise that issue and make recommendations on it?

Alan Sutherland: One of the advantages of the customer forum system is that, as such issues manifest themselves—it is rural communities that

are being impacted by the issue that you raise—information comes back about how people feel about them. When we put in infrastructure, we have to be careful that people actually want it. On the waste side, there are examples of sewerage being made available but people saying that they are quite happy with their septic tank and do not want to pay a sewerage charge and, therefore, not connecting to the sewerage. That undermines the potential environmental benefit that would have been brought about by the higher-quality treatment of waste. We must ensure that people actually want the new connections that they are being given.

Donald Cameron (Highlands and Islands) (Con): I have two short questions. Given your answer to Mark Ruskell, in which you spoke about the disparity between customers across Scotland, how do you ensure that the customer forum is truly representative of the whole country?

Alan Sutherland: It is not meant to be representative. You might consider that I am playing with words, but I am genuinely not trying to do that. I would say that the forum tries to represent the views that it hears in the community; it is not in itself representative of the community. Rather than use the terms “representative” and “represent”, I prefer to use the phrase “act as a conduit”. The forum acts as a mechanism for getting the very different views that exist in communities across Scotland and ensuring that they can all be heard and that there is awareness of them. The forum is not trying to be representative. It is not like you guys in the Parliament—you are representative of the population.

Donald Cameron: Speaking very generally, what if rural Scotland has a point of view about being a customer that is very different from that of urban Scotland? How does that work?

Alan Sutherland: Those views should come back and should be reflected. If I were to ask about rural connections in Argyllshire or Aberdeenshire, which are the two big areas where we have a particular issue with that, that issue would be pretty high up the list, because Argyllshire has some areas where 20 or 25 per cent of the population are not connected to mains water and, for some people in those areas, that is a really big issue. If I asked the same question in Glasgow, I would not get the same answer. We will get very different views.

We have to make the best possible effort to capture all those views and understand what people actually want us to do. If we made the service available, would they connect? There is no point in our spending a lot of money to make that possible if people do not want it.

11:30

Donald Cameron: I will move on to Brexit. Mark Ruskell asked you about legislation. Let us take water quality as an example. Is it your view that, in a post-Brexit scenario, there will be nothing to prevent the Scottish Government from introducing legislation here that adheres to EU rules on water quality?

Alan Sutherland: It already does that, because European standards are typically brought into force in the UK through domestic legislation.

Donald Cameron: My question is whether you foresee anything changing that after Brexit.

Alan Sutherland: The process would be different in that you would not necessarily be responding to a European standard. You may choose to respond to a European standard, but that is for this Parliament to decide.

The question is whether, as a society—members may have different views on this—we are going to continue to set ourselves up as an exemplar of environmental performance or whether we are prepared to let our standards slip. I suppose that, given the EU’s enforcement processes, there is a real cost to letting performance slip, which people might or might not consider to be desirable. That is a political question.

The Convener: There are so many unknowns.

We have covered climate change to some extent, but Mark Ruskell has a couple of questions to wrap the issue up.

Mark Ruskell: We have covered some aspects already. You mentioned that we cannot build our way out of climate change, but you also talked about the need to create a climate of innovation in the water industry, about some of the challenges around payback and about creating the right framework to allow innovation and risk taking. Do you have anything to add to that? Are there particular projects or examples that you can cite?

Alan Sutherland: A project that I learned about only yesterday, which I thought was fascinating—although, for whatever reason, its light is being held firmly under a bushel—is one in Galashiels that is using parts of the waste water stream to generate heat for the local community college. There is a marked difference between the temperature of water in waste water treatment and the temperature of the ambient water where the discharge goes. Some countries, such as Switzerland, are doing great work in recovering nutrients and heat from waste water treatment.

Scottish Water is beginning to do that, too. I do not know whether any of you knew about that—until yesterday, I did not. It is a good example of

how you could deal with some of the inevitable community issues that arise. No one particularly wants a waste water treatment works right next to them. However, if we were to combine a waste water treatment works with a community heating scheme, the incentive of heating for residents who would be most impacted by the potential blight of the sewage works might change their mind about its location.

