OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 11 December 2018

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 11 December 2018

CONTENTS

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
37th Meeting 2018, Session 5

CONVENER

*Gillian Martin (Aberdeenshire East) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Angus MacDonald (Falkirk East) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dave Bench (Health and Safety Executive)
Dr Rob Brooker (Scottish Environment, Food and Agriculture Research Institutes)
Calum Duncan (Marine Conservation Society)
Mairi Gougeon (Minister for Rural Affairs and the Natural Environment)
Katy Hindmarsh (Scottish Government)
Jonny Hughes (Scottish Wildlife Trust)
Eleanor Kay (Scottish Land & Estates)
Professor Anna Lawrence (Community Woodlands)
Don McGillivray (Scottish Government)
Andrew Midgley (NFU Scotland)
Janice Milne (Scottish Environment Protection Agency)
Nishma Patel (Chemical Industries Association)
Tom Shields (Chemical Sciences Scotland)
Paul Simpson (Syngenta)
Professor Christopher Spray (Loch Lomond and Trossachs National Park)
Sally Thomas (Scottish Natural Heritage)
Dr Paul Walton (RSPB Scotland)
Kate Young (CHEM Trust)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 11 December 2018

[The Convener opened the meeting at 09:35]

Decisions on Taking Business in Private

The Convener (Gillian Martin): Welcome to the committee's 37th meeting in 2018. I remind everyone to switch off their mobile phones, as they may affect the broadcasting system. The first item on the agenda is consideration of whether to take item 5 in private. Are we all agreed to do that?

Members *indicated agreement.*

The Convener: Do we also agree to consider evidence on biodiversity funding and implementation in private at future meetings?

Members *indicated agreement.*

Biodiversity

09:36

The Convener: The second item on the agenda is evidence on biodiversity funding and implementation. I am delighted to welcome Eleanor Kay, the agriculture policy adviser for Scottish Land & Estates; Andrew Midgley, the environment and land use manager for NFU Scotland; Calum Duncan, the head of conservation in Scotland for the Marine Conservation Society; Professor Christopher Spray, a park authority board member for Loch Lomond and the Trossachs National Park; Jonny Hughes, the chief executive of the Scottish Wildlife Trust; Dr Paul Walton, the head of species and habitats policy at RSPB Scotland; Anna Lawrence, the vice-chair of the Community Woodlands Association; Dr Rob Brooker from the Scottish Environment, Food and Agriculture Research Institutes; and Sally Thomas, the director of people and nature at Scottish Natural Heritage.

We have decided to take evidence in a round-table—thus less formal—format to allow us to explore a wide range of themes in the time that we have available. There is no expectation that our panellists will want or be able to answer every question. Committee members might ask specific individuals for their feedback; others should feel free to chip in if they have anything to add. There is no expectation that everyone will answer every question from the committee. In fact, if you focus on your own area of expertise whenever possible, that will give us a real flavour of what is happening across all your various interests and sectors. If you want to comment on any particular theme, raise your hand and I or the clerk will bring you in. The same goes for committee members.

I will start by asking you for your feedback. What do you see as the current challenges in what can be delivered on the ground in terms of funding for biodiversity?

Dr Paul Walton (RSPB Scotland): Some of our key wildlife populations are in quite a lot of trouble. Scotland's internationally important population of seabirds has declined by 38 per cent since about 1990, over all the monitored species. Half of our incredible native woodlands are in poor condition—inside protected areas and outside protected areas—and climate change is proceeding. The issue of invasive non-native species is intensifying. That is a global issue but it is also happening at a European and a Scottish scale, and it is likely to work in synergy with climate change. There are also major challenges facing biodiversity—indeed, many people think that we may be entering a sort of global biodiversity crisis.

Against that backdrop, the sources of funding to build resilience in our national wildlife populations are evaporating quite quickly. According to the Scottish Parliament information centre briefing, the SNH budget has gone down by about 26 per cent over the past five years. The Heritage Lottery Fund, which has been massively beneficial to Scotland in providing biodiversity funding, is becoming increasingly competitive and its income is going down because people are buying fewer tickets. The prospect of Brexit means that we will lose one of the key sources of funding for biodiversity, and there is also the prospect of a requirement for wholesale reorganisation of how we fund land management support into the 2020s.

RSPB Scotland sees an intensifying need for funding and a drying up of funding sources. That is the context in which we are taking part in this discussion.

Dr Rob Brooker (Scottish Environment, Food and Agriculture Research Institutes): From a research point of view, there is a clear need—which is identified in many of the written submissions—for action on the ground and for evidence-based land management and policy decision making. Declines in and shortages of funding for biodiversity work have had an impact on our capacity for research and monitoring. We have seen a decline in the number of ecologists and researchers employed by some research institutes. For example, between 2011 and 2018 at the James Hutton Institute, we saw a loss of 58 per cent of the biodiversity and ecosystem group's ecologists, or 35 staff members.

That funding stream is seen as being relatively risky because there is no alternative funding from other sources such as Research Councils UK or horizon 2020, so we are losing capacity in the scientific expertise that supports evidence-based decision making. We are also struggling in terms of monitoring—the Scottish biodiversity information forum recently put out some strong messages about the lack of capacity and the lack of available monitoring data.

The Convener: You mention expertise. Why is that happening?

Dr Brooker: Why is it declining?

The Convener: Yes.

Dr Brooker: At a time of reductions in funding, research institutes will look to see which areas of research can draw in alternative funding. Money is coming into areas such as crop breeding from industrial sources or from horizon 2020, which is the big European Union funding stream, but biodiversity research and nature conservation-orientated areas of research have no alternative funding streams. Therefore, as Scottish Government money declines, biodiversity is seen as a risky element of the institutes' research portfolio.

The Convener: Might people specialise in another area to advance their careers because they know that there is a lifetime of funded work there?

Dr Brooker: I think so. We have seen a loss of staff, and we have seen posts removed, so we have lost expertise. As well as no new people coming in, because they are not being encouraged to do so, we have lost capacity and knowledge as people have left the organisation.

The Convener: Have the implications of the Brexit vote had an impact on any of the funding streams or on the continuation of research? Horizon 2020 is obviously going to last only for a certain amount of time. Is that a factor?

Dr Brooker: There are obviously concerns about that, and there is a desire for the funding stream to continue into the future. There have been some quite positive noises about the fact that the UK would contribute to that funding stream, so we would still be able to buy in. However, not a lot of that money is now coming into what we would think of as classic biodiversity research.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I will develop the point that the convener has led on. In particular, I wonder whether the necessary skills exist now. Rob Brooker has talked about the academic side, but we also need skills on the front line so that people can actually do things rather than just talk about doing things. Both are important—I am not trying to set one against the other—but I wonder to what extent we have those skills.

Do we have programmes waiting to be funded, or do we need additional funding to develop the programmes that will need funding? I am trying to take the funding aspect out of this issue and link it to other things, because I am sure that funding will not be the only inhibitor to making progress. Rob Brooker also mentioned monitoring, which is not only an academic activity but a front-line process. I am interested in finding out about the inhibitors to progress that are not simply about, but are linked to, funding.

09:45

Professor Christopher Spray (Loch Lomond and Trossachs National Park): Perhaps I can answer that question wearing a slightly different hat from my national park one. I chair the UK Government's special protection area and Ramsar (avian) scientific working group, and we have recently written to all the chief scientists in the UK's devolved Administrations to highlight the risk

of the lack of monitoring for the provision of evidence-based policy. As a distinct group of scientists who are giving advice, we are concerned that the decline in monitoring, a lot of which is driven and supported by non-Governmental organisations—I am thinking, for example, of the statutory conservation agency and RSPB annual breeding bird scheme, or SCARABBS, the British Trust for Ornithology, the RSPB and others—poses a serious risk to the ability to provide the evidence upon which policy can be built.

Finlay Carson (Galloway and West Dumfries) (Con): The RSPB has suggested that there is a low level of funding for the national nature reserves and so on. What role could national parks play in providing funding? We have seen evidence that the parks could be sustained by the revenue generated from additional tourism, and in previous evidence sessions we have heard that certain biodiversity measures can be rolled out more easily in national parks. I am sure that Professor Spray will have something to say about that, but does the panel as a whole see national parks as a route to more sustainable funding for biodiversity?

Dr Walton: Absolutely. However, although national parks could co-finance very important biodiversity projects, those projects would fall within their boundaries. I recently read a scientific paper that, broadly speaking, analysed how biodiversity could be delivered in this country and concluded that, although protected areas and nature reserves are essential to that work, they are absolutely insufficient to do it properly. That paper was written in 1912 and published in edition 1 of the *Journal of Ecology* by the British Ecological Society.

