



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 20 March 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 20 March 2018

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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
10th Meeting 2018, 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)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Alex Rowley (Mid Scotland and Fife) (Lab)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr John Armstrong (Marine Scotland Science)
Jackie Baillie (Dumbarton) (Lab)
Roseanna Cunningham (Cabinet Secretary for the Environment, Climate Change and Land Reform)
Simon Dryden (Marine Scotland)
Joan McAlpine (South Scotland) (SNP) (Committee Substitute)
Michael Russell (Minister for UK Negotiations on Scotland's Place in Europe)
Liz Smith (Mid Scotland and Fife) (Con)
Kate Thomson-McDermott (Scottish Government)

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 20 March 2018

[The Convener opened the meeting at 09:40]

Decision on Taking Business in Private

The Convener (Graeme Dey): Welcome to the 10th meeting in 2018 of the Environment, Climate Change and Land Reform Committee. We have received apologies from Stewart Stevenson MSP, and are joined by his substitute, Joan McAlpine, whom I ask to declare any relevant interests.

Joan McAlpine (South Scotland) (SNP): I have no relevant interests, convener.

The Convener: Before we deal with the first item on the agenda, I remind everyone present to switch off mobile phones and other electronic devices, because they might affect the broadcasting system.

Agenda item 1 is for the committee to consider whether to take item 5 in private. Do members agree to do that?

Members *indicated agreement.*

Environmental Implications for Scotland of the United Kingdom leaving the European Union

09:40

The Convener: Agenda item 2 is to hear evidence on the environmental implications for Scotland of the United Kingdom leaving the European Union., from Roseanna Cunningham, the Cabinet Secretary for Environment, Climate Change and Land Reform, and Michael Russell, the Minister for UK Negotiations on Scotland's Place in Europe. They are accompanied by Scottish Government officials Kate Thomson-McDermott, Ian Jardine, Euan Page and Julie Steel.

We move directly to questions. What is the Scottish Government's view about the policy areas that the UK Government has said are reserved?

The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell): We dispute some of them. The history of the matter needs to be set out. The discussions on the areas of intersection between EU competence and competences of the Scottish Parliament have been going on for some time—since last summer, in fact. By last December, we had hammered out the list of 111 items, which was divided into three sections. I am sorry to repeat this, but that list provides the context for where we now are.

The three sections included items on which no further action is required; items for which there would be non-legislative solutions, many of which are already in place—things such as memoranda of understanding or normal ways of working; and a list of 24 or 25 items, depending on definition, that might require legislative frameworks. That last section is the problematic one, although we maintain that agreement is required for all the items, and that decisions on those matters—even if they are out of scope—should be made not by the UK Government but by the devolved Administrations.

Until two weeks ago there were just three categories. However, two weeks ago a paper was produced that was not shown to the two relevant ministers—me and Mark Drakeford—but was entered into the discussion at a meeting of the joint ministerial committee (European Union negotiations) without our having seen it. It was impossible for us to discuss it, because we did not know what we were discussing.

That paper included a fourth category: a list of items that the UK Government now says are reserved and are, therefore, outwith the scope of any of that discussion. Decisions had been made

and the UK Government would not even talk about the items any further.

We have looked at that list, and our initial analysis—I stress that it is an initial analysis—is that the inclusion of state-aid rules, timber-trade rules and protected food names could be, and will be, contested. We do not accept that the list is accurate.

State aid is a very interesting part of that, because the state-aid issue has always been dealt with by the UK, but on the basis of Scottish, Welsh and Northern Irish administration of the rules for those parts of the UK. It appears that what is now being suggested is a single UK system that would be administered only by the UK Government, which in that context would be judge and jury in its own cases. We would be dealing with state-aid rules that were set by the UK for the UK, so if there was any dispute about them, the UK would decide the outcome. That might sound strange, but that is actually how the JMC operates. Any complaint about the process of the JMC ends up with the UK Government, which says, “Nothing to see here. Move along.” We must and will dispute that proposal.

We do not accept the list. We think that it should be a matter for discussion, and that it has to go back in and be part of the discussions that are taking place.

The Convener: Have you had any feedback from the UK Government on that desire on your part?

09:45

Michael Russell: There has been no formal discussion of the paper because, as I said, it was entered into the discussion 10 days ago without any prior discussion with us. There now needs to be formal discussion of it, and our officials are starting that process. We have not yet had any indication that there is any flexibility, but we cannot accept the list or a process in which decisions are simply made without us.

The Convener: You mentioned further discussion. There are 24 policy areas that might require legislative arrangements, which will have to be worked through. How do you envisage agreement being reached on whether a framework is necessary? What form do you envisage it taking? What will happen if there is a difference of view?

Michael Russell: The positions have been well rehearsed. Obviously, we have talked about the matter substantially in recent weeks. Let us accentuate the positive. We started last July with the UK Government's view that every item on its list of intersections would go to Westminster and

that there would then be, in some unspecified time period, some unspecified action that would result in some of the items coming back by agreement. We and the Welsh Government of course refused to accept that.

We are now in a position in which the UK Government's official position, as I understand it, is that the only areas of contention are the 24 items. However, it has reserved the right to add to that list at any time, should a new item drift into its consciousness. There has been a major discussion about the fact that, if the UK Government suddenly realises that it wants to have something else on the list, it can simply put it on the list. Ostensibly, however, the final list of 24 or 25 items—the December list has 25 items on it, but the present list is slightly different—is the list of items on which there could be a need for legislative frameworks. I have provided members with the analysis of that.

There has been a deep-dive exercise on all those issues and some others, which has brought together officials from Wales, Scotland, Northern Ireland and the UK to discuss what types of framework might be required, whether there should be legislative frameworks, whether we can continue or intensify present methods of operation or whether something else needs to be done.

I will give an example. On agricultural support, the UK Government is planning an agriculture bill; one might expect that a framework for agricultural support in these islands would be part of that bill. The bill would require our involvement in putting it together and it would require legislative consent. That is quite clear.

On fishing, the situation is not so clear—leaving aside the current situation—because there are existing arrangements that operate on an essentially collaborative basis, whereby work is done between the Administrations. We know that there is to be a fisheries bill, but we do not know whether it will contain a new set of legislative frameworks or will seek to continue the current informal arrangements. We will have to discuss that.

The point is willingness to enter discussions. Were the UK Government to say what items it thinks should form the basis of frameworks, I think that it would not be difficult to find agreement. It could then ask us and the Welsh Government whether we agree, and ask us to work together towards determining how it would happen, with a formal structure and a dispute resolution procedure.

Interestingly, there was an amendment in the House of Lords yesterday from Lord Mackay of Clashfern—of course, none of the amendments was voted on—that begins to tackle the issue. I

have talked to James Mackay about his amendment and the process that we are going through. He has—very acutely, of course, as he would—seen that the issue is about developing first a structure of getting consent, and secondly a structure for resolving difficulties if consent cannot be given. I do not agree with the particular solution that he proposes, especially in relation to the second aspect, but his amendment is an important contribution. It builds on the work of the Welsh Government, which last August published a paper on relationships within these islands.

It will come as no surprise to the committee that I believe—others do, too—that Scotland should be independent, but even so, there will need to be some sort of structure that governs relationships between the nations of these islands with a devolved Scotland, let alone with an independent Scotland. How do we achieve that? The Welsh have put forward some interesting ideas about a council of the isles or a way in which we could work together on agriculture, fisheries, the environment and other subjects.

We are keen to have those discussions, as are the Welsh, and members of the House of Lords are waking up to the matter. However, the UK Government does not want to have those discussions—it wants to continue with the JMC and its dominance of the situation. That is not acceptable.

The Convener: How will the impasse be broken?

Michael Russell: I was about to say that I have no idea, but I have lots of ideas. However, although I have lots of ideas, I am not sure how the impasse will be broken. We will continue to discuss ideas such as those that are being discussed in the House of Lords.

The basic principle cannot be avoided: that is the heart of the matter. The basic principle of ensuring that there is consent or agreement for use of the powers that are in the control of the Scottish Parliament, the National Assembly for Wales and, by extension, the Scottish and Welsh people, cannot be overridden. If the UK Government gives that recognition of the existing devolution settlement—that is all it is—then there is a way forward. That will involve negotiation and the frameworks will fit into that. If we move forward in that way, legislative consent can be given to the European Union (Withdrawal) Bill. If that is not the case, we will move forward using our own bill—which I hope we will pass this week—and the UK bill, and find a way between the two to ensure that the frameworks operate.

Somehow or another, we have to make it work. However, the best and easiest route is currently being resisted by the UK Government. The other

route will be harder, but we will simply have to make something work.

The Convener: Does what you just said also cover the other policy areas in which non-legislative common frameworks would be required?

Michael Russell: Yes, it does. Let us leave aside things that need no action because, by definition, they should have no action. However, the UK Government reserves the right to change that definition at its whim, so I am not 100 per cent certain that that will be the case—I am 99 per cent sure. In the middle area, more discussion will be needed, but those policy areas will be easier to resolve because we do not anticipate that legislation will be required.

Alex Rowley (Mid Scotland and Fife) (Lab): Those of us who do not necessarily see independence as the answer would still argue that, if we are going to negotiate frameworks, the states of Scotland, England, Ireland and Wales need to go to the table as equals. If we accept the principle that they start as equals, the dispute-resolution mechanism will be key.

In the process for developing the frameworks, how will the Scottish Government engage with key stakeholders? Let us take fisheries or farming as examples. What would you prioritise in the process and the timescale, and on what would you base that?

Michael Russell: I very much agree with Alex Rowley's first point. That is the basis of our close work with the Welsh Government, which is not a nationalist Government. I work closely with Mark Drakeford and will continue to do so. We have different end points and objectives, but at this stage in the journey, we absolutely accept the need for the nations to be treated equally and we behave in that way. It is a simple principle. It is a pity that at least one of the four Governments cannot accept it because, if it can be accepted, everything else will flow from it and we would not be in the difficulties in which we find ourselves.

There is intensive engagement with stakeholders at a number of levels, and the normal engagement of a cabinet secretary with his or her stakeholders carries on regardless. At this time, the topic of much of the engagement will be Brexit. The cabinet secretary has held at least two big events for stakeholders and there are many regular events.

Another level of engagement is my meeting stakeholders jointly with cabinet secretaries, and separately. I continue to do that in a variety of ways. Such engagement has been somewhat interrupted in the past three or four weeks by other work in Parliament, but I have an intensive diary of engagement, which will continue: it recommences

next week. For example, I will be in Aberdeen for a day next week. I will continue to talk to people.

Prioritisation is difficult because everybody is worried about the timescale; everybody is looking at the matter and saying that we need action now. The example of the pharmaceutical industry springs to mind. The uncertainty about the UK's membership of the European Medicines Agency has created a circumstance in which companies have been expending very considerable sums of money—millions of pounds—to ensure that their products are reregistered and recertified in order to allow the present situation to continue.

Now, however, the UK says that it wants to continue its membership of the European Medicines Agency—that was part of the Mansion house speech—but there is no mechanism for having an additional country as a member, so that will have to be negotiated. The pharmaceutical companies say that they have a lead time for what they do. We passed the first trigger point for that last autumn, so they had to start expending considerable sums of money. They will now be saying—I will need to re-engage with them in the light of yesterday's document on the possible transition period—that their time horizon has altered and that certain things will need to happen so that they know that membership of the agency is in place so that they do not have to spend even more money. We must recognise the dynamic in each sector and respond to it.

That will become quite pressing this summer in hospitality, agriculture and horticulture, in all of which there will be further diminution in the labour that is available. People will say that a new migration system that guarantees the labour supply needs to be put in place. The time horizon for that was last year, because there has already been a diminution of the labour supply, and there will be a further diminution in 2019 and 2020, as workers anticipate what will happen.

The migration white paper was due before Christmas. At a meeting, I asked the then Minister of State for Immigration, Brandon Lewis, whether he would guarantee that it would be published before Christmas. He would not say that, but said that it would appear sooner rather than later. The UK Government is now saying that the migration white paper will not appear until the end of the year. If that is the case, we will have missed this year. We do not know what will happen, but we know that EU citizens can continue to come here until the end of 2020 and will qualify for the same treatment as other citizens. The UK Government agreed to that concession in the transition document that came out yesterday. The pressure will mount, so we need to know when decisions will be made.