A lot of things can be done that are economically justifiable, potentially very valuable environmentally and, from a social point of view, the right thing to do. An awful lot needs to be thought about in this space. We have made a start, but there is more to do.

Mark Ruskell: That is an interesting example. I think that such work is being planned in Stirling, not far from your offices, so you may end up being heated by waste water at some point.

Is there not a challenge in how such projects slot into the investment programme? You spoke about a range of projects coming forward early on in the investment programme that are then seen to be unviable or are changed, which affects the deliverability of the whole programme. How do you de-risk that element of the innovative programmes that are brought forward, which may be based on ideas that are not technically viable?

Alan Sutherland: At the moment, we are in discussions with Scottish Water and the Scottish Government about separating out the monitoring of aspects of the capital programme that are absolutely defined and costed and in relation to which we know what we are doing from the development of ideas about needs and potential solutions. Many of the examples that you are talking about—for example, complex schemes that involve heat recapture, energy generation at source or whatever—could be the correct economic answer, not just the environmentally right answer in terms of the carbon benefit and so on.

Douglas Millican and I have had a number of conversations about how Scottish Water can show that it is playing a role in meeting the carbon targets. A lot of work is being done in that area but we are still at an early stage. However, freeing up or de-clogging the beginnings of the capital programme so that there is more space to think about how the needs of a community—not just the waste water treatment needs but other needs as well—might be serviced by an intervention can only be to the general good.

The Convener: John Scott will ask the final question.

John Scott: I very much support what you have said about supporting innovation in Scottish Water. Scottish Water Horizons has done some

good and innovative work, and I am a big fan of what it does.

You said that we cannot build our way out of climate change, and I utterly agree with that. I declare an interest as a farmer but also as a member of the committee that dealt with the issue of catchments and the incentivisation of farmers. It is vital that we stay ahead of the game and continue to incentivise farmers, and the new rural payment schemes that we will need to create will be a way of doing that. I think that the legislation exists to take the peak off floods and allow what were natural flood plains to flood more freely, but I do not think that much has been done in that area. I agree that climate change will become more of an issue and that we should stay ahead of the curve, so to speak. One way of doing so would be to get hydrological surveys done to find out the levels to which we need to allow the inundation of flood plains in order to take peaks off floods and protect places such as Perth, for example.

Alan Sutherland: One of the issues with the good ecological status that is required under the water framework directive is the extent to which, over the past 100-plus years, we have modified the courses of rivers for industrial and other purposes. That has impacted on the quality of the water and so on. Attention will have to be paid to the matters that you raise if we are to be as good as we aspire to be. I suspect that a large part of that might involve thinking about whether it is better to pay a farmer not to grow a particular crop but instead to make the land available for flooding or some sort of flooding mitigation. There are lots of discussions to be had and, over the next few years, there will be lots of opportunities to have those discussions.

The Convener: Gentlemen, I thank you for your time this morning. This evidence session has been useful. Mr Sutherland said that he will get back to us once he has reflected on the logger issue, and we look forward to receiving that response in due course.

Subordinate Legislation

Loch Carron Urgent Marine Conservation (No 2) Order 2017 (SSI 2017/205)

11:39

The Convener: Agenda item 3 concerns a piece of subordinate legislation. I refer members to the paper and invite comments.

Angus MacDonald: I had concerns about the description of the boundaries in the original instrument. However, following the cabinet secretary's response, I am satisfied that there is no ambiguity from the perspective of the local fishing industry. I have no issues with the replacement order. Nevertheless, I think that it would be good if the committee were given sight of the business and regulatory impact assessment once it has been completed. That might not be imminent but it would still be good to see it at some point, given the impact that it is having.

The Convener: Taking Mr MacDonald's point on board, we could perhaps write to the Government and seek that information. With that in mind, does the committee agree that it does not wish to make any recommendations in relation to the instrument?

Members *indicated agreement.*

The Convener: At the next meeting of the committee, on 19 September, we will take evidence on the Scottish Parliament's environmental performance from its chief executive, Sir Paul Grice.

We now move into private session and I ask that the public gallery be cleared.

11:41

Meeting continued in private until 13:00.

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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