We have, therefore, known for over a century that we need a robust network of protected areas that are in good health and that we need to integrate biodiversity thinking across land-use sectors. We put biodiversity on one side and the rest of the rural economy land use on the other; however, unless we integrate them, we will not manage to hit biodiversity targets. That is quite a central issue. For a start, does the committee carry out formal scrutiny of the Scotland rural development programme, which is probably the most important source of funding for biodiversity work? That kind of integration is a challenge—I am not saying that it is easy; it is difficult—but I know of no professional conservationist who is opposed to rural industry or rural businesses. We need to get that integration. As has been said, knitting these things together across the sectors is the big challenge, but that is where the efficiencies and the preventative spend lie and where we will be able to leave future generations a better environment.

Professor Anna Lawrence (Community Woodlands): I support the remarks that have been made about the need to integrate different kinds of land use and about funding, and I will make three points.

In Scotland, there are more than 200 community woodland groups, more than 100 of which own their woodlands. That is not quite as many as one might expect, but the number is growing under the land reform agenda. There are three issues that relate to the funding of their work. First, one might expect the Scotland rural development programme to be an important source of funding, but the SRDP in relation to forestry is very skewed towards establishing new woodland rather than managing or maintaining existing woodland. There are grants for existing woodland, but they are very limited. A shift towards supporting woodland management could make the SRDP a much stronger component of the funding.

It is important to say that many community groups first enter into a relationship with woodland because they are motivated by biodiversity—they get excited by certain species. Those are sometimes the iconic species, but sometimes they are not. In my woodland, in Peebles, we were attracted by the currant shoot borer, which has a tiny and inconspicuous caterpillar. That is what led us to organise buying the woodland.

Secondly, there is currently significant financial support for the purchase of community land through the Scottish land fund, which is quite important for community forestry. Many community groups are being encouraged to make the case for productive woodland management. I am on the community asset transfer scheme panel for Forestry Enterprise Scotland, and I assess applications by communities to buy land from Forest Enterprise. I am very aware that, when communities buy a commercial plantation of several hundred hectares of Sitka spruce, they often shift towards a much more mixed forest management system with a greater mixture of species, using more sympathetic woodland management approaches. That goes back to Paul Walton's point that it is not about the polarisation of land users. The Scottish land fund is not funding for biodiversity, but it is an important step in the current mechanism, which is available only until 2020.

Thirdly, before I came here today, I consulted widely with my colleagues and with volunteers in the Community Woodland Association, and they said that, although biodiversity is a highly motivating component of what community woodland groups do, it is extremely unsexy in relation to attracting funding. The groups are often doing a bit of habitat maintenance—cutting back weeds and so on—rather than high-profile work

such as supporting the golden eagles and bringing back wolves. It is difficult to get funding just to keep things going, whereas high-profile activities bring in lots of new project money. We hear all the time that groups need funding for insurance or for protective clothing for volunteers. It is not a huge amount of money, but it is what keeps things going. Without that funding, the work would not happen.

Sally Thomas (Scottish Natural Heritage): I will return to the question of national parks, picking up on Dr Walton's comments. One of the benefits of our national parks is their ability to work across a wider landscape on a scale that is comprehensible to stakeholders. As organisations, they have the ability to work on issues with the stakeholders on their patch, which is a really effective way of helping people to understand the importance of biodiversity locally and the importance of nature and the local environment for their business. That is a useful scale on which to work—not necessarily on the scale of the entire national park, but on a landscape scale—and it is apparent in the national parks because of the tourism interest. The parks can help businesses to understand the importance of running their business in a way that complements and benefits the natural environment, and they can potentially encourage them to invest financially in the environment, given that it supports their business.

Calum Duncan (Marine Conservation Society): I will provide a marine context for the status of biodiversity. Scotland's marine atlas makes it clear that there are big concerns across marine biodiversity, particularly about subtidal sediments and the decline in elasmobranch species—sharks, skates and rays—as well as seabirds and harbour seals.

There are huge pressures on our seas. There have been some welcome policy responses to that, not least Scotland's marine nature conservation strategy, which has a three-pillared approach embedded in it. To pick up on some of the points that Paul Walton made in the terrestrial context, that nature conservation strategy recognises that we need a well-managed network of marine protected areas and protection for the most vulnerable species, as well as wider seas measures such as marine planning and fisheries management to deliver for biodiversity protection. The recent reports of incursions of scallop dredgers into MPAs highlights the on-going risk to biodiversity from some of our activities at sea and the importance of effectively resourcing our compliance capacity in Scotland to protect that biodiversity.

The SPICe briefing shows that Marine Scotland's budget has gone up in real terms, which is welcome. The committee helped to secure extra funding for Marine Scotland to progress a quicker consultation on the next group of nature conservation MPAs, which is to be commended and welcomed. However, to put the issue in perspective, five sixths of Scotland is sea—the marine area of Scotland is 470,000km²—and Scotland alone has 20 per cent of the EU coastline, but there are only two fisheries protection vessels for Scotland. To put that in perspective, there are 10 inshore fisheries and conservation authorities in England, many of which have their own vessels. Sussex alone, with a coastline of 80 miles, has two fisheries vessels. The recognition of the value of our seas and the increased investment, such as the real-terms increase in Marine Scotland's budget, are to be welcomed, but we need to put such things in perspective.

We welcome the partnership working that we have done with SNH over the years on projects such as seasearch. Because there is so much coast and biodiversity, our citizen science divers are under the water to help to build the evidence base, so continued investment in that work is really welcome and valuable.

Jonny Hughes (Scottish Wildlife Trust): I want to go back to the initial question about where we are with biodiversity funding. We have 18 months left to deliver the strategic plan for the Convention on Biological Diversity—the so-called Aichi targets—in Scotland. However, over the past eight and a half years, all the funding sources to deliver that strategic plan have, in essence, gone south. Paul Walton mentioned a few of them. SNH's budget has been cut in real terms by 26 per cent and we know that we are getting 20 times less from trusts, foundations and lotteries than the equivalent organisations in England and Wales get. We now have the perfect storm of Brexit and will potentially lose crucial funding sources such as the LIFE fund, which has brought in more than £25 million to the Scottish economy to deliver nature conservation projects.

Over that period, I have seen a decline in the governance around biodiversity in Scotland and a year-on-year loss of commitment. A vibrant governance system had been set up, which involved civil society as well as Government. Quite ambitious targets were set, with regular consideration of whether there was enough budget to deliver them, and the agenda was set together. Basically, that has disappeared. The civil society sector now has little involvement in biodiversity governance. The issue is very much in the bailiwick of Government, and the non-governmental organisations do their own thing. As well as the severe decline in funding, there has been a loss of collaborative working, which is to the detriment of us all.

I want to make a couple of specific points about the consequences of that. There are two economic consequences. One is that there is a lack of certainty for investment from the private sector. Moors for the future is a long-standing programme of peatland restoration work in the northern Pennines that has led to real innovation in that sector. For example, the company BeadaMoss has come up with innovative ways of seeding sphagnum in moorlands.

10:00

A lot companies have set up because they know that they are going to get that year-on-year investment, and that they are going to have a business in ten years' time. However, in Scotland, we have lurched from having a good funding package one year to that suddenly drying up the next year. We need to give certainty to the private sector and spark that innovation. By not fixing things in the short term, we are costing the country more in the long term.

There is an economic consequence of not making that investment in biodiversity. A classic example of that is invasive non-native species such as rhododendron: if you do not fix the problem with £1 million now, it will cost you £10 million in five years' time. Another example is restoring the upland catchments. If you do not make it much more difficult for water to quickly run off them, you will be faced with colossal flooding bills in the future.

A stitch in time—or preventative spend approach—and providing certainty to business can lead to a better economic situation, particularly in remote rural areas, as well as delivering biodiversity conservation and allowing us to deliver on our international commitments.

The Convener: I am going to come back to Professor Spray and then bring in Andrew Midgley.

Professor Spray: I come back to the national parks question. Picking up on what Paul Walton and Sally Thomas said, the national parks see themselves in a very good position to take forward parts of the biodiversity agenda, particularly with their well-proven ability to look at it in an integrated way across large areas, although we recognise that having regional targets is important. In particular, assessing the particular priorities of local communities is where we can make progress.

There are great opportunities. We are not very much of a direct funder, as such, but we are, in many ways, a facilitator and an enabler. However, sources of funds such as LIFE, and, in particular, LEADER, which embeds itself into communities, looks at their social and economic cohesion and links that to biodiversity outcomes, are key.

We very much welcome the opportunity to be used as a test bed and a trial. We have been doing our own trials. The Strathard initiative, on which we have been working with SEPA and others, is a very good example of linking ideas in communities about things such as natural flood management and delivering on biodiversity.

If one gets communities involved, one can do a lot. We have engaged with communities in the Glen Dochart wading birds project, and we have a very good project on black grouse in Callander. Those projects are localised, but they are trying to achieve a landscape effect. They look across not just biodiversity but the wider benefits, and they try to get that breadth into the general narrative.