Part of our job is to remind the UK Government constantly of what the sectoral priorities in Scotland are and how they should be dealt with. The financial services sector is another example; I talked to someone in financial services yesterday: it has a time horizon, which it is missing at the moment.

Alex Rowley: So, it is very difficult to say what the timeframe is. Given the uncertainty about the timescale and about what will be involved, is the Scottish Government satisfied that it is deploying enough resources on this? What are the implications of focusing so heavily on Brexit and related areas of policy development?

Michael Russell: Although that is, of course, an issue, I do not think that we are nearly as badly off in that regard as the UK Government, for which Brexit is a black hole that is sucking in all endeavour and all activity—it is not possible to have a conversation in Whitehall that is not about Brexit. We are conscious of that, and we have structured ourselves differently from the UK Government. I operate in a different way from how the Department for Exiting the European Union operates. I am perhaps more fleet of foot than DEXEU is, if I can put it that way—although that is not necessarily how I feel after the past month. I work closely with all the cabinet secretaries to provide them with advice and support, and I report directly to the First Minister.

I have never been constrained by resources; the things that I think need to be done are done. The UK Government has allocated an initial sum of £3 billion to the task of Brexit—in my opinion, it will cost a great deal more than that—and we are in negotiations about allocation of some of that money to Scotland. Regrettably, we will have to spend what it takes to do this. It is an enormous waste of money; there are other things that we could do. However, because we are operating differently, I am able—I hope—to support my colleagues in a way that allows them to focus on other things, including a legislative programme that has ambition, which is making its way through Parliament.

The Convener: Cabinet secretary, do you want to come in on that point?

The Cabinet Secretary for the Environment, Climate Change and Land Reform (Roseanna Cunningham): Yes—because my portfolio and the rural economy portfolio are probably the two portfolios that are experiencing the biggest impacts from this work. There has been some restructuring within the Scottish Government in order to manage the process. We felt that that was absolutely necessary.

Brexit represents a major challenge. Mike Russell mentioned the UK Government's £3 billion

spend. It is worth noting that, from within that, the Department for Environment, Food and Rural Affairs and the Department for Business, Energy and Industrial Strategy have been allocated significantly higher funding than any other departments because of the portfolio impacts down there. So far, the indications are that the Scottish Government will get only about £37.3 million. Obviously, if that is the figure, a decision will need to be made about how it is allocated and whether that resource is sufficient. That means that we must, whether we like it or not, approach the issue using risk-based prioritisation of areas in order to continue to deliver on policy and manage the process.

10:00

The process is very complex. I have an example of the kind of thing that has to be gone through, which I will walk the committee through, if members want to hear it. Officials have given me just one example to show the scale of the task that confronts us—and that is just in identifying potential legislative deficiencies. I do not expect committee members to write this down and think about it, because it is quite complex, but I want them to understand how the process has to work.

The Pollution Prevention and Control (Scotland) Regulations 2012 is one item of legislation. Regulation 26A of those regulations, as amended by amending regulations, states:

“SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of schedule 1B”

to those regulations. Therefore, it appears as though the terms of regulation 26A would not be affected by withdrawal, if it is understood as I have read it out. However, three quarters of the way through schedule 1B, which is referred to, paragraph 1(7) states:

“An existing medium combustion plant is exempted until 1st January 2030”

from the air quality requirements in other parts of the schedule if

“the plant is situated in a zone which conforms with the limit values set out in Directive 2008/50/EC”.

At that point, we have to go to the directive, which defines the zones with reference to member states. As a result, that exemption will no longer work after withdrawal from the EU, because medium combustion plants in the UK will no longer be in a member state. That renders the original provision deficient. Therefore, the definition in that statutory instrument will no longer work.

That is just one regulation from hundreds of statutory instruments. That is the kind of work that will have to go on as the weeks and months go by.

The Convener: How big an issue is the scale of deficiencies?

Roseanna Cunningham: We have to go through all those statutory instruments to establish that. I would imagine that the scale is significant.

Kate Thomson-McDermott (Scottish Government): We are talking about 400, 500 or 600 instruments that need to be looked through across Ms Cunningham’s portfolio and the rural economy portfolio. Their size can range from a page or two to hundreds of pages. Obviously, we need to look through the Scottish domestic legislation, and the directives and regulations that have to be referred to can extend to hundreds of pages. That is just looking at the legislative aspects; it is not looking at day 1 readiness in respect of administration, policy, funding and delivery on the ground.

The Convener: What resource has been directed to that? How far into the process are you? Realistically, when is it envisaged that that process will be concluded?

Roseanna Cunningham: We are in the process. I would not have been able to give members that example if we were not.

The Convener: How far into the process are you?

Roseanna Cunningham: We are not anywhere near finished. It will take a considerable time, and I warn the committee that it will probably take a considerable amount of committee time when we start to look at the resolution of the process.

A lot of work is happening. We are in the process of identifying all possible deficiencies, but some of that will depend on the terms of the withdrawal agreement. At the moment, it is difficult to assess matters, and you have heard from Mike Russell about the uncertainties. It has been only in the past 48 hours that we have heard what the transition period and the terms of any future UK-EU relationship will be. If the terms work out in relation to the pharmaceutical industry, some matters might not have to be dealt with earlier on and could be left until later. However, at the moment, we are in a world of uncertainty.

Michael Russell: The bill before the Parliament has categories of items that must be repatriated. Roseanna Cunningham was referring to specific secondary legislation. All of it—there are many thousands of items—will have to be looked at. That is not surprising: we have been involved with Europe for 46 years, so there is bound to be a vast amount of material. The number that will contain deficiencies—that is, things that would render an instrument inoperable were they to continue—is a matter of speculation, but I estimate that the amount of secondary legislation going through in

the next couple of years will double from 300 to 600 items. Perhaps it will be more; it will depend.

To be fair—I do not want to overstate this, because sometimes it is possible just to hold up one's hands and say how horrific this all is—most officials will know well the area in which they work and where the European links and issues are, and will pick up any deficiencies. People such as Ian Jardine have worked in Europe and Scotland and are familiar with those links, too. The amount of work is significant, and we are into it.

There is a Scottish Government-wide set of responsibilities. Roseanna Cunningham has raised two important points. First, we do not know the detail of the withdrawal arrangements. That will affect matters. Some things may remain the same, and we do not want to have to change something only to have to change it back—that is important. Secondly, we do not know the timescale. If what is set out in the transition document eventually happens, we have got until the end of December 2020. If that is not the case and something goes badly wrong this autumn, for example, we will not have that time. If there is a longer period of transition, which is talked of quite a lot among the EU27—although it is interesting that this morning there was no political noise about what might or might not happen—we might have a longer period in which to do it.

At present, we are focusing on our having until December 2020, the job of work that we must do by then and the individual portfolios, as Roseanna Cunningham indicated, and on trying to make sure that we understand the context in which this is happening.

Donald Cameron (Highlands and Islands) (Con): Good morning. On resources, I have no doubt that withdrawal will cause extra work for a lot of people. Does that give you good grounds for asking for a greater slice of the pie in relation to the Scottish Government's budget?

Roseanna Cunningham: If you were to ask any cabinet secretary about their portfolio, they would always be able to come up with arguments for having a greater slice of the pie. I remind everyone that we did better than other portfolios in this year's budget, some of which is a reflection of the importance of a number of the areas in my portfolio. We can argue about the Scottish pie, because it is nowhere near large enough for any portfolio to have the resources that we would all want. That is a self-evident truth; we will always be looking for more.

On the argument about the share of the Scottish Barnett consequential, the UK is spending £1.3 billion, but its intention at this point is to give us 2.5 per cent of that—£37.3 million. Internally, I will argue strongly that there are two portfolios that

probably need assistance more than others but—come on—the fact that we are getting 2.5 per cent of what the UK Government thinks that it is appropriate to spend on this shows you the inequity there, before we even begin.

Michael Russell: It is way above my pay grade to decide what people should get out of the Scottish pie, but I have absolutely no doubt that the pie that should be sliced to pay for this is the United Kingdom pie, because it is the United Kingdom that is dragging Scotland out of the European Union. The cost of the exercise should therefore be paid by the UK Government.

Mark Ruskell (Mid Scotland and Fife) (Green): On common frameworks, we have talked about the existing arrangements that we have around fisheries and the common framework that exists, up to a point. Presumably, we could be heading towards a bilateral agreement between the UK and EU with regard to fisheries next year, in advance of quota setting in late 2019.

Has there been any progress in terms of a shared analysis between Scotland and the rest of the UK on the principles that sit behind the CFP? On the face of it, the Scottish Government perhaps shares some of the UK's criticisms of the CFP and some of the desire for reform. Indeed, that was part of the argument that was made about Brexit. What are the discussions like in relation to that particular shared framework? Do you have agreement about areas that you like and areas that you dislike?

Michael Russell: None of us has made a secret of the fact that the CFP has not been fit for purpose for many of Scotland's fishing communities. However, to be fair, I think that that is a question that would be better addressed to Fergus Ewing, as the detail of that policy is for him to take forward.

Let me just say that the transitional agreement indicates that it is not 2019 in which there will be a discussion about quota but 2020. In 2019, there will be a right of consultation, not a right of decision making. Any changes will not kick in until 2020, despite the assurances that have come from certain political figures that we will be leaving the CFP in March 2019. Those claims were not true—they were always not true. Indeed, people who asserted that that was going to be the case were guilty of a cruel deception.

Supporting the CFP is not something that I would do, as I believe that there need to be changes. However, the issue is one for Fergus Ewing. I am sure that he will take note of the fact that you have asked me that question and that he will respond to you if you write to him.

Mark Ruskell: Presumably, there are areas that cross over into issues around the environment,

because the CFP deals with the ecology of our marine environment, and fisheries is one of the pressures in that regard.

Roseanna Cunningham: Yes. The marine environment is one of the areas in relation to which there are on-going discussions about what a post-Brexit scenario will look like. However, as far as I am aware, those discussions are not taking place in the context of a discussion about the CFP, per se.

People need to understand that the deep dives that we are talking about are all done at the level of officials, and that ministers are not involved at that stage. They take the form of discussions between officials to try to hammer out what is and is not in scope. However, all of that is caveated by the understanding that those conversations do not have ministerial endorsement, and that anything that emanates from them would need to go to ministers for discussion and endorsement.

Michael Russell: The interpretation of the fishing section of the transition agreement is becoming even clearer. It is now clear that it says that, although the UK will be allowed to join the delegation at the quota talks in 2019, it will not be allowed in the same room, it will not be part of the negotiations and it will not be in head of delegation meetings. In actual fact, this is a very much, much, much worse deal than even the present deal.

Joan McAlpine: On environmental policy, some time ago Friends of the Earth Scotland raised issues about loss of control in areas such as renewable energy, climate change, air quality and fracking, and Nourish Scotland has said that taking responsibility for food standards away from Scotland could result in a diminution of the quality of the food that we eat. I raised those issues in the Parliament chamber with the cabinet secretary a good few months ago. Given that we are further down the line now, can those organisations take any comfort that we have moved closer to resolving those issues?

10:15

Roseanna Cunningham: I do not believe that any of our external stakeholders feels at the moment that there is a resolution in sight. A better conversation is now taking place about broader environment principles. We finally got that on to the devolved Administrations meeting in December last year, and that was our first substantive conversation around the broader environmental side. However, the more granular discussions about impact on the environment are taking place not at that level but at official-to-official level, as officials try to bottom out what is and is not going to have an impact.

I do not want to put words into organisations' mouths, but I have not heard any organisation say that it feels that things are beginning to go in the right direction, in terms of what it might want to see. There is still considerable anxiety about certain aspects of the lists that Michael Russell mentioned. Climate change and genetically modified foods continue to be a concern, for example. There is a range of issues for which there is no resolution yet. I am not sure that I have heard any of our partner organisations say that it feels that resolution has come any closer.

John Scott (Ayr) (Con): I declare an interest as a farmer.

I suppose that what is clear is that things are unclear. However, minister, in as much as you are able, can you say what progress has been made with respect to new, post-Brexit funding frameworks, such as environmental funding frameworks, to replace the common agricultural policy structural funding for research and development?

Roseanna Cunningham: Obviously, there are continued conversations but, to my knowledge, nothing has been decided in any definitive way. We have to continue to work with the UK Government at every level in respect of future funding arrangements, which are vitally important, but there is a lot of concern about the fact that we do not have any details yet of successor arrangements for a post-Brexit scenario. We continue to press the UK Government on that, but we need the devolved Administrations to be engaged in the decision-making process around future funding arrangements, rather than being regarded as consultees.