The Convener: Before I bring you in, Andrew, I want to tack on a little question to you on behalf of your members, who are farmers. We were talking about funding streams for biodiversity, but there are also funding streams for other kinds of land use. Can you see a case for building in a commitment to biodiversity into licensing for land use, or maybe into funding streams such as farm subsidy payments? Would you see that as something that might happen in a post-Brexit situation? Could we look at building biodiversity commitments into other funding streams?

Andrew Midgley (NFU Scotland): I will start by addressing your first question, which was about what are the current challenges regarding what can be delivered. A key element is the agri-environment climate scheme and its delivery. It changes every year, but at the moment we spend approximately £40 million a year through the scheme, which goes to farmers and land managers. The RSPB did some work a few years ago about what the budget would have to be to allow us to do all the things that we wanted to do. The RSPB will correct me if I am wrong, but it was in the order of more than £400 million, so we are spending only a fraction of what would be required. That is the first point—the amount of money that we spend is not enough to do what we would want to do.

The second point is on how the scheme works and whether there are challenges there. My understanding is that the number of applications and the amount of funding that has been spent in the most recent year are smaller than they have been in previous years, so they are going down.

The issues that we start to get into in the delivery of that sort of scheme are around design—there are ways in which we could do them better—and the uncertainty around Brexit. People do not necessarily want to make big commitments about going into schemes when they

are not sure of what the broader framework will be when things change. There is therefore a big question about what more we could do on agri-environment.

I have to agree that there is an issue around integration. In a previous role, I was involved in trying to implement the Scottish biodiversity strategy, but I then moved from working in conservation to working in land management and found that there is a different way of approaching the big issue of integration. That brings me to the associated issue of conflict, because there are land managers who are suffering from the consequences of some of the successes. We have done well in protecting some species in biodiversity, but some land managers feel that that has become a problem. If we want to get more people on side on integration, we must be conscientious in dealing with conflicts to ensure that we do not create another reason for there not to be integration—and that also costs money.

We should therefore put money into the proactive stuff to protect and enhance biodiversity, but we also need to ensure that we invest in those areas where there are issues that need to be dealt with. We do that, but our members are knocking down our door about conflicts, because they are not being sufficiently resolved.

On your question about how things can be built for the future, Brexit is obviously the key issue that overshadows everything, and we do not know how that will play out. However, if it transpires that we create our own agricultural policy in the context of the UK, NFUS has suggested that a different payment regime should be introduced. The idea is that there would be a base financial stability payment and, on top of that, additional payments for undertaking environmental measures. Those could be non-competitive, in that farmers could say that we would do something and, as long as we did it, we would receive a top-up. There would also be competitive schemes on top of that. We can therefore build into a future policy regime an emphasis on delivering for biodiversity. We think that that is entirely consistent with where we would like to go.

On the emphasis on delivering for the public good, we would probably end up in a conversation about exactly how we do that, because we would get into questions around how we would do payment mechanisms and conditionality. However, delivering for the public good is possible.

I am not so sure about licensing, because there is already a licensing regime that is very specific on different things, as guided by different legal instruments—for example, there is quite specific licensing for dealing with species, water or any form of operation. However, it is a different question for broader funding schemes.

Eleanor Kay (Scottish Land & Estates): I agree with an awful lot of what Andrew Midgley has just said, particularly on the idea of integrating things far better. We cannot address land management and farming separately from biodiversity; they have to work together. To that end, there is a lot that can be done in terms of knowledge exchange, which I focused on in a previous role. Farmers and land managers do an awful lot already and many of them are involved in things such as Linking Environment and Farming and the idea of linking their environmental management to the agricultural practice that they follow. They are not paid to do that, but they recognise the economic benefits of farming and managing land in that way.

It is important that we do not look at just what pots of money exist for people to apply to. We are perhaps not explaining fully to land managers, farmers, crofters and communities in general that there is a benefit in delivering biodiversity and other environmental targets, because they are interlinked.

Equally, a lot of land managers feel that the application processes for things such as the agri-environment schemes have perhaps become too onerous and complex, and they sometimes lack an explanatory booklet that would help them to deliver the maximum benefit for what they are being paid to do. They do not always include all those members of society who could contribute to biodiversity, including crofters, tenants, communities and larger private sector companies. If we are going to deliver the biodiversity targets that we are setting ourselves, we have to include everyone. Everyone has to buy in. We cannot focus only on land managers as the ones who have to deliver absolutely everything.

Beyond that, we need to recognise that there might be some trade-offs. There are areas of Scotland that are perfectly set to deliver high levels of biodiversity, but we also need to keep producing food, so we need to work out where to target our delivery of biodiversity. If we have national targets, the regional targets may be quite different from them, and we cannot be too prescriptive about how they are achieved.

My other point is that the wildlife estates Scotland initiative is a well-recognised method of measuring biodiversity on estates and looking at ways in which biodiversity and land management can be improved for environmental benefit. The tools exist; we just need to roll them out further.

The Convener: We have heard from everyone on that open question and a lot of members want to come in and pick up on some points. It would be

helpful if members could direct their questions to certain individuals.

Mark Ruskell (Mid Scotland and Fife) (Green): My question picks up on the initial discussion. The biggest spend in the European Union is obviously on agricultural subsidies, which seem to be an area in which we are struggling to integrate land use and deliver against our Aichi targets. Panel members might have seen last week's session, when we questioned the Cabinet Secretary for the Rural Economy and the Cabinet Secretary for Environment, Climate Change and Land Reform on what the post-Brexit subsidy landscape might look like and what opportunities there might be.

What should the Scottish Government be doing right now? The message that we got last week was that there is still a lot of uncertainty and that we cannot really move forward until we get certainty around the Brexit process. Do any panellists have a clear vision of what the Government should be doing right now to embed biodiversity in future agricultural subsidy? What will that look like in terms of governance and developing a vision at this point?

Jonny Hughes: One of the first things that my organisation did when the Brexit vote came through was to look at the one positive that we could take out of it, which was the potential to reform and deliver an agricultural policy—or a land stewardship policy, as we are calling it—for Scotland that is fit for purpose in the 21st century and which delivers for the Scottish people. We produced the document "Land Stewardship: A Blueprint for Government Policy". Although we welcome the £2 million fund that has been announced for biodiversity, it is a drop in the ocean compared with the money that comes through the mechanisms for agricultural, forestry and other land management support, which amounts to £640 million a year.

We need to think about how better to deploy that £640 million to deliver a range of ecosystem service benefits, including the production of healthy, quality, sustainably produced food, as well as a range of other societal benefits, such as clean water, healthy soils, vibrant biodiversity and a countryside that is welcoming and attractive to both tourists and locals alike, thereby helping to deliver health and wellbeing agendas. Basically, we have redesigned how that £640 million could be given out and set all of that out in our document. It is very much about integrated land use, breaking down the walls between the silos and trying to integrate forestry, agriculture and biodiversity conservation in an optimal way.

In the past in Scotland, we have tended to compartmentalise land uses—we have had rough grazing, Sitka spruce plantations, upland grouse shooting and so on—and treat them as monocultures that are siloed off from each other. The future lies in integrating those land uses and delivering more benefits in the process. That demands a complete redesign of current common agricultural policy, which we largely get from the European Union.

I commend our "Land Stewardship" policy document to the committee. It sets out our vision and is consistent with what many colleagues in Scottish Environment LINK are saying. It is also consistent with what many member state Governments have been calling for in Europe for quite a long time.

This is a time of opportunity as well as considerable uncertainty and threat. We must grasp the policy opportunity in the next couple of years.

10:15

Dr Walton: I agree with that and, in answering Mark Ruskell's question, will build on that and touch on some of the points that Eleanor Kay and Andrew Midgley were making about what integration would look like to a farmer or forester on the ground. There is the idea of a national ecological network. I know that that has the potential to become just another three-letter acronym, so the committee will want to know what it refers to. It is about achieving integration across the wider country. At its core would be a network of protected areas, which are in good condition and would provide a mechanism whereby we can achieve the regional specialisation that is required by figuring out how biodiversity can be delivered on the ground as part of individual rural businesses' product. We see that as providing biodiversity for public good and public money for public good.

Scottish Environment LINK has done a lot of thinking about what the national ecological network might look like and we have shared that thinking with Scottish Natural Heritage. We had a big day together at which we developed the idea together in a very positive way, and land managers and land users were in the room as part of that. Unfortunately, the idea has hit a bit of a stumbling block because certain officials see it as people trying to designate the whole country for wildlife through the backdoor. It is a great shame that it has rather hit the buffers.

Everyone keeps coming back to the point about integration, and we will not succeed in biodiversity conservation unless we integrate effectively—that is not just a nice thing to do; it is required if we are to hit current and future biodiversity targets.

The network is a really progressive idea. We have done some very productive work with SNH

on it at the conceptual stage, but we need to move the idea on—and that is something that the committee could potentially help with.

Claudia Beamish (South Scotland) (Lab): I have a broad question on the back of many of the comments that have been made. People who gave evidence to the previous Environment, Climate Change and Land Reform Committee will remember that the convener, Graeme Dey, was keen on having a more robust, statutory land use strategy. Is there a place for that? Witnesses will have to be brief because we are short of time, but perhaps we could follow the point up later.

Professor Spray: I will take my national park hat off again. Along with the Scottish Borders Council and the Tweed Forum, I was one of the people who delivered the pilot land use strategy for the Scottish Borders. I also had the opportunity to spend 2016 as a knowledge exchange fellow, embedded in the Welsh Government while it developed the Environment (Wales) Act. One of the things that they have done in Wales—I recommend that we take a close look at this as a learning point—is to put a good legal framework around their land use strategy. Every public body in Wales is legally required to enhance and maintain ecosystem resilience, which is defined in the act, and that can then be taken forward locally, in area-based schemes, in a series of ways, so one can look at not just biodiversity but the whole suite of ecosystem services. Having that legal framework rather than telling people what to do at the coalface is very powerful indeed. The public service boards then check that things are happening as they should. I recommend that as a good model to consider.

The Convener: Dr Brooker, do you want to come in?

Dr Brooker: Yes. My answer touches on both questions. From a research point of view, we should build on the evidence base that we have. For a lot of the work that we have done in the current programme, the Scottish Government has rightly challenged us to get much more practical and pragmatic—this is about getting things done on the ground. A lot of the work has been about alternative funding structures and payments for ecosystem services; and we have also done work on land use pilots, which Chris Spray talked about. Therefore, we have information on how alternative governance and funding mechanisms might work and we can now feed that information into discussions about what integration would look like in the future.

Some clear messages have come out of that. For example, payment for ecosystem services requires more support structures underneath and much better monitoring data. Independent studies that are not associated with Scotland show that if we move in that ecosystem direction, we must have closer monitoring. However, the delivery can be much better as well, which means that the investment is paid back in outcomes.

Therefore, those things should come together. We could be taking the information that we have and the learning from working with, for example, the park authorities, to help to deliver practical solutions on the ground, and then we can move on to discussions about what future funding and management structures will look like. We can build on what we have in our hands already.

Andrew Midgley: The issue of future agricultural support is critical. I have a degree of sympathy with the Government's position, because agricultural support is so important to the farming industry that we must be careful about how we change it, although that is not to say that we should not do so. We agree that agricultural support should and will change; the question is how we go about that.

We want to ensure, in particular, that we keep people farming in high biodiversity areas, because they do things that conservation needs them to keep doing. We must ensure that any change to the agricultural support regime enables those people to continue farming.

On what we are doing now, we are in the realms of wanting to try to design something, but first we need real clarity on what we want to achieve in the longer term and the direction of travel. We have been calling for that, and the Government has taken on board various inputs from advisory groups and so on. We are moving towards having a good idea of what we will do, but we are not finally there. Once we reach that point, we will be able to have conversations about delivery and possible trials. The Government will be setting up several pilots and will seek suggestions through a consultation in the summer—that is a positive move. However, being able to decide on the delivery mechanisms will depend on having clarity about what is being delivered and on the direction of travel.

Anna Lawrence: I will respond to Claudia Beamish's question wearing a different hat—as convener of the Forest Policy Group. The consultation on the draft new forestry strategy closed two weeks ago, and I was involved in various workshops and networking behind the scenes to prepare different consultation responses. Stakeholders across the board raised their eyebrows at the lack of a reference to the land use strategy. It is referenced in the draft forestry strategy, but the land use strategy refers to the Scottish forestry strategy being nested within the land use strategy, and we would like to see that strengthened and the land use strategy being respected as providing the overarching

umbrella. It is a very good strategy and it would make a lot more sense for forestry to sit within it, but the reference to the land use strategy was weak in the draft forestry strategy, and that was a cause for concern.

The Convener: A number of members want to ask additional questions, but we will go first to Calum Duncan before I invite John Scott and other members for their questions.

Calum Duncan: We have talked about subsidising land use but, to provide an analogy, for drowned land—the seabed—there is a source of funding to help fisheries and other marine users to innovate, which is the European maritime and fisheries fund. That goes back to the first question about potential funding pots and concerns about EU exit. We welcome the fact that the minister's letter to the committee on the Fisheries Bill recognised the importance of the EMFF for marine environmental outcomes. It is important that, whatever the future of that funding pot or whatever is put in place subsequently—a Scottish portion of a UK prosperity fund, for example—the resource must follow need.

As I have said, most of the seas around the UK are off Scotland. It is important that the funding helps to further progressive fisheries and ecosystem-based fisheries management, and a lot of the industry is very supportive of that.

On what can be done now, recent events in Loch Gairloch and the Firth of Lorn have highlighted support for action from right across civic society, including the industry, which, for years, has been calling for the roll-out of vessel monitoring systems for all vessels, for example. I see that as a form of preventative spend because, if everybody knows where everybody is operating, the vast majority of the industry, which is responsible, can operate with confidence that a few rogues are not operating where they should not be, such as in MPAs. We need to think about the successor to the EMFF, which should support and incentivise the most sustainable forms of fishing.

The Convener: Am I correct in thinking that no replacement for the EMFF has been mooted?

Calum Duncan: Yes; to my knowledge, none has been mooted. We need to have that thinking in mind when talking about subsidies.

The Convener: I will bring in other panel members in a minute, but John Scott is eager to come in on some of the issues that have been raised.

John Scott (Ayr) (Con): I declare an interest as a farmer and a member of NFU Scotland.

I want to go back to the issue of support for all the different agencies that are represented. My question is for all of you, and maybe even for Andrew Midgley as an end user.

The decline in support for SNH has been dramatic and there has been declining support for the Forestry Commission, SEPA and the national parks. Where is that declining support having the biggest impact? At SNH? You have to represent the silos that you are in, so to speak, but I ask you to take off those hats for a moment. Is there a consensus on that? You get the support that the Government gives you, but I am interested to hear what you say collectively about which one area is self-evidently the worst affected. Is it the marine area or SNH? I do not know, but I am interested in your views on that.

The elephant in the room—this has not been much discussed at all—is the effect of climate change on species. In my lifetime, which is longer than the lifetimes of most people around the table, I have seen species decline, and that, I think, is related to climate change as much as anything; it is not necessarily man made. In effect, are we trying to push water uphill and keep things as they are when climate change appears to be coming inevitably towards us? I despair, because I do not know how much we will manage to do about it.

Professor Spray: In answer to the first part of the question, because a lot of the national parks' work is collaborative, as it is for everyone else, a particular concern is the loss of key financial support for the maintenance and revenue of community and NGO groups, whether the Rivers Trust or the Tweed Forum—support beyond project funding. Community groups and NGOs need revenue. That goes back to Stewart Stevenson's point about maintaining capacity and competency to enable collaboration at the local and regional levels.

10:30

Jonny Hughes: I will join up those two questions, if I may. On Claudia Beamish's point, the land use strategy said all the right things. It brought together a lot of organisations with different views and it started to achieve integration. However, it was then given no clout. That is part of the story that I mentioned about the unravelling and undermining of biodiversity governance over the past decade. It was not given any teeth for implementation, because it was completely disconnected from the £640 million that I was talking about a minute ago.

I keep coming back to the point that we can have discrete funds for little projects here and there, but none of that will amount to much until we get that £640 million working to deliver biodiversity targets alongside other land stewardship targets, and indeed agricultural policy

objectives. Until we do that, we are fiddling while Rome burns, because that is the huge pot of money.

To back that up, we absolutely need a strong SNH, because SNH will have a key role in advising land managers on the transition and on what the new world of integration will look like. If SNH's budget is being cut year on year, that will be difficult to achieve, but we need that kind of institutional back-up to ensure that we are making optimal use of that money in the future. That is why I think that SNH's budget being cut is an important issue. It also has knock-on impacts for organisations such as the Scottish Wildlife Trust, because we were a recipient of grant from SNH, but that will go down to zero in the next two years and we will no longer get any core funding from SNH in future.

That has a big impact on the money that we can raise for the Scottish economy and can spend, in particular in some of the remote rural areas. We used to turn every pound that SNH gave us into £4 or £5 from other sources through matched funding, but we will no longer be able to do that because we will not have the core income to do it. That has an impact not just on biodiversity but on economic activity in the places where organisations such as the Scottish Wildlife Trust work.