We have just heard that the UK is going to be put in the position of being a consultee on fishing. We are hearing how unsatisfactory that is considered to be, but in Scotland we are in danger of being in that position for a lot of issues. Research and development continue to be a significant concern in terms of future funding, and we still have no resolution on that. We continue to press the issue, but there has been no detailed discussion yet about what we will potentially have post Brexit, which makes matters extremely difficult for us.

That takes us back to the conversation that we had earlier about how we could spend a lot of time and effort planning for a scenario that turns out not to be the one that is chosen. In that case, we would not only have to go through the same process again for a new scenario, but we would have wasted time planning for a scenario that did not eventuate.

Michael Russell: There needs to be understanding in the UK Government of the way in

which Scotland accesses funds and why those funds are important. Out of that, there needs to arise an agreement on a clear, rules-based system that advantages those areas that need the funds most. That is where we should start.

We see, for example, that CAP payments are going to roll forward to 2020. Mr Gove made a commitment to 2024, but I do not know whether that agreement has stuck or whether there is any Treasury backing for it. The commitment is certainly to 2020. He then talked about ways in which agricultural support will operate thereafter. Scottish priorities in that regard are a matter for Scotland to decide. That is the work that the agricultural champions have been doing. A variety of people have been considering what would be the right process.

Pillar 2 of CAP, rural support, the social fund and regional funding need to translate into funding packages and sources that are rules based and transparent and that reflect the needs of the respective parts. That is why the European packages, with all their failings of over-bureaucracy sometimes, have been successful. They have recognised where need is and we have been able to access them in a way that suited us and worked for us. That is what has to take place. So far, the discussion is not taking place. I have not even had the opportunity to have that discussion through the JMC process, for example. We would be keen to make it clear that that is what is needed, rather than some grand scheme devised in London that we will be told to get on with.

John Scott: Given that Mr Gove has suggested that Scotland might wish to get on with devising its own scheme in this regard, and the agricultural champions and others have done some work on that, is there a timescale for when the Scottish Government might come forward with an idea of how we might wish to create successor arrangements to CAP?

Kate Thomson-McDermott: We are certainly working on that process and are awaiting the final report from the agricultural champions, which should be available in the next few months. We will then look at how we take planning forward.

There are three separate aspects to plan for: what happens during a transition period, depending on what that transition is, while we are in the EU; for agricultural policy, how we will transition to a replacement for CAP in Scotland after that period; and what the fully fledged replacement will look like. There are a number of scenarios and steps that we are looking at, and we are relying heavily on the work of the agricultural champions, Professor Griggs's greening group and what is coming out of the National Council of

Rural Advisers on the impacts on the rural economy.

Michael Russell: It was interesting that, in the recent debate on this in *The Scottish Farmer*, the champions were seen to be—and they are saying that they are—very much at one with the process that is taking place here.

Richard Lyle (Uddingston and Bellshill) (SNP): Good morning. You have basically answered the question that I was going to ask, but I want to restate it.

If you do not know what someone is doing or planning, how can you plan to be with them? You do not know how much money you are going to get or how much money you will spend. It annoys me intensely that people keep saying elsewhere within this building that you should be planning and making up your own rules.

Roseanna Cunningham answered that question. You do not know the rules and you do not know what is going to happen. If you planned something and the rules were changed, it would have to be planned again. Am I correct?

Roseanna Cunningham: Yes. We are in a sea of uncertainty at the moment. To paraphrase an American politician who talked about the known unknowns, we also fear the unknown unknowns. That is the climate within which we have to try to plan.

We can only do the best that we can in making a broad assessment of what will happen in the three periods that we are talking about: the period between now and March 2019; the period between 2019 and the end of 2020; and the post-2020 scenario. Trying to guesstimate in advance where we will be in each of those periods is not easy. If you get it wrong and you start designing schemes and policies on one basis or assumption that turns out not to be true or gets whipped out from under your feet during a negotiation process where things are traded backwards and forwards, you will find yourself back to square 1 on a very shortened timescale and you will be scrambling to put things in place that you had not foreseen 18 months earlier. It is a most unsatisfactory process.

Richard Lyle: As someone once said, you do not need a plan that goes from A to F; you need a plan that goes from A to Z.

Roseanna Cunningham: That is self-evidently impossible, so we have to try to assess the most likely outcomes and plan for those. However, that creates internal pressures that impact across the board.

Michael Russell: We will rise to the challenge—whatever it is. The challenge changes daily. It is the most uncertain and chaotic set of circumstances that I have ever seen. The UK

Government's negotiating style seems to be to start off by refusing to accept anything that is put to it by the EU and then to go through the whole process only to accept everything, but to claim it as a triumph because things can then move to the next stage.

The problem with that is that we have to come to the end at some point—the UK Government cannot do that at every stage. That is what it has done on the exit negotiations: the Government said that it was going to have its way and David Davis said that these would be the toughest negotiations ever, but when they got to the end they capitulated on everything and said, "Look! We can get to the next stage." Now we have had the withdrawal discussions, we have got up to the last minute and they have suddenly said, "Oh, right, we'll give way on everything, but, look, we can get to the next stage". However, there is a limited number of stages and, at the end of the process, the Government will have to agree to something.

We have to be able to judge what the likelihood is of those agreements on certain issues and act accordingly. We spend time considering and thinking about that. However, we also have to keep a cool and clear eye on what we see in front of us and the way in which things are being done—and we can see that they are being done badly.

Alex Rowley: You say that if we could only get an agreement on the question of the border, then other agreements may flow from that, but my question is more on influence. With the greatest respect, listening to what you say, it sounds as though you are not really influencing much in the negotiations. For example, Michael Gove has made a number of high-profile speeches on the common agricultural policy and his vision for the future—although I noted that, last week, Ruth Davidson and Michael Gove intervened on fisheries and that does not seem to have had much influence. However, are you having discussions at ministerial level, with UK ministers, and is there any way to influence the process from that angle? Does anyone have any influence?

Roseanna Cunningham: I can speak only from my experience. We have had a fair number of meetings at ministerial level, involving DEFRA, my counterpart in Wales and officials from Northern Ireland. The devolved Administrations meetings that are conducted on the DEFRA portfolio areas—those covered by me and Fergus Ewing—are probably the most extensive, in policy terms, that we could have in relation to any portfolios. I have always said that. In that sense, the DEFRA ministers have been ahead of the game.

However, although there has been a significant number of meetings at ministerial level—there have been seven so far and I will be going to

another one in London on Monday—my sense is that there is a question mark over the extent of any effective outcome from them. There is a lot of discussion, but I am not entirely convinced that we are having it at the level that it needs to be had in order to move things forward.

10:30

Alex Rowley put his finger on a slightly separate issue, which is that we are aware that we are speaking to ministerial counterparts who can be overruled—they have arguments within their own Governments and have their own finance ministers to deal with. We are conscious, even at that ministerial level, that there are layers of the conversation going on elsewhere that may impact on the conversations that we are having.

It is no secret that I was feeling a level of frustration that I did not manage to get environmental issues onto the agenda and discussed until the meeting in December. They were on the agenda for a meeting back in February, but nobody else came prepared to discuss the environment and it fell off that agenda. It was not until December just gone that we managed to get environment included.

We engage with the ministerial level meetings because we must engage, clearly, and sometimes helpful things come out of that, but I am conscious all the time, for precisely the reason that Alex Rowley put his finger on, that I am discussing those things with people who might themselves be left high and dry by decisions that will be taken in another place. That is what we are always subject to.

Michael Russell: Could I—

The Convener: I would like to move our discussion on a bit, Mr Russell. John Scott has a question for you on a subject on which you have pressed the UK Government.

John Scott: Moving from the general to the particular, my question concerns the immediacy of the need for a seasonal workers scheme, which I have raised in questions in Parliament. Have you raised that in your discussions with UK Government ministers, because the need for such a scheme affects us all equally across the United Kingdom? Do you have an update on the likelihood of that?

Michael Russell: I have raised the issue on a number of occasions and so has Fergus Ewing. We have raised the matter of the need for continued freedom of movement, which is the best solution to that. However, I have to say that I am none the wiser. I explained about the white paper on migration, under which the matter must be considered, and I know that the fruit growers, for

example, have met the UK Government on a couple of occasions and come away tearing their hair out at the lack of progress that is taking place.

There is a huge reluctance to address the issues, and the point that Roseanna Cunningham made is important. The problem might not lie with the ministers themselves, because they might well believe that the issue needs to be addressed. However, there is no master plan for how to get from A to B on it. The UK Government has embarked on this voyage and is trying to avoid going on the rocks created by the extreme Brexiteers and those created by the EU. It is trying to steer its way through, but with no plan. I am afraid that, no matter what we say on the issue, we are not getting the result that we want.

I would like to address a slightly more worrying—

John Scott: Before you move on, Mr Russell, seeking to reassure the industry, I ask whether the continuity document that was produced yesterday—

Michael Russell: Do you mean the transition document?

John Scott: The transition document; forgive me. Does that offer freedom of movement until 2020?

Michael Russell: It does.

John Scott: Does that mean that there is not such a pressing need for a seasonal workers scheme this year?

Michael Russell: No. It does not mean that, regrettably, because we are seeing an attrition in the number of people coming, year on year. The convener represents the prime fruit-growing area of Scotland and will know that the number of people who are prepared to come is diminishing, as is the number of people who stay, year to year. People do not want to come because they do not feel welcome. That is the effect of the UK Government on those people—they do not feel welcome or secure and, as a result, they are not going to come.

John Scott: It is also the effect of a weaker currency.

Michael Russell: Can I just widen the debate slightly? There are two ways to influence things: we can stop bad things happening; and we can make good things happen. I think that Mr Rowley and I probably long for the days when we were working—he as general secretary of the Labour Party and me as chief executive of the Scottish National Party—to help to make this Parliament happen. That seemed to be clear and we thought that we were making good things happen, from different stand points. On the continuity bill, we are

trying to stop the wrong things from happening, because those things undermine this Parliament.

We define “making good things happen” at the present moment as trying to ensure that the worst that happens is continued membership of the single market and the customs union. On that point I am very much with my colleague Mark Drakeford, who frequently says that, over the past 18 months, that argument has been flowing our way. We want stronger recognition of the customs union, and that is now seen as essential. It is being recognised that the single market and the customs union would be the way to solve the Northern Ireland situation. There is also a wider recognition, in this Parliament and across Scotland and a lot of the UK, that leaving the single market would be a disastrously foolish thing to do.

In my view, there is continuing progress on those issues, against a backdrop of absolute chaos, where even UK ministers often do not know what is taking place. Decisions are centralised and, because of that, they are being taken in a way that tries to find a middle way between extreme forces. I think that we are making some progress, but I cannot honestly say that it is the happiest thing that I have ever done. I wake up every morning wondering what is next.

The certainties that we are looking for are not there, and it is extraordinary that a task of this complexity and difficulty—and, in my view, foolishness—is being undertaken in this way. That is an absolute dereliction of duty.

Joan McAlpine: My point is on the environment, actually—to get back to environmental matters. Notwithstanding the difficulties that you have outlined, I welcome some of the planning measures that you have taken, such as the round table on the environment and climate change that you have set up. Can you briefly update the committee on its work and on any issues that it has identified, such as gaps in monitoring and enforcement?

Roseanna Cunningham: As it happens, having asked the round table for advice on environmental governance gaps, I received it at about 8 pm last night. I cannot yet say other than that the round table has completed that stage of its work and I now have to look at that advice in some detail. I would not want to embark on a discussion about it until I have had an opportunity to talk it through with officials.

I can say that work is being done in respect of what we would identify as governance gaps in Scotland. That piece of work will probably take up a considerable amount of time once we have had a look at the advice. However, given how late in the day the advice came—to be fair to the round table, that was the deadline that its members were

given, and they did not know that I would be sitting here the next morning—it might be better to have that discussion the next time that I am in front of the committee, which, to my recollection, is not that far away.

The Convener: That is correct, but I think that some colleagues want to explore this a bit further.

Mark Ruskell: I appreciate that that work was concluded only at 8 pm last night, but can you talk about what the process is now? What further work will the round table do? Will that initial document be published? What opportunities do you expect there to be for Parliament to engage on the issue? I am aware that you will come back to the committee, but it would be good if we were able to look at the options that are being proposed—I assume that various options are being proposed. We are a bit in the dark.