Finlay Carson: Is one of the main issues that there is no emphasis on core funding or revenue funding going forward? We see projects—perhaps run by the Woodland Trust or whatever—getting initial funding for innovative schemes and dragging people in, but five years after the funding finishes they have no money for a facilitator or for the tools and they just stop. The biodiversity that has been protected there is no longer protected because there is no project for LEADER to fund, the projects are no longer innovative and the on-going protection of those sites cannot continue. At other meetings, I have brought up the fact that even if a site is not on the doorstep but is 60 miles from anywhere and is not visited, we should not think that the species there are any less important than ones in the central belt or in areas that people visit and where there are walking routes. Is the main issue a lack of emphasis on on-going core funding? Is that what SNH finds difficult to continue on a long-term basis?

Dr Walton: In my view, the cut in the SNH budget is a critical issue, but the answer to your question is also about getting it right when there is an intervention. Invasive rhododendron has been an issue in our woodlands. As you say, a three-year project might get European money and some Scottish Government money, and the rhododendron is cleared, but then the project stops after four years and after that the rhododendron reinvade, and it is really expensive to control. However, if you clear rhododendron at the right scale—at catchment scale—so that the nearest invaded areas are far enough away that you can protect the site with a smaller budget for biosecurity, you can achieve sustainable progress.

In our view, progress is about building the resilience of Scottish biodiversity to the challenges that it faces in future, including climate change. The sea bird declines are definitely linked to climate change, which is driving major, fundamental ecological changes in the marine environment around Scotland. There is no doubt about that, and the declines in sea birds, as top predators, are indicators of that problem. However, we can build resilience in our national sea bird population. They need predator-free islands on which to breed—they do not do well on islands with rat and cat populations. Therefore, we can do restoration work—the National Trust for Scotland led on such work on Canna, and RSPB Scotland recently led on some on the Shiant Islands—to make new breeding sites so that our sea birds are able to get at the rather unpredictable supplies of food that will be available in future climate change scenarios.

Building resilience is a critical part of what we do, and planning to get it right is really important. That needs to be based on evidence and on the science that Rob Brooker talked about, but it also needs to be based on helping land managers to do the right thing. That is where the national ecological network would come in, because it would be one of the key vehicles for delivering the land use strategy. It would almost create a new advisory community that would be focused on sensible regional and local biodiversity targets and would work with rural business to extend the benefits of protected areas. Those advisers would be trained in identifying their local priorities and in how to help land managers deliver them and how to oil the wheels. The network would also be a mechanism by which we could improve monitoring, which is one the big gaps in terms of land management support payments and understanding the effects of land management. I commend to the committee the developing idea of the national ecological network as something that could meaningfully make a difference.

The Convener: A number of our panellists have indicated that they want to come in. I will go come to you all, starting with Andrew Midgley.

Andrew Midgley: The question was about where the biggest impact is being felt. I will give a couple of examples. The first one, which is high up on my agenda, relates to contentious wildlife issues. There are a range of issues, to do with sea eagles, geese and beavers, for example, that are sensitive, difficult to deal with and contentious.

Given the nature of those issues, a lot of time needs to be invested in them to deal with the political relations between the different interested parties. To give credit to the people who are involved in those issues at SNH, they are doing the best job that they can, but my perception is that we are not making fast enough progress. That is an example of where the impact is felt, because if more resource could be devoted to that, we would, I hope, make faster progress.

The second issue relates not to direct biodiversity funding, but to the outcomes of the sorts of things that the Scottish Environment Protection Agency is doing and which would have benefits for biodiversity. In the first round of planning work on diffuse pollution, SEPA did some work around priority catchments. It identified areas where it wanted to look at the degree to which the general binding rules were being adhered to, and it sent people to walk to the catchments and speak to farmers. On the first visit, they would say "This is what we have found. We would like you to make some improvements." It was a very resource-intensive process, but in doing that, SEPA changed the nature of its relations with the farmers and land managers. It is a regulator, and nobody likes to like a regulator, but instead of waving a big stick and saying, "You are breaching these rules", it said, "We want to help you to improve your compliance." That was very resource intensive but it was a good thing and we are very supportive of the way that SEPA did it.

However, in the second round, SEPA has trimmed back on that a little bit because it is a costly thing to do. That is understandable, but it is an example of where budget constraints potentially limit the relations between the different interested parties.

My final example also relates to SEPA and is to do with intensive agriculture. The sector for pigs and poultry falls within the pollution prevention and control regime, including the control of ammonia emissions, which have an impact on designated sites. I believe that that team is gradually becoming increasingly stretched and is trying to do the same job with fewer people.

Dr Brooker: I will try to cover all those issues. I have already argued that there has been an impact on our knowledge base, research capacity and monitoring. That impact is related to the impact on our support mechanisms, which Jonny Hughes mentioned earlier. There is a real need for the biodiversity sector—perhaps more than other sectors—to bring together a lot of organisations to deliver change on the ground. It is quite a complex landscape and a lot of goodwill will be needed to deliver that, so we need good knowledge exchange and co-ordinating mechanisms.

We have the structures in place, but the feeling among those of us who are heavily involved in them is that we just do not have the capacity to drive them along and get them to deliver anything. The structures are straining because of that lack of capacity and the fact that the staff are overstretched, so the problems are similar to those at SEPA that Andrew Midgley described. Maintaining the support structures to keep the information flowing between all the interested parties is therefore a key issue.

From a climate change research perspective, we have focused heavily on mitigation over the past few years. For example, there has been good investment in peatlands, which is fantastic, but that is partly driven by the mitigation agenda and the fear that if the peatlands are not restored or managed properly, they will become a net source of carbon dioxide and other greenhouse gases. A lot of the biodiversity work that we need to do more of is about adaptation and trying to understand how we can get species and habitats to deal with the threats of climate change.

Paul Walton mentioned work on resilience and the national ecosystem network. We are working on those issues with SNH in the current research programme, but it needs a lot more focus. We have mentioned the idea of a centre of expertise on biodiversity, which could have a role in driving research issues forwards and helping with the support mechanisms that we need to keep the information flowing between all the parties that are engaged in delivering the biodiversity strategy.

Anna Lawrence: I have two points on the issues that John Scott raised. On where the impact is being felt, I am sorry to add to the list, but an area that we have not talked about is local authority funding and the loss of ecologists and tree officers in local authorities. I am concerned about not just Community Woodlands work but a range of implementation work. However, particularly for work in communities and for urban biodiversity, which we have not talked about much, the loss of that local authority support, just in terms of advice and small amounts of funding, has had a phenomenal impact. A lot of the community work is just about little bits of money to keep things going—the non-headline stuff that we talked about. I want that to be put back into the pot. Another relevant example is that, as of this year, the Forestry Commission no longer provides community grants. There was a pot of only £5,000 for each Forestry Commission region, but £100 handed out here and there can make a big difference to communities in paying for insurance or whatever.

I cannot say which agency has the biggest impact, but we should not forget about local

authorities, because the loss of their funding is having a huge effect.

Secondly—and I am probably the least-qualified person in the room to talk about this—I come back to the sense of hopelessness that has been expressed about species loss. From my involvement in Borders Forest Trust's Carrifran wildwood project, I know that ecological restoration ties into ecological networks, and what comes out of that work can be phenomenal. We have dozens of insect species that have never been seen before in the Carrifran area; we have moths whose distribution at Carrifran is the most northerly in the British isles; and we have grasshopper warblers, which I heard previously only in the south of England.

John Scott: That is because they are coming north.

Anna Lawrence: Climate change is a huge part of that. However, one of the factors in habitat restoration is shifting baseline syndrome. We forget what was there 50 years ago and think that it is all about the changing climate, when in fact there has been phenomenal degradation of our uplands. When we do something to restore the habitat, the species that move back in are a cause for hope. However, we need to build on that.

Sally Thomas: I will touch on one or two of the issues that have been raised. First, we have pulled back from multiyear funding agreements with individual bodies in order to use our moneys to build multipartner, match-funded projects. Basically, we are trying to get more money into the pot through building partnerships with a range of bodies, rather than have a single funding agreement with individual bodies. We have been having discussions with the Scottish Wildlife Trust about its particular issues with our funding, but we believe that that is the right way for us to move forward.

10:45

In many ways, the issue of the legacy of projects once the funding stream has finished touches on the themes that we have been exploring about the need to build local capacity, engagement and involvement, whether that is done through local land managers, the local community or perhaps local interest groups. It is all about integration and building resilience to continue the work that has been pump primed or begun through a funded project.

Climate change is one of the most pressing issues that we face in relation to biodiversity. It has an impact on our species and habitats, directly and indirectly. In the work that SNH does, we are certainly alive to that in terms of adaptation and mitigation.

Species translocation, the creation of networks and habitat restoration to enable species to move through the landscape are all important in our work. I was at the workshop on the national ecological network that Paul Walton was at, which was extremely positive. We continue to work with Government, with which we will have discussions in the next few weeks about where we go with the national ecological network, so that is still very much a live issue.

On the governance issue that Jonny Hughes raised about the current biodiversity strategy, I have to say that I do not think that it is the case that NGOs and civil society are no longer involved in governance. The governance structure incorporates a range of working groups on different topic areas, such as species and habitats, science and landscape-scale collaborative projects. All those working groups have representatives from the NGO sector and some of them are chaired by the NGOs. They come together in a single co-ordination group, which is chaired by SNH and which oversees the governance of the whole programme for the Scottish biodiversity strategy and contributions to the Aichi targets for Scotland. The NGOs are very much involved, and we certainly recognise the enormous contribution that they make through work on the ground.

Calum Duncan: To respond to John Scott's point, in the marine context, we need Marine Scotland, SNH and, in offshore waters, the Joint Nature Conservation Committee. A great example of that was the development of the Scottish MPA network, which has stood up to robust independent scrutiny and which is held up as an excellent example of how to develop an MPA network. That was done with the input of NGOs and industry, including the fishing industry.

I will flag up a good example of the organisations working together, albeit in a rapid response way. Last year, the flame shell bed in outer Loch Carron, which it later transpired was the world's biggest such bed, was damaged by a rogue scallop dredger. The responsible part of the industry condemned that, and there was a rapid response from SNH and Marine Scotland science. That was exemplary, as was the decision-making response from the Government to put in place an emergency MPA.

That incident highlighted the vulnerability and exposure of many of our vulnerable habitats outside MPAs. As I mentioned, some habitats in MPAs are still vulnerable to incursions. The national marine plan is a good example of systemic thinking. It says that there cannot be significant impact on the national status of priority vulnerable features such as flame shell beds. That has triggered a wider review to improve protection

of priority marine features, and we look forward to the consultation on that next year. Just for clarity, we are saying that there is a case for putting in a seaward limit to protect some of those inshore habitats.

To link the issue to climate change, a lot of features, both inshore and further offshore, store carbon. As well as providing scientific advice from its excellent marine team and supporting our seasearch project, SNH is commissioning work on that. One report highlighted that 1,700 million tonnes of inorganic carbon is locked up in the shells of marine creatures and stored on the sea bed.

Many of the priority marine features, such as maerl beds and cold water coral reefs, lock up half a million tonnes of carbon in inorganic shell form per year. That is a small part of the 1,700 million, but the point is that it happens year on year—that carbon is sequestered on geological timescales. It comes back to preventative spend. If we protect those blue carbon habitats properly, they will deliver a whole range of ecosystem benefits. Many are also important for commercial fish and shellfish. There are multiple benefits from adequate protection.

To give a flavour of some of the good partnership working that is taking place, I go back to the Loch Carron example. There was an element of citizen science to that, because it was local divers who responded. Without those local people on the coast who understood what was happening, there would not have been that response. The initial proof came from local divers, including some who were doing seasearch dives.

The Convener: John Scott wants to pick up on a point that you have just made.

John Scott: It is a point that you have all made, in response to my question. You have all, not unreasonably, defended the areas that you represent, but is there anyone who stands above you all—SNH, for example? I suppose that the Government is standing above, but I do not know which is more important—protecting flame reef corals, peat bogs, a butterfly or whatever. Is there anyone who has an overarching view?

With declining budgets, it appears that we may have to pick and choose a little more than we have hitherto. Who is sitting over everyone and saying what is most important, which thing we must do, and which things are less important to protect? Is anyone in the Government doing that? Forgive me for not knowing. Perhaps the all-seeing and all-knowing cabinet secretary does that, but I am asking you.

Dr Walton: I am sorry. This answer may not satisfy you, but the environment is such a multifaceted entity—

John Scott: That is self-evident.

Dr Walton: —that arriving at a decision about what is the top priority is incredibly difficult. We need to reach a shared agreement as to where we think the main issues lie. That will have to involve a regional element and the business of integrating with other sectors. It is very encouraging to hear Sally Thomas say that SNH will focus on the multipartner project approach, because that is what the funders want. The Heritage Lottery Fund, which is a very important funder, says that it wants us to agree across sectors what our environmental priorities are and then go to them jointly with Government, SNH, NGOs and so on.

Jonny Hughes made an important point about governance. There has been a significant shift in engagement with the strategic development of biodiversity in Scotland among not just NGOs, but the Convention of Scottish Local Authorities and NFU Scotland, both of which used to sit on the Scottish biodiversity committee that was chaired by the cabinet secretary. There is an important point about the efficiency of reaching a stage at which we can make a unified approach to the external funding bodies.

I reiterate the point about the multiple benefits of biodiversity conservation. On peatlands, we know that if we want to conserve the golden plover, we have to do something about the tipulid fly that is the food for their chicks. The flies are suffering because of climate change and there is a problem with the timing of their emergence to feed the golden plover chicks. We can solve that by restoring the peatland. If we re-wet the peatland that has been drained, the flies respond and the golden plover responds.

Last week, “Nature”, the world’s foremost scientific journal, had a piece on the global importance of carbon in soils. It said that there are eight steps that humanity must take if we are to maximise carbon sequestration in soils. The number 1 priority is to take steps to ensure that peatlands are restored and not degraded any further. That is where delivering for biodiversity can deliver multiple benefits.

Finally, a fascinating recent study by SNH on a very difficult topic found that, for every £1 spent on biodiversity, we will save between £5 and £12 in human health budgets. We should all be aware of the link between biodiversity, conservation and environmental goods, and human health because it means not just millions of pounds saved from health budgets, but people not being on antidepressants.

We have to be mindful of such links and the multiple benefits of biodiversity. A bit of preventative spend can deliver enormous benefits for the people of our country.

Sally Thomas: Our aim in funding and co-ordination is to build up a pipeline of priority projects that we have agreed with the sector that we can present to major funders, such as the Heritage Lottery Fund. There is a prioritisation in funding in that respect. I suspect that that is not what John Scott was getting at. I suspect you were asking about choosing between one species or habitat and another, John.

John Scott: Your comment is on the delivery of that. It would seem reasonable for SNH to be the overarching body that prioritises a pipeline. I did not know that that happened, so what you have said is helpful.

Sally Thomas: In many respects, much of what we do is driven by the international biodiversity targets that Jonny Hughes mentioned earlier. Scotland has an obligation as a country and as part of the UK to do our very best to meet those targets. We will be working towards a new set of targets that will be set at the end of 2020. We are already very keen and have been engaging with the NGO sector and other partners to open that discussion so that we can collectively determine the way forward for Scotland, what we need to achieve and how we can work together better. It is a partnership approach and that is the way that we need to go.

Over the course of the autumn we held a couple of biodiversity brainstorm meetings, one of which was with the public sector and the other with a range of NGOs. Those were designed to kick-start the flow of ideas and creativity around how to engage the wider population and the public in biodiversity. That is an indication of the willingness to work in partnership to determine the priorities and actions that we need to take.

Jonny Hughes: I would like to pick up on the international dimension. I was at the 14th conference of the parties—COP14—on the Convention on Biological Diversity, which was held in Egypt a couple of weeks ago. We were beginning to shape the post-2020 global plan for nature, which has the working title, “New Deal for Nature”.

I will just reply to Sally Thomas, given that Paul Walton has rather stolen my thunder. I was talking about the breakdown of governance at the strategic level. It is absolutely right to say that there continues to be really good co-operation between the agencies and the NGOs. If anything, that has been strengthened in some of the operational stuff that we are doing. However, at the strategic level, the Scottish biodiversity forum, which is chaired by the minister and brings the key organisations round the table, has pretty much collapsed in the last couple of years. That lack of co-ordination has had consequences.

To go back to the post-2020 agenda, I agree that there needs to be a focus on science-based targets. That is something that the global community is beginning to call for. Just as in the climate change process, at some stage, Scotland will also be invited to say what our nationally determined contribution to the 2020 plan will be.

11:00

We have a massive asset in our peatlands. We know that active restoration of around 21,000 hectares of degraded peatlands per year is considered to be feasible. If we set a target to restore 300,000 hectares of peatland by 2030, for example, that would cost us £16 million a year. Can we commit to a £16 million investment in peatlands over the next 10 years? That will provide that certainty to business that I talked about and achieve multiple associated benefits, including adaptation, mitigation and all the biodiversity and other ecosystem service benefits.

In our land stewardship policy, we call for a £10 million-plus fund, in addition to the existing advisory capacity, to help farmers to manage their soils, so that they are regenerating rather than eroding them year on year, while providing food at the same time. Could we commit to that £10 million-plus per year, so that we have a core advisory function to help us to make the transition from a monocultural, running down of natural capital stocks approach, to a much more regenerative approach to agriculture? Those are the kinds of questions that we need to ask as a community, and we need to put figures on that. We can then go to the Convention on Biological Diversity and say, “This is what Scotland is going to do in the next ten years, and this is what we are going to deliver on the back of it, in terms of carbon sequestration, biodiversity gain and societal benefits”.