Roseanna Cunningham: The round table has literally just completed its work and is still finalising its report; what it has given me is its initial views. As far as I am aware, it is going to flag up a number of areas where it thinks that we need to do further research and have further consideration.

I do not think that what was received last night is an end-point to the process. I will need to consider the options and decide which ones I want the roundtable to go back to and look at in a good bit more detail. Once it has provided a final report and we have a much clearer sense of its identification of governance gaps and the options for dealing with them, that conclusion will have to be looked at.

I know that discussion is taking place in the context of the continuity bill about a wider consultation in respect of gaps in environmental governance. I anticipate that, at that point, the wider question of environmental governance will be put out there more openly.

I referred to the DEFRA devolved Administrations meetings. The one in December was when the environmental issues were first actively on the agenda. There was a brief discussion about environmental governance at that point, and an indication that the UK Government would consult in respect of England and what it was proposing. That has not yet happened, and I do not have any sense of what it intends to do, either. I suppose that we are circling back around to the issue of frameworks, because there are a lot of different ways to deal with the matter. However, talking about it in a UK sense, from our perspective, we would want the end-point to involve something that looked more like the Council of Ministers, or something set up along that basis, than what, I suspect, will come from the UK Government. Therefore that debate will go on and there will also be one in respect of the round-

table advice, which will be a live discussion throughout the spring and summer.

Mark Ruskell: Did the December meeting discuss what will happen when we lose the European Court of Justice? Is that a work stream that the round table is also working on?

Roseanna Cunningham: The governance issue is about what will take its place and how we replace it. The UK Government had an initial proposal that did not sound—either to me or to the Welsh—like a route that we would necessarily want to follow. As I have indicated, it has not yet published its consultation on that, so I do not know whether that initial proposal will come out in that consultation, but we need to look at how we might think about managing that in Scotland. There may be issues for the whole of the UK but, as I have said, that comes back to the framework conversation with regard to how that should be managed.

Mark Ruskell: On the conclusions that were drawn around environmental courts last year in Scotland, there are not many definitions of what an environmental court may or may not be, but has the Government now drawn a line under that issue or is it still considering a flavour of that idea?

Roseanna Cunningham: I do not want to be drawn into a conversation about what I am considering at the moment because I need time to look at what the round table has thus far identified as being gaps. We want to work up from that basis, rather than starting at the top and working down, so let us identify what the governance gaps are in practice and then decide, given the nature of those gaps, what is the most appropriate way to manage their handling in a post-Brexit scenario.

Finlay Carson (Galloway and West Dumfries) (Con): Good morning. Given the limited extent to which parliamentarians have any control over EU legislation at the moment, what role do you see the Scottish Parliament having in scrutinising common frameworks once they are proposed, and how will they operate once they are in place?

Roseanna Cunningham: At the moment, we have to decide the basis on which the frameworks will be set up. Those deep dives are not about deciding frameworks but about deciding whether they are necessary. If we decide that they are, it is the JMC that then decides the principles behind how they should work. At the moment, that discussion has not come to a conclusion.

Michael Russell: The member can take it that, from the Scottish Government's point of view, the discussion has aimed to find every way of ensuring that the Scottish Parliament will be able to scrutinise those common frameworks. I would think that the earnest of good faith in that is the continuity bill, which has had a considerably higher

level of scrutiny than the withdrawal bill. Moreover, during the continuity bill's passage at stage 2, at sessions of which the member was present, I accepted changes that would increase that scrutiny even further. We have emphasised the role that the Parliament plays in scrutiny. For example, some of the proposals that have been floating about on how agreement would be reached would involve the Parliament—as opposed to the Scottish ministers—agreeing to matters.

10:45

I do not necessarily buy into the view that there is no scrutiny of EU legislation. There is scrutiny of EU legislation and regulation through this Parliament, through the Westminster Parliament and through the European Parliament, so it could be said that there is triple scrutiny. I have championed—as the Scottish Government has done—an increased level of scrutiny and an increased involvement by the Parliament, and we will continue to do so.

Finlay Carson: Do you foresee that new Government-to-Government processes will be put in place to deal with common frameworks now and in the future?

Michael Russell: That is the idea. As I indicated, the list of three categories indicates how those would operate. It indicates what the Government-to-Government and the Parliament-to-Parliament relationships would be. In the first category, there is no need for any change—those subjects should not have been in the list. In the second category, there are existing arrangements that are non-legislative, which can continue or be enhanced. Again, there would be a role for the Parliament in scrutiny and decision making. In the third area, where legislation might be required, there are layers of scrutiny and decision making. If the Sewel process applies to all those areas in which legislation is required—unfortunately, the Scottish Conservatives have not confirmed that that will be the case, although I was interested to read that Lord Keen confirmed it in the House of Lords, which is helpful; I hope that he continues to hold to that view—there will also be the scrutiny that is involved as part of the legislative consent process, in which the Parliament is involved. I see that continuing.

However, the frameworks need to operate on the basis of equality, as Mr Rowley indicated earlier. The partners must work together, be treated equally and treat one another equally, otherwise the frameworks will not work.

The Convener: Kate Forbes, do you want to come in on that?

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): Probably not.

Claudia Beamish (South Scotland) (Lab): Good morning. You have touched on this, Mr Russell, but could you give us an update on any further developments since last week on the environmental principles in the continuity bill? It would also be helpful to hear what Roseanna Cunningham has to say about that.

Roseanna Cunningham said that, as we already knew, it was only in December that the environmental issues were taken seriously by the Westminster Tory Government. Earlier, Michael Russell said that there was “no master plan”. I heartily agree. If clause 11 proceeds in such a way that our continuity bill—which I am confident will be passed tomorrow—is not necessary, what opportunities will there be for environmental protection to be addressed? How will we be able to influence that?

Michael Russell: As you are aware—we are having a conversation on the basis that we both know what has happened, but it is useful to put this on the record—the helpful and useful amendments to the continuity bill that you, Colin Smyth, Mark Ruskell and Tavish Scott lodged on environmental issues and animal sentience were the subject of further discussions, and we have reached an agreement on what form the stage 3 amendments should take. Those amendments have now been lodged, and I look forward to their being accepted tomorrow. I hope that that will contribute to the progress of the bill. I noticed that, on Friday night, Mr Ruskell tweeted that that was an example of “mature politics”. That is a good phrase. It has been a useful process of working together to allow things to happen. That has been helpful, and I hope that we have managed to do that in some other areas, too.

As far as clause 11 is concerned, you make an entirely fair point. If clause 11 were to remain unchanged and there were to be no element of agreement or consent between the Governments or—this relates to Mr Carson's point—the Parliaments, anything would be possible. It is completely clear that although the UK Government says that it will not alter the existing list, it could alter it. It wants to construct a system that is based on the exception rather than the rule. That is the rather interesting way in which things are now done by the UK Government: any system has to encompass any and all eventualities to stop things happening rather than saying, “This is how we are going to do things and, if there are exceptions, we will try to deal with them”.

It is perfectly possible that the UK Government could drag in something from the first list or it could find something new that it had not thought of to come on to the list. We would be powerless to

stop that, which is why agreement or consent is at the heart of the matter. If there is agreement or consent, it is perfectly possible for the UK Government to say, "We have suddenly discovered in the depth of this legislation something that we need to put on this list—let's agree to do so," and for the Scottish Government to say, "That's a reasonable case that you have put, so we're not going to unreasonably withhold that consent—let's do it." However, if the UK Government says "It doesn't really matter what you think, because we're going to do this", anything could happen.

Mark Ruskell: I thank you for reflecting on the progress that we have made in that regard. I was particularly pleased that there are commitments around article 13 of the Lisbon treaty, and that animal sentience has found an appropriate place in the bill. However, everybody recognises that there is still work to do to take the principles around animal sentience further forward.

I am aware that there have been discussions between the cabinet secretary and the UK Government about the Animal Cruelty (Sentencing) Bill, which is currently going through Westminster but has stalled to an extent. There has been extensive debate about how to put a new and improved definition of animal sentience into that bill. How confident is the cabinet secretary that that bill is the most appropriate vehicle to take the debate forward? I hope that, tomorrow, we will in essence save animal sentience in the continuity bill, but there is a debate about where we go next. What are your reflections on the discussions with Westminster ministers? Do you have faith that the process around the UK bill is adequate to reflect our concerns?

Roseanna Cunningham: The general response to those questions is that, because there is a bill going through the UK Parliament, it would be sensible to have a conversation about the issue at that point. If the UK bill does not work out, we will come back and look at how best to manage the issue in Scotland. We need to try to work with what looks like the best available option currently to deal with the issue.

You have heard me say that I think that we have things in place in Scotland. If people want a slightly different formulation, we need to find a way to legislate for that, but let us see whether we can make it work through the UK bill first. We will try that mechanism but, if that does not work, we will fall back to a different conversation.

Mark Ruskell: Are you happy with the current definition in the UK bill? Does it satisfy you or do you share some of the concerns of the UK Environment, Food and Rural Affairs Committee?

Kate Thomson-McDermott: Officials are currently in discussions with officials from the Department for Environment, Food and Rural Affairs about how that definition will be taken forward. DEFRA officials are currently working on a number of comments that were made. As Ms Cunningham said, that is part of the on-going discussion about whether the UK bill is the most appropriate vehicle. The hope is that it is. If it is not, and it does not meet all the relevant concerns, alternatives can be considered.

The Convener: I thank the panel for the evidence this morning, which has been useful.

10:53

Meeting suspended.

10:59

On resuming—

Subordinate Legislation

Conservation of Salmon (Scotland) Amendment Regulations 2018 (SSI 2018/37)

The Convener: Agenda item 3 is evidence on the Conservation of Salmon (Scotland) Amendment Regulations 2018 from the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham, and the Marine Scotland officials who have been involved in the construction of the instrument: Dr John Armstrong and Simon Dryden, who gave evidence to the committee last week. In addition, I welcome Jackie Baillie MSP and Liz Smith MSP, who have joined the committee for the item. I invite each to declare any relevant interests.

Jackie Baillie (Dumbarton) (Lab): I have none, convener.

Liz Smith (Mid Scotland and Fife) (Con): I have no interest that is registrable.

The Convener: We will move to members' questions on—

Roseanna Cunningham: Convener, I thought that I was going to get to say something at the outset.

The Convener: If you want to say a few words, please do so.

Roseanna Cunningham: Thank you. I think that it would be helpful to remind people about the background to the regulations. The regulations were first introduced in 2016 against a background of threatened infraction proceedings from the European Commission and more general concerns about the downward trend in salmon stocks in our rivers. The number of wild salmon in our rivers continues to be an issue of concern, and the regulations were introduced alongside other conservation measures after a lot of discussion with a wide range of stakeholders.

The impact of the regulations was not universally popular then, and I am aware that they are not universally popular now. As Richard Lochhead, who introduced the regulations, stated to the then Rural Affairs, Climate Change and Environment Committee, we need

“to manage the exploitation of salmon, not just because it is a protected species under the habitats directive but because ... that is the right thing to do. Salmon is synonymous with Scotland”.—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 9 March 2016; c 2.]

That is a good reminder that salmon is a protected species under the habitats directive.

The regulations that are being considered today, which are the third set of measures that have been introduced, cover the 2018 fishing season. They reflect a great deal of work, in consultation with stakeholders around the country, to develop and improve the scientific model and the quality of the data used in that model. They also reflect the fact that the number of salmon returning to our rivers to spawn still shows a downward trend year on year and has reduced from about 25 to 5 per cent.

Although there is a clear need for additional research into the complex range of factors that are involved, we must take decisive action. It is imperative that we take a precautionary approach to determining whether and where stocks can be exploited. If we do not follow such an approach, there is a danger that, yet again, we will face infraction proceedings because we are failing to protect—and failing to demonstrate that we are protecting—our special areas of conservation. Doing nothing is not an option.

We will never have a perfect model, because scientific modelling does not work that way, and there will always be uncertainties. We try to minimise those, improve the assessment process year on year, where possible, and take a sensible approach to protecting our salmon stocks for future generations of anglers.

I am confident that we are using the best available data and scientific advice. For the 2018 season, we have assessed more than 45,000km of Scottish water and more than 171 rivers and river groupings. We have had catch returns from more fisheries than ever before; we have made improvements to the modelling process in discussion with fisheries' interests; we have consulted more than 1,500 stakeholders and had representation from 192 of them; we have, as in previous years, responded to concerns that have been raised; and we have made adjustments to river gradings in a small number of cases, where that was shown to be appropriate.

Can the modelling be further improved? Yes, it probably can. In the coming financial year, we will continue to invest in order to help with the assessments and, in spring 2019, we will consult local biologists on the complementary model.

We must be clear that the responsible management approach that we are taking is not unique to Scotland; nor are we alone in being so concerned about the health of our salmon stocks. Earlier this month, the Environment Agency launched a consultation on proposals to introduce mandatory catch and release on 32 of the 42 salmon rivers in England, and it proposes to introduce byelaws that would last for 10 years. Ireland has taken the decision to close fishing entirely on a number of its salmon rivers. We have not taken that decision, and our conservation

measures allow rod and line fishing to continue in all of Scotland's salmon rivers. However, they require that any salmon that are caught be returned to the water immediately where that action is indicated in a local area. Anglers can continue to fish; they simply cannot kill the fish on 122 rivers in Scotland.

I know that there is a challenge for anglers and fishery managers alike, particularly when it comes to grade 3 rivers, but we must protect fish ahead of fisheries; otherwise, what we do will be counterintuitive and, in the longer term, will jeopardise angling in a far greater way.

Our approach gives our salmon the best chance while we continue the research and continue to tackle the wide range of pressures that are impacting our stocks. It is the right approach and the precautionary approach, and that precautionary approach is one that the committee would rightly urge me to take across the entire range of my portfolio.

The Convener: Indeed, but why is there no formal right of appeal against the decisions that are reached in the area?

Simon Dryden (Marine Scotland): We did not feel that there was a necessity to introduce that right, as we take on board any extra data or scientific input such as a difference in wetted area. We look at any evidence that is brought to bear and discuss it with the local stakeholders.

Roseanna Cunningham: Some of the initial proposals in respect of the regulations for this year were amended before we got to the stage of drafting the regulations. There were some original proposals for rivers to be categorised in a particular way, and changes were made to that. The process is on-going.

The Convener: However, there is dissatisfaction out there. Perhaps predictably, people are not going to be happy about some of the decisions. Would it not help to defuse the situation if a formal process was available, with strict criteria to be followed? People would not be able to object just because they did not like the decision but would need to have a scientific basis for objecting. Is it not worth looking at that option going forward?

Roseanna Cunningham: My initial response is to remind the committee that, for us, this is an annual process, so we would be doing that almost annually. As I said, in England, there is a consultation on bringing in byelaws that would last for 10 years. That is not our process.

Simon, do you want to add to that?

Simon Dryden: It is perhaps worth clarifying that we discussed the model with local biologists who represent all the regions of Scotland and we

have on-going meetings with them. We will meet them at least three times each year with the sole purpose of discussing the modelling process and the data that we have and trying to enhance it. It is because of our discussion with the local biologists that we have referred to changes to a national egg target and an attempt to have regional egg targets.

The local biologists told us that they are far more confident about the outcome of the model for the 2018 season than they were about the model for the 2017 season. The local biologists, whom we might call the scientific experts, are signalling to us that the model has moved forward, although we acknowledge that they would like it to move one crucial step further and talk about egg targets as well as, separately, a juvenile model. We are responding to both of those asks.

The Convener: You noted that in evidence last week. Another thing that came up last week was the issue of peer review, and it was indicated that that was being considered. Cabinet secretary, can you expand on that in any way?

Roseanna Cunningham: I saw something come in last night in respect of that. We are happy to build peer review into the process if that makes people feel happier about the way forward. That represents an improvement to the current process, and I think it is something that we would be prepared to do.

The Convener: Okay. Thank you.

I open up the discussion to colleagues. Alex Rowley will be first, to be followed by Finlay Carson.

Alex Rowley: Cabinet secretary, the picture that you paint of the waters of Scotland and wild salmon is pretty bleak, in many ways. I did not get the feeling, from the evidence that the committee took last week, that we are on top of the issue. There seem to be a number of failings, one of which is to do with engagement with the fishing organisations that run and manage the waters. It seems that a top-down process is being adopted, and I am not sure that it is the right way forward.

We must assume that none of those organisations would want to allow fishing to take place in waters that would end up with no salmon in them whatsoever. However, those organisations have been indicating, through writing to members of this committee, their unhappiness about the whole process. There are questions about that and about the impact that the current decision could have on the wider management of the waterways.

You have said that better data needs to be provided. Last week, I was not left confident that the steps that are being proposed are going to achieve the outcomes that were being suggested.

There is a question about engaging more closely with the organisations that are responsible for the day-to-day management of rivers and being able to give them a greater say. There is also a question about having a top-down approach that states, "This is how we're going to tackle this problem." By your own admission, cabinet secretary, we are not tackling the problem, because every year fewer salmon are coming back. The situation is urgent, and what is proposed through the regulations will not tackle it.

Roseanna Cunningham: I indicated that we have consulted over 1,500 stakeholders and that 192 of them made representations directly, which were both supportive and non-supportive. I think that that is pretty extensive.

Alex Rowley: There is a difference between consultation and proper engagement.

Roseanna Cunningham: What do you propose should be put in place instead of that?

Alex Rowley: I suggest that the organisations that are responsible for the day-to-day management of the rivers be engaged more so that, instead of just objecting to the proposals, they become part of the solution.

Simon Dryden: We are engaging directly with some of the organisations that you have referred to. For example, for the river Endrick, we have met the Loch Lomond Angling Improvement Association on several occasions and have had several meetings with the Loch Lomond Fisheries Trust. We have discussed the situation in detail with the trust's biologist and, from a biological perspective, she is content with the grading that we propose, albeit that she has concerns about wider factors. Nevertheless, she is content with the specific model.

I have met a lot of angling clubs, such as the Alness Angling Club in Cromarty, and I am going to a meeting in Falkirk tonight at 8 o'clock to have discussions with the Falkirk Municipal Angling Club. We take every opportunity to have such meetings. However, there must be a balance between talking and getting feedback and addressing the issues. We feel that, with the merger fund that we have announced and the £500,000 of funding for the wild fisheries management tool, we have a lot of positive activity going on.

Roseanna Cunningham: It is worth reminding the committee that the regulations each year are based on a rolling five years of data. We are not looking simply at the situation between last year and this year; we are looking at five years' data. We need folk to remember that and to understand the science. A lot of the data that we base the regulations on is meant to come from

organisations in any case. The catch data therefore comes directly from the organisations.

The Convener: I think that I am right in saying that, in this instance, a good year dropped off and a bad year came in.

Roseanna Cunningham: That might continue to be the situation. My understanding is—again, I can be corrected by the people who are the experts here—that it will be 2020 before that problem period starts to phase back out again.

When we talk about the wild fisheries stocks in total, we should be aware that regulation is only one aspect of dealing with the conservation issues and that there are many other aspects to conservation. Wild salmon come under a range of pressures and we need to tackle those. Last week or the week before, I announced money for the north-east rivers to help with goosander predation. People do not usually think about such predation as being part of the problem, but it is, and we are funding work on that.

There is a huge range of pressures and, at the end of the day, that is felt in terms of fish numbers in the rivers. The regulations are one aspect of a range of conservation measures that we are working across in order to get fish stocks into a healthier state.

The Convener: Not the least of such measures is the banning of netting, which has happened in some parts of the country.

Roseanna Cunningham: I do not really want to talk about netting.

11:15

Simon Dryden: When we introduced the measures, in 2016, we also introduced a prohibition on the retention of salmon in coastal waters, which, in effect, meant that coastal netsmen could not operate.

Roseanna Cunningham: At all.

Simon Dryden: We have been paying compensation to them for a three-year period while we review the science and then the prohibition.

The Convener: I should have declared a constituency interest in that issue.

Finlay Carson: My colleagues and I take salmon health very seriously and do not need to be reminded that we are here to look after the salmon population. Why has the Scottish Government, by its own admission, not made satisfactory progress or investment in data collection? That would go some way towards addressing our concerns?

Roseanna Cunningham: We continue to improve data collection. Some of the data collection depends on the returns from the rivers, which are getting better. Last year, there was a higher level of returns from rivers. It may be that, because of the heightened discussion around the subject, people are more inclined to fill in the returns than they were previously. We depend on the returns coming in.

Finlay Carson: Is there not a lot more to it than that? It is not just about rod catches. For example, in some rivers, the number of fish that are being caught has gone down but the river grading has been revised up the way. We are not talking just about rod catching.

Way back in 2015, the Rural Affairs, Climate Change and Environment Committee tried to emphasise how important it was to get better scientific data. That improvement has failed to come about. Here we are, in 2018, in the same position and with real concerns that the regulations that are being introduced do not have a sound scientific basis.

Roseanna Cunningham: I do not think that that is true. The science has been getting more effective over the years. Dr John Armstrong is probably the right person to talk about the scientific details. Data collection has also been getting better. As I suggested, there is not a perfect model. We continue to refine the way in which we think about the matter, and we will continue to engage across the board.

Dr John Armstrong (Marine Scotland Science): The model that is used is very sophisticated, even by international standards, because we collect a lot of data in Scotland, as we have done for many decades. In the 1950s and 1960s, we started tagging smolts going out on the North Esk, looking at adult returns and developing fish counters. We also have some traps on tributaries of the river Dee, where we count fish out and look at the numbers coming back in.

We have a deep understanding of the population dynamics of salmon, which is why we are in a position to apply the models. Without that science, what option would we have? If I were to be precautionary, I would say that the only option would probably be just to stop exploitation. However, we can get a reasonable idea of where stocks are sufficient—although there is always some uncertainty in biological models—to allow some exploitation. It is because of the science that we already have that we can run the system, although that is not to say that it cannot get better.

Roseanna Cunningham: The model is not peculiar to Scotland either. We have not somehow invented our own model to suit our own purposes.

Norway has broadly the same modelling system. It is important to say that we have not created a vehicle that is only for Scotland and that we are sharing our expertise, too.

Mark Ruskell: I want to ask about the evolution of that model, away from catch data. There has been a bit of criticism of such data and its variability and comment about anglers going out in the rain, for example. All sorts of points have been raised directly with me, through letters, which it has been useful to have. As regards moving the model forward to one that is based on egg targets and monitoring of juveniles, and the welcome commitment to peer review that so that it can be tested to destruction, will that be in place for next year?

Roseanna Cunningham: The intention is that it will be able to inform next year's assessment. Does John Armstrong want to give more detail on that?

John Armstrong: Sure. We want to construct that model, but we certainly need data to go into it. As my colleague said, there is a fund that will enable the collection of appropriate data, so that has to happen. In Scotland we peer review internally, in a sense; the salmon liaison group, which has representative biologists from rivers trusts around Scotland, has an intense look at what is happening. The right process would be for the group to have a look at the proposed models, which we would then discuss with it to make sure that it was happy—that is a form of peer review. We would have to see how we could then best apply that. That is the process that I was envisaging.

Roseanna Cunningham: I said earlier that the approach that we are using is a standard one that is used elsewhere, such as in Norway. It has been peer reviewed in a number of places and, while we are looking at peer reviewing the tweaked version for Scotland, it might be helpful for us to track down the peer reviews of that standard model.

Mark Ruskell: That would be useful. On the back of the concerns that Alex Rowley raised, I have a quick supplementary question about how we support fisheries trusts and associations in the future. The point has been raised with me that the River Forth Fisheries Trust cannot access Scottish rural development programme funding, although it does a lot of fantastic work in riparian areas on non-native invasive species. I raise the issue of the eligibility of the trusts and associations for grant funding and the suitability of such grants to support the excellent work that they both do.

Roseanna Cunningham: That is a wider point. We have just spent an hour and something talking about the likelihood that, in not very many years' time, there will be no SRDP funding and we will

have to depend entirely on what the new funding settlement set-up will be and what new money might be made available. We constantly look at the issue of supporting people through that process.

I know that Finlay Carson was not particularly happy with the FishPal process, but money was made available through that. As I indicated, we put money into the north-east fisheries to support work that they are doing there. Therefore, it is not the case that we do not do that; it comes back to our friend the budget issue of just how much money is available to do it.

As was indicated, there is a category of salmon fishermen whose practices have been stopped completely, so money is going to compensate them for what is effectively the end of an economic activity for them.