That was a point of clarification on what I think has been a breakdown on the strategic level. I completely agree that there has been cooperation. There is a huge opportunity here for Scotland to do with the biodiversity agenda what we have done with ambitious—what some would call world-leading—climate change targets and mitigation approaches. We are a small enough country for that kind of integration between Government, its agencies and civil society to achieve for biodiversity what we are achieving with climate change. They are two sides of the same agenda, so let us embrace that.

Stewart Stevenson: I will take us back an hour and ten minutes, to forestry. Anna Lawrence talked about funding for community woodlands and, in particular, about that being separate from funding for new forestry. New forestry, which we are trying to increase by 50 per cent, is important

for CO_2 sequestration and so has a long-term benefit to biodiversity. However, new forestry, almost invariably, means a monoculture of spruce and a sterile environment under the forests.

I have two questions. First, how do we manage that tension between long-term benefit and short-term disbenefit? Secondly, should we be looking at joining up the unspent budget in new forestry with money for community forestry, to sustain, maintain and incrementally improve biodiversity, particularly in the forestry context. That may be a question with wider applicability.

Anna Lawrence: I want to clarify that I was not contrasting new forestry and community forestry. I was contrasting woodland expansion—new planting—and woodland management. There are very minuscule grants for woodland management and a lot of grants for woodland expansion. The balance has shifted. There are grants for native woodland—native broad-leaf mostly, but including Scots pine in the right zone—and there are grants for commercial forestry, which come from a pot much bigger than that for native broad-leaves. The pro rata balance between commercial and broad-leaves shifted massively towards commercial with the 2014 revisions to the SRDP. There are grants for native woodland planting, but they have decreased in favour because of quite powerful lobbying from our commercial friends.

I do not necessarily agree that conifer plantations are sterile. I am sure that Paul Walton could come up with some birds that quite like conifer plantations.

I cannot remember your final point.

Stewart Stevenson: I live in the middle of 70 acres of spruce, and nothing is growing on the forest floor, albeit that the badgers, the deer, the barn owls and a variety of birds are doing well. However, insect life and plant life in the forest have vanished. I am asking about the tension between the long-term objectives of CO_2 sequestration and local biodiversity, particularly at the bug level.

Anna Lawrence: Other witnesses might want to add to this, but it is important to recognise that woodland management can also contribute to carbon sequestration—if the woodland is well managed. Also, if wood is taken out and then used for building, carbon will be sequestered. You have put your finger on an important point about balance. We must think about whether the balance can be fluid between woodland management and woodland establishment, and about the balance between the different kinds of woodland. One of my colleagues who offered me points to bring to the committee pointed out the criteria for establishing native woodland and getting grants. We have now successfully made the case for funding montane woodland, but that is only a very small part of the total budget.

As you probably know, when you get a grant it is entered into as a contract. You have to plant a certain density of trees and you must be able to demonstrate that you still have that density of trees after three years or five years, otherwise you have to repay the grant. For habitat creation and for wider carbon sequestration, that is not necessarily the best solution. It works for commercial broad-leaf production, but it does not necessarily work for habitat creation or helping to extend wider networks of habitats, so there needs to be more flexibility between initiatives, perhaps by revisiting the criteria. The balance has shifted greatly one way, from broad leaves to commercial forestry, and that may need to be revisited.

Dr Walton: I agree with that. It would be a mistake to say that all new woodland has to be a block of non-native conifers with a hard edge. That is 1980s thinking, in our view. We are, frankly, disappointed by the Scottish forestry strategy document, which does not actually have any specific targets for native woodland expansion.

To put that in context, under grant schemes and land management subsidies we have seen some progress in Scotland. This is one of the most heavily deforested countries in Europe. Stewart Stevenson may not feel that way, living in a spruce plantation, but we have only a tiny proportion of our native woodland left—maybe 1 or 2 per cent—and it is very fragmented, which is bad for woodland wildlife, because woodland wildlife is not good at crossing from one bit of woodland to another, leading to local extinctions.

However, in our unique Caledonian pine woods the loss has been stopped and is now beginning to be reversed for the first time in 4,000 years. We have been losing that stuff for 4,000 years, so reversal is terribly significant. New areas of native woodland have been brought about through the woodland grants scheme and we have seen biodiversity responding: black grouse increases in the central Highlands are quite closely linked to that.

The claim that we need Sitka for carbon is slightly questionable. The science around carbon and commercial forestry is quite contentious. One study that came out a couple of years back showed that, across Europe, commercial conifer forestry has been a net carbon contributor. The study took the long-term view that although the trees are planted and carbon is stored in them, they are then used. I echo what Anna Lawrence said. We could do a lot better in terms of balance with our forestry ambitions, including with regard to carbon, because when carbon is in broad leaves it is there for a longer time. Even if those

broad-leaves will also be used, they slow down the carbon cycle.

Sitka plantations have been pretty good for some birds, such as the song thrush and some owls, but they are an issue in terms of biodiversity. Scotland has massive international importance for the curlew, a species that is nose-diving in global terms and which is an incredibly iconic bird. Four thousand pairs of curlews were lost through planting in the 1970s, 1980s and 1990s in Dumfries and Galloway alone—a figure calculated by Derek Ratcliffe of the Nature Conservancy Council. That is why open country habitats are important.

Where you plant can be strategically determined using something like a national ecological network, guided by a land use strategy, so that we can get the right tree in the right place. I do not mean to say that there should be no Sitka spruce in future and no commercial forestry industry. Nobody is saying that, but it can be done much more sustainably if we take a more sensible strategic approach to where we do it.

I am sorry if I am going on, but I have one additional point. A new threat to biodiversity is emerging from forestry, and that is the threat of Sitka and lodgepole pines as invasive non-native species. We are seeing the reseeding of commercial conifers away from the plantations in important open country habitats, and the RSPB is spending a lot of money pulling seedling trees from the critical Flow country peatlands. That is perhaps linked to climate change, but it is an issue that will hit this country very hard, especially if we import from European legislation—as we should—the polluter pays principle for invasive species. That has implications for the Forestry Commission.

The Convener: We have five minutes of the round table session left. We have talked an awful lot about where the funding streams are not working, but I would like the panellists to outline briefly what we have at our disposal in terms of tools that we already have in Scotland that we may not be using as effectively as we could be. As a sub-question to that, are there international examples that we can learn from, so that we can do better with regard to promoting biodiversity and ensuring that enough funding is going into that? I know that that is a big issue to drop on you as a final question.

Professor Spray: I will start with the latter half of your question. I have already talked about the Welsh example, but if we want to look internationally I would point you in the direction of Costa Rica, Chile and New Zealand—this is not a bid for a holiday. For more than 20 years, Costa Rica has had a good structure for the support of biodiversity and a whole series of public ecosystem services. It is probably the best-developed example in the world and the Costa Rican Government has a well-structured position on how the market works for the payment of public services and how to get external, international money in, so it is a really good example.

In Chile, we have been helping to advise on an environment court that has recently been set up. They are looking at how to use ecosystem services to look into the legal positions of environmental justice.

Ultimately, if you want to go completely left field, you could look to New Zealand, which has recently designated two rivers as legal entities in their own right, which puts biodiversity in a completely different position.

There are some fantastic examples. I am not suggesting that we follow them all, but there are some good examples. Let us not forget what we have already done here in Scotland, because we have the Strathard initiative and the Borders land use strategy pilots.

Jonny Hughes: I would point to south-west Norway, which is climatically very similar to parts of Scotland. Some fantastic studies have been done on how the landscape in south-west Norway was heavily degraded, overgrazed and deforested at the beginning of the 20th century, but if you look at pictures of south-west Norway now, you will see that the forests have come back and have been regenerated, and in some cases planted, and there are now four times as many people living in the Fidjeland area than there were 100 years ago, so it is actually supporting more people and the economy is more diverse.

Scotland has not quite achieved that. Most of our woodland creation since the low point of less than 4 per cent at the beginning of the 20th century has been afforestation by commercial plantations. If we are to achieve our biodiversity targets and be resilient to climate change in the future, we have to allow and encourage our landscapes to recover naturally, which means tackling issues such as overgrazing. I point to the transformational change that has happened in south-west Norway. I do not know whether the committee has ever visited that area, but it might be a good field trip for you at some point.

11:15

I cannot reinforce enough the point that we in the environmental movement do not want to take money away from farmers; we want to give money to farmers and land managers. We want to give them as much money as they are getting at the moment. We are absolutely with Scottish Land & Estates and NFUS on that point. However, we want that money to deliver public good and public

benefit in a range of services. It really comes down to the use of that £640 million, which we need to completely redesign. We have the money at our disposal—

The Convener: I will have to hurry you, because we have to finish quite soon. I will bring in Dr Brooker first, then Eleanor Kay.