We can look at whether there are other potential funding sources and ways in which local groups can perhaps tweak what they do to bring it into a category that relates to a different grant or fund. However, at the end of the day, we will end up in a situation in which there is a finite amount of money and decisions will have to be made about where best to spend it.

John Scott: I suppose that we all want to protect salmon and their rivers and other habitats. It has already been acknowledged that salmon are under a range of pressures, the least of which, in my view, is angling. Of course we share the cabinet secretary's concerns, but the instrument is flawed. It is based on poor science. No one appears to have confidence in the science, which has not been peer reviewed and might not stand up to that level of scrutiny—that is the whole point of peer review. Even witnesses at the Rural Economy and Connectivity Committee last week were unhappy when issues were raised about the quality of the science.

We accept the intention of the instrument, of course, but even the cabinet secretary has essentially admitted that it is insufficient and inadequate. It should almost have been an affirmative instrument—I appreciate that the process does not allow that in this case. However, given the level of discussion and debate around the issue, the uncertainty and the untested science—notwithstanding the protective principle that we adhere to in this committee—we feel that the whole thing is utterly flawed.

Roseanna Cunningham: I do not know how to respond to that. The fact of the matter is that the proposal is only one thing that we are trying to do in respect of salmon numbers. I do not pretend that it can be the only solution—of course it cannot be. However, there are some figures that the committee perhaps needs to think about. In 2016,

around 5,500 salmon were retained by anglers. However, in the preceding five-year period, the average was around 15,500. That is a significant reduction. I accept that a lot of anglers will not be happy at not being able to take more fish, but, by this mechanism, they will make a contribution to salmon survival. Anglers will not solve the problem on their own, any more than these regulations and the categorisation of the rivers will solve the problem on their own, but we have never put forward the proposal as a single solution to the problem of salmon numbers. I am well aware that there are many pressures on salmon, and I have already indicated where we have invested money to deal with other pressures on salmon.

We need to address the pressures, but we also must take steps that will reduce pressure in the short term in order to ensure that, in the longer term, there are healthy fish stocks for everybody, including anglers. That is where we are. I am not a scientist, so I have to rely on the advice of scientists, which is that the proposal is the way forward. It is what is happening in Norway. The situation in England is likely to be even more restrictive and, as I indicated, Ireland has shut rivers to any sort of fishing because of the scenario that we are looking at. What we are doing in Scotland is a lesser step than that. If we had not introduced the measures that we have introduced, there is a chance that we could end up in the same position as Ireland.

The Convener: I note that colleagues are agitating to get in. We will get to everyone, but I have rather a long list in front of me.

Joan McAlpine: I will make two quick points. First, I was pleased to see that the Nith is a category 1 river this year, and I was pleased to open the salmon season there by toasting the river. You will be glad to hear that catch and release will continue to be practised on the river, cabinet secretary. That is testament to the management on that river.

Unfortunately, parts of the Nith further downstream, and also the Annan, are category 3. When I wrote to the Government last year, I was told that discussions were under way with the fisheries boards of those two rivers in relation to a bid for money for a fish counter to cover them. Will you give us an update on that?

11:30

Simon Dryden: The Annan and the Nith were unable to put together a joint proposal to bid for fish counters to cover both catchment areas, so the Nith is proceeding on its own and, I understand, has put in a bid for funding through the fisheries local action group.

Joan McAlpine: Thank you.

My second question is about haaf netting, which is a unique fishing practice on the Solway. There are very few haaf netters—they are probably even more endangered than salmon. In 2016, the First Minister made a commitment that haaf netting on the Annan would become a historic fishery. In Scotland's guidelines on the North Atlantic Salmon Conservation Organization implementation plan 2013-18, it says that consideration is given to

"the heritage value of the fishery; where fishing methods are unique to a very small number of locations, consideration is given to retaining a residual fishery and/or permitting a low level of catch."

Given the First Minister's commitment and the unique nature of haaf netting, will you give us an update on where we are in ensuring that this unique practice, which dates back to Viking times, can continue?

Roseanna Cunningham: We have provided grant funding to the Royal Burgh of Annan common good fund, to help the burgh to promote haaf netting as a cultural activity. Under the current legislation, haaf netting is permitted only in the Solway; it does not go beyond that area.

All fishermen, in all kinds of fishery, are having to take a share of the effort of the work that we are doing to conserve salmon. We are helping to promote haaf netting as a cultural activity, but ultimately the issue is killing fish. The regulations do not ban angling; they ban killing the fish in certain rivers, which is what it comes down to.

Joan McAlpine: As you said, all fishermen are affected, whether they are anglers, netters or haaf netters, but do you concede, as the Government's guidelines and the First Minister have conceded, that haaf netting is different? It affects a very small number of people and dates back to Viking times. In the context of Scottish culture and the United Nations Educational, Scientific and Cultural Organization's definition of "intangible cultural heritage"; is not that human activity worth preserving?

Roseanna Cunningham: Money is going into that.

Jackie Baillie: It is fair to say that the Loch Lomond Angling Improvement Association waited a considerable period—something like 18 months to two years—before there was any engagement with the Scottish Government, which appears to have amounted to a tick-box exercise.

Last time round, I think that Mr Dryden acknowledged that the data is incomplete. Despite a meeting with the Loch Lomond Fisheries Trust, the Government is unable to identify all the proprietors and does not know the catch data because there is not data on all returns. The improving model and methodology appear to me to amount to guesswork, and the three hand-

drawn maps look as if they have been done by a five-year-old. I struggle to see the approach as evidence based.

The Loch Lomond Angling Improvement Association provided catch returns dating back to 1956, when one less fish was caught than was recorded in 2016. In 1956 the association had double the number of members and there seemed to be no shortage. Can the cabinet secretary or Dr Armstrong explain that?

Roseanna Cunningham: Dr Armstrong is probably in a better position than I am to explain it; whether he can do so is another matter.

Dr Armstrong: I would have to look at the detail of the data. It is difficult to say what the situation is just on the basis of what Jackie Baillie said.

Jackie Baillie: Okay, but do you accept that in the 1950s there was considered to be a lot of salmon and a lot more members fishing, yet the catch return from then is equivalent to what it is today?

The Convener: Simon Dryden wants to come in on that.

Simon Dryden: In the 1950s we had a strong coastal netting fishery, which caught a lot of the salmon that were returning to rivers. With high returns, we would anticipate that taking away the coastal netting fishery would lead to catch numbers going up, but we have not seen that.

Jackie Baillie: Let me put the reverse position to you. At the Rural Economy and Connectivity Committee, our colleague Gail Ross raised a question about the River Leven—not my River Leven but a River Leven elsewhere—in which everybody agrees that catches have substantially declined. Evidence was given to the committee that although salmon had not been caught there over a number of years, the fact that one Pacific salmon was caught there last year means that it is now graded as a grade 1 river. Does that not seem, to use the words of one witness, entirely "bizarre"?

Simon Dryden: I hope that I can answer that. The 2017 season's catches have not yet been published and have not gone into the model. If the River Leven has just had a very poor season, that will not yet be reflected in the model. I saw, and understand, the evidence that John Gibb gave.

It might help to say that the catchment area of the River Leven in Inverness-shire is very small. Its catchment area, which is just over 26,000m², is only 6 per cent of the River Endrick's catchment, so it is a very small system.

According to the assessment done by our model, the River Leven had a 100 per cent likelihood of reaching its conservation limit in four

of the past five years. In one year—2015—it had zero catch, so it had four years at 100 per cent and one year at 0 per cent. That gives an average over the five years of 80 per cent.

In 2016, roughly only 38 salmon were caught, which we say represents about 10 per cent of the salmon that went up the river, so our model would say that approximately 350 to 400 salmon went up the river in 2016. That represents enough salmon to meet the egg target, and our model says that it did that with 100 per cent certainty. Thirty-eight is a low number of salmon, but it is that small because the wetted area is so small.

Jackie Baillie: I think that your model flies in the face of local experience and expertise, which is what people are concerned about.

My final question is about the equality impact assessment. A letter from a constituent, Peter Lyons, has been shared with the committee. He is disabled and has severe mobility problems; he fishes in the Loch Lomond river system, and he is unable to fish elsewhere. He has clearly described the problems that he has encountered. Will the cabinet secretary or somebody else tell me who completed the equality impact assessment, when they did it, who they consulted in doing it and whether it was just a desk-based exercise?

Roseanna Cunningham: I do not think that a formal equality impact assessment was done for these regulations. Notwithstanding the expression of surprise on Jackie Baillie's face, I think that she probably already knew that.

Jackie Baillie: No, I did not.

Roseanna Cunningham: A formal equality impact assessment process is not done for these regulations, although equalities are taken into consideration. I remind everybody that the practice of angling is not barred—it is the taking of fish that is stopped.

Jackie Baillie: In the case that I have supplied to the committee, the taking of the fish is something that this constituent requires to do; otherwise he will end up capsized and in the water, because he has only one arm. Very specific protected characteristics are involved here that have not been considered. We were led to believe by the cabinet secretary's predecessor and officials that there is an equality impact assessment, but clearly one has not been done.

Roseanna Cunningham: There is not a formal one. These regulations do not go through the normal, formal process for equality impact assessment, if I am correct—or perhaps I am misleading the committee. Equalities are looked at, but not in the formal sense of an equality impact assessment being done.

The Convener: Mr Dryden, is that the case?

Simon Dryden: Yes. We have not been able to find the equality impact assessment that was said to have been done at the time of the 2016 regulations. As a result of the comments from Ms Baillie, we have looked at the equality impact assessment for the 2018 regulations. The process is that you identify whether you believe that it is necessary to carry out an assessment.

As the cabinet secretary said, we have looked at the situation and on balance do not believe that we need to take the process further. The first stage of the process allows us to say that we have looked at the issue and do not believe that we need to take it further.

Richard Lyle: On John Scott's point, I can count how many people are in a room. I can possibly count how many sheep are in a field. I suggest that it is hard to count how many fish are in the sea or a river.

No one disagrees that wild salmon are under pressure. No one likes change, but we have to change. If we agree to annul the regulations today, how many rivers will it affect? How many people have objected? Could we exclude the objectors to let them fish?

I understand the cabinet secretary's point that anglers are simply catching the fish. They are not taking the fish home to eat but are putting them back into the river. Why are people objecting?

Roseanna Cunningham: I suppose that, if people are accustomed to doing something in a certain way over a long period and it is proposed to change that, in general people will find that challenging. For a lot of the rivers that we are talking about, anglers will openly say that they know that there are issues and for that reason they have been voluntarily catching and releasing and only taking perhaps one fish a season, as a nominal amount.

My response would be that often for anglers it is the activity of angling that is important, rather than the killing of the fish. Unlike some other jurisdictions, we are not stopping the fishing. We are stopping the killing. In many places, an angler might have taken only one fish over a season.

I understand that angling is a sport that many people enjoy, like many other sports. For those in the areas where the local rivers are to be categorised as no-take zones, it is difficult. However, the issue is about the longer term and the anglers of the future. It comes down to having decently stocked salmon rivers in Scotland for all anglers.

Richard Lyle: The point that I am trying to make is that, if we agree to annul the regulations, we could affect every river in Scotland. I am on your side.

Roseanna Cunningham: I understand.

Richard Lyle: The point that I am making is that, if we agree to annul the regulations, every river in Scotland will be affected. Only a few anglers' associations object. My question is whether we could exclude them.

I get the science. I get that we need to do something. I have never fished a day in my life, but I get that the excitement is about catching a fish. Doing that and then releasing it should give people satisfaction. That would conserve stocks and maintain the sport.

Why can we not allow that? Can we exclude the objectors and not affect every river in Scotland?

11:45

Roseanna Cunningham: If we say that all that has to happen for an area to be excluded is for someone to object, I suspect that this would be the only year in which a handful of objections are made. Next year, everybody would object everywhere and we would be back to square 1. From a national governance perspective, that is not a particularly helpful way forward.

It may be that Richard Lyle is being deliberately provocative in putting that forward as a solution so that I have to say that it would not work.

Richard Lyle: You have got it in one.

Claudia Beamish: Good morning again, cabinet secretary. I have five questions. I will try to be brief, because some of them have been partly covered already.

We appreciate the response that we received following last week's evidence-taking session, which details the scale of the concerns that were expressed. It states:

"With regards to the content of the responses received, many sought to criticise the general modelling approach taken".

It goes on to say:

"Many of these issues have been addressed at the time the conservation measures were first introduced".

I was a member of the Rural Affairs, Climate Change and Environment Committee at that time. What were the issues that were addressed then, in 2016?

Roseanna Cunningham: Unfortunately, I was not the cabinet secretary at the time, so I am afraid that I was not intimately involved in the work on the first set of regulations. I do not know whether either of my colleagues was involved in those conversations.

Simon Dryden: I will attempt to describe what I believe we have addressed. The first time round,

we had a lot of regions. We have moved to 171 groups, which means that we have far more granularity.

Claudia Beamish: I am sorry—you have moved to 171 groups from what? I am looking for a ballpark figure. That was going to be my next question, so if you could answer it, we would be down to three questions. That is an important issue to understand. When the first set of regulations came before our predecessor committee two years ago, we were reassured by officials that there would be more granularity.

Simon Dryden: I am sorry—I have those figures. In 2016, we assessed approximately 100 regions. My maths is not good enough to give you an exact number. In 2017, we moved to a position of greater granularity—the figure was around 150. This season, the figure is 171.

Claudia Beamish: Is this work in progress? Is there a lot more that needs to be done?

Simon Dryden: It is not the case that a lot more needs to be done. We use the phrase "rivers and assessment groups" because there are some groups. I think that there are fewer than a dozen groups out of the 171. That means that we are assessing at an individual river level in about 160 of those cases.

Claudia Beamish: That is helpful, because that needed to be clarified.

I have been salmon fishing with a fly—I have not caught anything since my father died, which was a long time ago—so I have a limited knowledge of the subject. I understand that there are many rivers, regardless of their grade—this is true even of some grade 1 rivers—on which catch and release is practised, but we need to take stakeholders with us, and that is what worries me.

This is only a personal view, but I think that there has been only quite poor improvement in the science and data arrangements and modelling since 2016. I find the gaps in the science disappointing. I want to make two points, one of which has already been made, so I will be brief. With regard to the egg estimates, I understand that Marine Scotland science

"is looking to develop more focussed, regional targets for egg deposition, taking account of local habitat and conditions, which will allow for more accurate estimates of abundance in future years."

What progress has been made in that regard over the past two years? I would welcome a response on that.

I will cover the other issues. Fishing effort has been highlighted to me particularly. How is that being taken into account? I hoped that the issues around juvenile fish would have been developed much more than they have been. The numbers of

fish counters has increased from six to only eight. Therefore, I have concerns about the lack of progress on the science. Will you comment on any of that?

Dr Armstrong: I will start with fish counters. They are large structures that go in rivers, might cost something in the order of £100,000 to install and take a lot of effort to run. It is a major undertaking to install fish counters, but we will certainly have a look to see what opportunities exist.

Claudia Beamish: What look have you had so far? I understand that planning permission is needed, and that it is complex to install them, in that we must take into account how far the salmon can leap, but going from six to eight in two years does not seem like much of an improvement.

Dr Armstrong: In introducing those extra counters, we have been examining what is already available in Scotland. It will be a major leap to proceed to a network of counters. It will require substantial planning and finance.

The Convener: You are removing barriers to salmon on some rivers. To what extent do the counters present barriers? Is there a conflict in the two approaches?

Dr Armstrong: There is. One has to be careful because it is necessary to obstruct salmon to some extent to count them. We are working with SEPA and Scottish Natural Heritage to examine existing barriers to determine what potential there might be for installing counters in barriers that might be removed. That would give us a balance between improving things by taking a barrier out and putting a counter in to take the opportunity to get more information.

Claudia Beamish: Do you have any comments on my perception that the progress on the science is disappointing?

Dr Armstrong: Sure. I will comment on juveniles. The models that are being used for using juveniles are sophisticated. There is nothing in existence at the moment that would do the proper job for Scotland. Our team has been developing models using geographic information systems coupled with population dynamics models. That work is very advanced. In fact, I anticipate that we will publish or peer review it this year. That process is well under way, and we are pleased with the progress on that. I am afraid that it takes time; such matters are not easy to deal with.

On the more general adult model, there has been a lot of development on how we can better understand the relationship between flows and catches, which reduces a lot of uncertainty. We now have methods that enable us to account for

fish that are coming into rivers out of season, which was an issue of particular concern on the Earn, for example. There are substantial developments and the team that has been working on that has put in a huge amount of effort.

I understand that, if you are not involved in the technical side, you imagine that things can happen at a faster pace than is realistic but I assure you that there has been a lot of progress.

Claudia Beamish: Will one of you comment on effort, please?

Dr Armstrong: Where one has counters and catch data, one can best deal with effort changing. We have tried to collect effort from fisheries, but it is extremely difficult to do in any realistic way. I do not disagree that having additional counters will improve the quality of modelling.

Claudia Beamish: Ownership issues are a real concern, and committee members raised the matter last week. Will you give some clarification about riparian owners? Why has that issue not been able to be addressed? It has been an issue in the constituency of my friend and colleague Jackie Baillie and, I believe, elsewhere.

Roseanna Cunningham: Do you mean identifying the riparian owners?

Claudia Beamish: Yes. The current situation makes for flaws in the assessment.

Simon Dryden: I am sorry that, at the previous meeting, I did not pick up on the term “riparian owners”. The heritable salmon fishing rights do not necessarily reside with the riparian owner—the owner of the riverbank. Indeed, as I think we put in our response to the committee, the Loch Lomond Angling Improvement Association has some ownership of heritable angling rights.

We can approach the local landowner but when they say that they do not have the rights, where do we go? We have made—

Claudia Beamish: Can I stop you there? Is it seriously the case that the landowner would not know who had the rights to the fishing? I find that very puzzling.

Simon Dryden: When they buy the property or the land, often salmon rights might not be discussed.

Claudia Beamish: I understand that—

Simon Dryden: The fact is that when we ask—

Claudia Beamish: There are going to be people accessing fishing through their land—

Simon Dryden: If indeed that is happening, the landowner might be asking the angler, “Do you have the salmon rights here?” or, “Please can you tell me who you got permission from to fish here?”

We have established that when Registers of Scotland put ownership rights on to its electronic system, salmon rights were not transferred. If we go to Registers of Scotland to check those rights, we would need to get out the paper records to identify who has the salmon rights.

Claudia Beamish: In terms of stakeholder confidence, that might be useful, because there are gaps, and that does not help with the collection of robust scientific data.

Finally, on the business and regulatory impact assessment, in terms of costs and mitigations, you have highlighted the Annan common good, which is in my and Joan McAlpine's region. Concerns were raised in 2016 about the possibilities in relation to that and the gain in terms of stakeholder confidence, which is an important issue. Could you highlight what has been done there?

The Convener: Briefly.

Roseanna Cunningham: I suspect that the question is about how much money has been spent on doing things in the past two years. Is that what you are asking?

Claudia Beamish: I am interested in what has been done to support the common good fund in Annan, for example. It has highlighted to me that it has lost money because of its grading in 2016. Are there any other examples that you could highlight?

Simon Dryden: Several things have happened with the grading on the financial side. The Crown Estate has reduced the lease levels for its fisheries that are being leased by angling clubs to take account of grade 3.

The national assessors have zero rated netting stations that are in a grade 3 area, so that they no longer pay a salmon levy. We have just announced this month an additional £500,000 for this coming financial year to accelerate research into the pressures on salmon stocks and to do substantive activities in-river to try to improve the situation. A significant proportion of that funding will go to local trusts to enable them to collect the data and supply it to us.

The Convener: We will now hear from the ever-patient Liz Smith.

Liz Smith: Thank you, convener. I am grateful for the opportunity to put on the record why I have been unhappy about this instrument. My comments very much reflect the considerable engagement that I have had with anglers and fishing experts in my area of Mid Scotland and Fife, which has persuaded me that the model dataset that is being used to determine the categorisation of our rivers is flawed.

I listened carefully to your committee meeting last Tuesday and to the Rural Economy and Connectivity Committee meeting last Wednesday and I believe that there is a general concern across Scotland and across the political parties.

I stress at the outset that I think that the angling community recognises its responsibilities on fish conservation, in line with the EU habitats directive, and that it also recognises the important responsibility that the Scottish Government has in this respect, which Roseanna Cunningham set out earlier. There is no doubt that protection of fish species is vital and it is important to put that on the record.

Secondly, the cabinet secretary is right to say that it would never be possible to have perfect knowledge of every single river across Scotland. That said, the overriding concern is the absence of sufficiently robust scientific analysis to underpin policy making. We need analysis that can provide a comprehensive overview of the river system in Scotland, that can stand the test when it comes to peer review and that can be used objectively as a basis for the right to appeal policy decisions.

12:00

The anglers are quick to recognise the important evidence on egg deposition that has been produced by biologists. Marine Scotland asserts that it uses an established methodology, which is employed by other countries such as Norway, Ireland, England and Wales. However, in relation to the claim made by Marine Scotland that there is an important Scottish dimension to be considered, the anglers are very clear that the current assessment of sustainability in Scottish rivers depends on two sources of data on numbers of fish returning to rivers, which are unsound.

They make the points that, as only eight rivers have data counters, it is very difficult to extrapolate results for other rivers and that the current Marine Scotland method of analysis only complicates things further. Furthermore, there is the issue of rod catches, which apply only during the fishing season. They argue that Marine Scotland does not take sufficient account of fish runs before or after those dates or of uncaught fish during the season.

Assurances have been provided to the angling community on several occasions, including in 2016, that improvements would be made to the modelling. However, the angling community feels strongly that such improvement has been insignificant. There have also been significant delays in engaging with the angling bodies, which two other members, including Jackie Baillie, agree has been a problem.

In January 2017, the minutes of the salmon liaison group stated that action was being taken to

convene a productivity/habitat quality group to develop individual river targets, but that did not happen in the way that was intended.

At last week's committee meeting, there was a clear admission from Marine Scotland that there are significant inadequacies in the modelling process. That was also put to Marine Scotland on 23 September 2015 at the Rural Affairs, Climate Change and Environment Committee in extensive questioning by my former colleague Alex Fergusson and by Mike Russell, so the current concerns should be no surprise.

The concerns go well beyond our rivers. They relate to the sustainability of local economies, tourism, the leisure and sporting industries and the declining membership of our angling clubs. It is vital that those concerns are balanced against the important need to conserve fish stocks—it is perhaps not easy to reconcile those. However, we would be better placed to make that judgment if the data and methods on which policy is based rests on the best international science and is open to peer review.

Marine Scotland has acknowledged that there are issues still to be addressed and therefore the instrument is a real problem. We need to take urgent action to address the situation to ensure that future policy is on a sound footing.

The Convener: Do you wish to respond, cabinet secretary?

Liz Smith: I have not yet moved the motion, convener.

The Convener: Let us put that thought on hold for a moment. Do you wish to respond, cabinet secretary?

Roseanna Cunningham: We can go over and over the issues about science: the changes have already been made and will continue to be made and the model is not a one-off for Scotland but is similar to models that are used elsewhere. I hear what people are saying and I do not want to leap to the next bit, but we have to take action. As I have said from the outset, there is nothing perfect about the situation and I doubt whether we will ever have a perfect system, but it is one that continues to be refined.

The Convener: We now move to consideration of motion S5M-11020, which asks the committee to annul the Conservation of Salmon (Scotland) Amendment Regulations 2018 (SSI 2018/37). It should be noted that the Scottish Government officials cannot take part in the formal debate. I remind the committee that substitute members have the right to vote. Although non-committee members cannot vote, they can speak in the debate. The motion will be moved and there will be an opportunity for a formal debate on the

instrument. Procedure allows for that debate to last for up to 90 minutes.

Liz Smith: On the basis of the comments that I have just provided to the committee, I move,

That the Environment, Climate Change and Land Reform Committee recommends that the Conservation of Salmon (Scotland) Amendment Regulations 2018 (SSI 2018/37) be annulled.

The Convener: Do any members wish to speak on the issue?

Richard Lyle: With the greatest respect to my colleague, I am against this. Do we sit and count every salmon that goes up and down a river? It has been suggested that we annul this secondary legislation. I love conservationists, but when it comes down to the local area, they are against conservation. Let us be clear: if we vote this instrument down we will put wild salmon in Scottish rivers at risk, and woe betide us when anglers have nothing to fish. I am against the annulment.

The Convener: Thank you for that, Mr Lyle, and for your brevity.

Jackie Baillie: I will try to be equally brief, but I suspect that I might fail.

All rivers are different and I do not think that we should look for a one-size-fits-all solution. I refute Richard Lyle's comments; all the anglers who I have spoken to are conservationists. They absolutely understand the need to conserve salmon stocks, and I think that everybody around the table would agree with that sentiment. What they argue is that we should do that properly and base it on evidence.

Successive Scottish Governments have told us that evidence-based policy making is important. However, in the case of Loch Lomond and the Endrick system, the evidence is entirely lacking. There has been limited and late engagement, which I have previously described as 11th hour, 59th minute—and I am probably being kind. That is an indication that people are not serious about the categorisation that has been arrived at.

People who have decades of experience, including witnesses to the Rural Economy and Connectivity Committee and local anglers who understand their river systems, have said that the science is flawed. It is depressing that, two years on, we are back here having the same arguments that we had previously because the matter has not been fixed.

To me, the so-called improving model and methodology amounts to guesswork in the case of Loch Lomond and the Endrick. If we look at the Endrick, we see that there is no data on catch returns, officials are unable to identify all the proprietors and, as I indicated earlier, they are

relying on hand-drawn maps that a five-year-old could have done better and are calling that science.

It is also clear that no equality impact assessment has been thought through. Mr Dryden recognised that no consideration has been given to people with protected characteristics, because the process stopped at the very first stage and was desk-bound. The case of Peter Lyons, who submitted evidence to this committee, perfectly describes the lack of consideration that was given to equalities. In my view, that is a fatal flaw in a Parliament that prides itself on taking equalities into consideration.

Overall, I regard the process as disappointing. I do not have a vote, but I urge and encourage committee members to support the motion to annul. The Loch Lomond Angling Improvement Association has been around for 118 years—certainly longer than this Parliament. It engages in a low-cost activity that is predominantly engaged in by working-class men, 40 per cent of whom have protected characteristics. They care passionately about conservation but reject the categorisation because it is based on flawed science—there has been little consultation, there is a lack of data on catch returns, the owners have not been identified and we have hand-drawn maps.

I urge the Scottish Government to take the time to do this right and work with local anglers such as those at Loch Lomond, who would happily work with the Government. It is not about making sure that we make the process perfect, but it is, surely, about making it more accurate and better, which requires evidence that is not currently there.

Claudia Beamish: I, too, will support annulment today, with a heavy heart. I believe very strongly in the precautionary principle and I completely acknowledge the respect for anglers and others involved who also believe in conservation. However, I am not reassured about the level of science-based evidence and I am concerned about the lack of peer review.

I acknowledge that these are difficult issues, but I do not think that things have moved forward quickly enough. I understand that we would revert to the previous Scottish statutory instrument in the meantime, so we would not be leaving Scotland without the serious protection that it needs. I am prepared to be corrected on that, but, assuming that that is correct, it is important that we move forward and take stakeholders with us. There is a great deal to do.

Mark Ruskell: I thank Jackie Baillie, Liz Smith and the association for coming to the committee and for providing all the detail, which has enabled us to test the order to destruction.

To a certain extent, we are where we are with the state of the salmon stocks in our rivers in Scotland. Even on rivers that have a particularly high grading—grade 1 rivers—the vast majority of anglers are still catching and releasing. On that basis, it is important that the gradings of the rivers are accurate and that they reflect the science. It has been heartening to hear how the scientific model is improving, particularly with the evolution of the model to include more and better data on eggs and juveniles and the important commitment that has been given today that robust peer review will be in place for next year.

It is disappointing that we still do not know who actually owns the salmon rights on a lot of the rivers. That is a concern. Indeed, it could be a barrier to making the science even more robust if we cannot get access to the rivers to improve the model.

At the end of the day, the precautionary principle has to win out because of the state of the stocks that we have in our rivers in Scotland, and on that basis I will not be voting for the motion to annul.

Angus MacDonald (Falkirk East) (SNP): I certainly understand the concerns that a number of angling clubs have, which have been raised this morning and in correspondence. However, I also understand the Scottish Government's stance, and I am sure that it is not taking the conservation measures for the fun of it or to be awkward.

For me, this is a no pain, no gain scenario, and let us not forget that there was a real and imminent threat in 2016. It is important to remember why we are at this stage. As the cabinet secretary stated in her opening remarks, action had to be taken in order to avoid EU infraction proceedings. Granted, there is an argument that things were rushed, to a degree, in 2016, but the Scottish Government was in effect bounced into taking the measure.

If the motion to annul the regulations is agreed to, will that not take us back to square 1 and put previous conservation measures at risk? Let us not forget the salient point that was made last week that salmon numbers will increase as a result of the downgrading of category 1 and 2 rivers to category 3. To paraphrase a point that the cabinet secretary made earlier, I think we have to be careful what we wish for. Otherwise, we might end up in a situation like the one that Ireland is in, which is surely not what anybody wants. I will oppose the motion to annul.

Alex Rowley: Regardless of whether the motion is agreed to, I hope that the cabinet secretary will recognise that a fair bit of concern has been raised—based on the evidence—last week and this week, and there is a wider concern out there.

We all take Scotland's rivers and the health of salmon seriously, but there needs to be far better engagement with anglers and associations. They cannot be seen as the problem; surely they must be seen as part of the solution. There is a real weakness there.

It is important that we get that message out, which is why I will support the motion to annul. No matter how that goes, there is a real message here. More needs to be done, and if that means that we need more resources, the Government needs to say so. Generally, the committee has not been happy about this, given the evidence that we heard last week and today's discussions.

12:15

Joan McAlpine: I have a great deal of sympathy with angling clubs around Scotland. There are a lot of anglers and other fishermen in my area. However, as I said to the cabinet secretary, it works both ways. The Nith has a category 1 status as a result of its catch-and-release policy, as well as its improved modelling and counting methods and management. If the regulations were annulled, the Nith would go back to having a category 2 status. All the expectations of local people about improvements in tourism, and the strong message that having a category 1 status sends out, would be lost.

If the argument is that there are concerns about the current data, why would we go back to the previous situation when presumably, by the same logic, the data was worse? I accept that the data needs to improve—we have had a wide-ranging discussion on that today—but I do not think that the way to do that is to go back to the previous situation. I think that we need to continue the engagement and to continue to improve the modelling but, for the reasons that I have given, I will vote against the annulment of the instrument.

John Scott: I speak in support of the motion to annul the instrument. I support the precautionary principle and all that Mark Ruskell has said in that regard, but I am afraid that I do not feel that the science is sufficiently robust. Too many lives are involved. An awful lot of decisions and lives would be affected by what is almost an arbitrary decision.

I think that the instrument should be annulled and that the data should be re-examined. The Government could then come back with another instrument that was based on a better interpretation of the science that is available to us, or on a more realistic understanding and evaluation of the inadequate science that is available to us.

Kate Forbes: Although I appreciate the evidence that Jackie Baillie and Liz Smith have provided, it is worth remembering—as I know, as

somebody whose constituency has quite a lot of rivers in it—that very few interest groups have raised concerns. It is just a few interest groups that have serious concerns about the issue—or, at least, have flagged it up.

That is why I would be far more in favour of tightening up the process for appeals and looking at the methodology for next year rather than supporting the motion to annul the regulations. The concerns that have been raised about the regulations are legitimate and who knows which interest groups for which rivers will be concerned in subsequent years, but as things stand, only a small number of interest groups have raised specific concerns.

Finlay Carson: This is a very difficult decision, because it will have an impact on some of my constituents on the Nith and the Bladnoch, which is moving to category 3. The status quo is absolutely not acceptable; in effect, angling clubs are almost competing for a river categorisation that is based on what most angling and river boards consider is poor science. Something needs to change; the difficult thing is how we send out that message.

I would like to have had some more guarantees from the Scottish Government on how we are going to move forward. However, on the basis of the evidence that we have heard from angling associations and from people around the table today, I will support the annulment of the regulations.

The Convener: Like others, I have concerns about the level of data that informs the categorisations. However, I remind colleagues that the measures in question are among a number of conservation measures that are being utilised and, like Mark Ruskell, I believe that the precautionary principle overrides everything.

In its recent report on the environmental impacts of salmon farming, the committee bemoaned the apparent absence of the precautionary principle as that sector expanded, and it called for that principle to be front and centre going forward. Whatever legitimate reservations we have about the accuracy of the basis for the decision that is proposed in the instrument, surely that approach needs to apply here, too. It is also the case that the proposals do not stop angling; they merely stop the killing of fish.

To pick up on Kate Forbes's point, I note that a number of rivers have gone from grade 1 to grade 3 and that that appears to have been accepted. I think that the vast majority of anglers get that the measures are needed. Given that and the commitments that we have had around changes in the approach to the science and peer reviewing, I will not support the motion to annul.

To pick up on Alex Rowley's point about what will happen if the committee decides not support the motion to annul, there needs to be improvement in the approaches that are taken. I share Kate Forbes's view: eventually, as the science and the data improve, I would like a formal right of appeal to be established. I think that that would bring greater equity to the whole process, albeit that it would have to be founded on the science.

On that note, cabinet secretary, I invite you to respond to the debate.

Roseanna Cunningham: I do not want to rehearse all the arguments about the development of the science and the model over a number of years. Both of those areas will continue to develop. I do not come from a science background, so I find it difficult to be drawn into discussions about science at this level. I am impressed and surprised by the level of scientific knowledge that is claimed by so many committee members. I gently point out that, with science, other scientific opinions are always available and that it is always necessary to balance those. That is something that will never change.

I have indicated that I will provide the existing peer review data for the generalised model that we use. I acknowledge what has been said about peer review data for the more specific, tweaked version and will make sure that that is also available. However, it will also be very good to have the background peer review information.

I utterly refute the notion that what has been undertaken is somehow an arbitrary exercise; there is nothing arbitrary about the exercise at all. The decisions were made on the basis of what we take to be a real understanding of what is happening in our rivers and the changes that are taking place there. I reiterate what I have said on a number of occasions this morning, which is that angling is not banned on any river and that it can continue; it is the taking of a fish and killing it that might be banned on some rivers. We just need to be clear what we are talking about.

I confirm that if the regulations were annulled, we would simply revert to the position for the 2017 season, which would mean that the killing of fish could take place on 49 rivers where we believe that it is not sustainable. That could damage the health of salmon. In addition, anglers would be able to kill and keep salmon that were caught in four special areas of conservation that we consider should be catch-and-release fisheries, so there would be some real issues there as regards the habitats directive. Furthermore, annulment would unfairly impact river systems where the gradings have risen for 2018, as they would remain catch-and-release rivers despite the fact that our assessment is that the health of those

rivers has got to a point where they can move up to grade 1. The rivers involved are the River Clyde, the North Uist lochs and the River Nith, which we have heard about. People need to understand the reality of annulling this year's regulations. I strongly request that the committee does not proceed down that road.

The Convener: I invite Liz Smith to wind up and to indicate whether she wishes to press or withdraw the motion.

Liz Smith: I think that the first job of any committee in the Parliament is to ensure that we scrutinise policy and decision making. Obviously, the most important part of that is to ensure that we have a good evidence base. I must congratulate the committee on working very hard to ensure that the evidence base is accurate.

I have followed the issue with considerable interest, and not just because of the approaches that I have had in my local area. Like the cabinet secretary, I am not a scientist, but I have gone into considerable detail on some of the points that have been raised with me by people whom I consider to be experts in the field. It is clear that they have pointed to significant problems with the data, which is not sufficiently scientifically robust. Regardless of whether the motion to annul is successful, that is the key point: there are considerable issues with the data that is being used.

I press my motion to annul.

The Convener: The question is, that motion S5M-11020, in the name of Liz Smith, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Beamish, Claudia (South Scotland) (Lab)
Cameron, Donald (Highlands and Islands) (Con)
Carson, Finlay (Galloway and West Dumfries) (Con)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Scott, John (Ayr) (Con)

Against

Dey, Graeme (Angus South) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Lyle, Richard (Uddingston and Bellshill) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
McAlpine, Joan (South Scotland) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 5, Again 6, Abstentions 0.

Motion disagreed to.

The Convener: I seek the committee's agreement for me to approve the final report to Parliament recording that decision.

Members *indicated agreement.*

The Convener: I thank the cabinet secretary and her officials for their attendance.

At its next meeting on 27 March, the committee will take oral evidence from the Committee on Climate Change and we will also hear from stakeholders on the Scottish Crown Estate Bill.

The committee will now move into private session and I ask that the public gallery be cleared.

12:26

Meeting continued in private until 12:43.

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