Dr Brooker: We have a very committed research base; we have a lot of researchers who care deeply about biodiversity conservation in Scotland and have a deep knowledge of it. They have a good international perspective on alternative approaches and have studied many of the areas that Jonny Hughes and Chris Spray talked about and understand how those mechanisms operate and could perhaps be used in Scotland. We also have a good model in the centres of expertise for bringing information together and passing it on to the people who need it. My feeling is that we could use the information base that we have, but we need better prioritisation of our research and perhaps more focused strategic channels for communicating the outcomes of it.

Eleanor Kay: We have an awful lot of tools at our disposal, but we need to do a lot more to improve the efficacy of knowledge exchange efforts. On monitoring, I would encourage such things as citizen science, using drones and radar to improve our efficiency at gathering data and analysing rapidly the effect of what we are doing.

On learning from others, closer to home—although Costa Rica is fantastic—the hen harrier project in Ireland has a really innovative, one-page application method for getting involved in the pilot study and is doing incredibly well. We should learn from the mistakes of some of the countryside stewardship pilots that were done in England. It is important that we learn lessons from things that we have already done and apply them, rather than having another go at reinventing the wheel. For any of this to work, we need greater clarity from the Government as to our direction of travel as land managers.

Andrew Midgley: The convener asked what we have at our disposal. We have the farmers of Scotland and the land managers, who can deliver. The question is how we engage with them. We have to start from where they are. They are running businesses and we have to think about how the sort of things that we want them to do fit in with their business. If we are thinking about moving towards paying for ecosystem services, we have to think about how we correct the market failure and how we put a price on the things that they are not currently delivering and that we would like them to deliver, because, ultimately, they are running businesses. They are a huge resource; the question is, can we put in place the right framework that enables us to maximise what they can deliver?

Calum Duncan: It is really important that we keep investing in citizen science. I touched on the seasearch project. This year we had the biggest-ever number of records returned—400, which is more than 800 dives. Over the past 15 years, more than 4,000 forms have been returned. That is a real return on investment from citizen science.

You asked about the tools at our disposal. We have to make sure that we are investing in progressive and sound fisheries management and other management measures. I notice that the minister wrote about the sea fish industry levies. If those are devolved, we should look at how we can use elements of them to invest back in protecting and recovering our carbon stores, natural capital and so on. We should look at what opportunities the devolution of the Crown estate will provide. We could look to England in relation to the inshore fisheries conservation authorities, which raise levies in order to fund their patrol vessels.

Dr Walton: On top of all the technical and strategic political points that have been made, I think that we have people at our disposal—in particular, young people. In your written questions, you asked about the role that local authorities could have. Well, we could have more biodiversity officers, this bit of funding and that bit of funding, but we could make significant progress if local authorities could be the pivot around which we turned the country into a properly sustainable entity by giving people a sense of ownership of their environment.

The turn-out figures for local elections in Scotland are a real issue for us; they reflect the lack of a sense of ownership. When people have a sense of ownership of a local place, they own their local environment. If that happens, things will start to change because we will have not only the strategic measures that we have been talking about, but popular support behind them. Working for the RSPB, which depends on a large membership base of small donors, I am reminded every day of the potential power of the sense of ownership by people who care for their environment. We should all bear that in mind.

Sally Thomas: That is a neat link, because I want to highlight an area that we have not touched on: the green infrastructure where people live in towns and cities around Scotland. If we invest in that infrastructure and ensure that what we have and what we put in is good for biodiversity—SNH is doing a lot of work directly and supporting partners to do that—that helps the physical and mental health and wellbeing of our people. It helps people to connect with and care about the nature that is on their doorstep. It also provides networks into, across and through our urban areas for

mobile species. That is an important area that we should not forget.

The Convener: I wish that we had more time, because we have opened up another area that we could talk about for a long time. I thank you all for coming along this morning for a fantastic discussion.

11:22

Meeting suspended.

11:29

On resuming—

European Union (Withdrawal) Act 2018

REACH (Amendment) (EU Exit) Regulations 2019

The Convener: Agenda item 3 is evidence on the REACH (Amendment) (EU Exit) Regulations 2019. I welcome our panel: Tom Shields, acting chair of Chemical Sciences Scotland; Kate Young, Brexit and chemicals campaigner, CHEM Trust, who joins us via teleconference; Janice Milne, head of energy, SEPA; Dave Bench, director, EU exit, chemicals, Health and Safety Executive; Paul Simpson, site compliance and learning and development manager, Grangemouth Manufacturing Centre; and Nishma Patel, chemical policy director, Chemical Industries Association, who also joins us via teleconference.

Committee members will ask the panel a number of questions on the change to the regulation on the registration, evaluation, authorisation and restriction of chemicals—REACH. I will open the questioning by asking our panellists what they think are the key environmental or public health risks that are associated with moving from the current REACH system to a UK system. I usually ask witnesses to indicate when they wish to speak. Since I cannot see the panellists who are with us via teleconference, I ask whether either of them would like to answer that first.

Nishma Patel (Chemical Industries Association): I can start. As an industry, our biggest concern on public health and environmental risk is about the data behind the REACH regulation. Over the past eight years or so, the industry has collated, in the EU REACH database, information on the intrinsic properties of chemicals and the risks that they pose. We recognise and acknowledge that if, at some point, the UK leaves the EU, we will need a similar system here. However, the challenge will be to replicate that database here in the UK. The underlying issue is that data is shared among companies in the EU and is not readily available for the UK. Therefore, among other matters, our biggest concern is about not having a good, qualitative database that the UK can use.

The Convener: If she can hear me, I ask Kate Young whether she has any points to make on that.

Kate Young (CHEM Trust): Yes, I can hear you—thank you.

CHEM Trust has concerns about the fact that, under the new UK system, there is no future commitment for the UK to ban chemicals of concern, in parallel with the EU. There is no provision to ensure that, post-Brexit, the UK's controls on chemicals will remain the same as the EU's. There is no text to commit the Government to implementing future EU decisions on restricting or controlling chemical use. Instead, everything will depend on the decisions that are made in the new UK agency and how it will interact with the Secretary of State for Environment, Food and Rural Affairs.

We think that, without automatic provision to copy across such EU restrictions, UK controls for protecting human health and the environment will fall behind those of the EU. We are also concerned about the lack of effective methods for overview and stakeholder engagement. There are a number of layers of oversight of the activities of the European Chemicals Agency—ECHA—that involve all EU member states. We are very concerned that it seems as though those functions have been deemed inoperable for the new UK system and that there will be no similar methods of stakeholder engagement.

The Convener: I turn to the panellists who are with us in the room. I put the same question to Tom Shields. There is no need to press the button to speak; that will be done for you.

Tom Shields (Chemical Sciences Scotland): For the chemicals industry in Scotland, the first concern is about divergence of standards between the European Union and the UK—not at the very beginning, when a lot of effort will go into ensuring that we are transferring at the same level of standard, but as time goes on. Since Scotland would not have an influence on EU developments, different standards would start to apply.

If there were a divergent set of standards, that would make it very difficult for business to start trading in the EU and the UK. That is a very important issue for us, given that the Scottish chemicals industry is a big exporter and its largest export is to the EU. In fact, 55 per cent of our products go to the EU. We are also a big importer of materials and goods for the chemicals industry, with something like 60 per cent of our inputs coming from the EU. Moreover, we are not including in that the various transactions that occur when a product is being made. Sometimes there is an intermediary stage of a chemical that goes to the EU for processing and then comes back, and having tariffs and divergent standards to deal with in relation to all those interchanges will make things difficult and costly to manage. We are therefore very concerned about any difference between the standards that pertain in the EU system and those that would pertain in a UK system.

The Convener: Stewart Stevenson wants to pick up on something that you have just said.

Stewart Stevenson: The implication of what you have said is that 45 per cent of your exports go to and 40 per cent of your imports come from non-EU countries and are therefore not covered by the standards that we are talking about. How do you manage that divergence?

Tom Shields: We negotiate an arrangement, but that involves a significant amount of cost and energy. Many countries co-operate with us, and those relationships and supply chains have a long history. However, if we are faced with a change to standards for 55 per cent of our products over a long period of time, that will be quite an issue for us to deal with.

Janice Milne (Scottish Environment Protection Agency): SEPA does not see too much change happening in this respect. We collaborate closely with the Environment Agency, which then works with the Health and Safety Executive as the UK-competent agency. In fact, the proposed regulations strengthen SEPA's role and voice, in that the HSE must take account of our advice. The European Chemicals Agency has authorised SEPA as one of the enforcing regulators; we have collaborated closely with the Environment Agency on recommending restrictions on certain chemicals, for example, and we have worked with that agency on preparing dossiers on chemicals of concern.

Dave Bench (Health and Safety Executive): Given that the rules and standards will remain the same at point of exit, the question is not about how the system and framework are set up. Essentially, we will be operating within the same system and to the same rules and standards.

The divergence issue will arise over time, because if we are separate from the EU, we can make our own decisions, which might differ. It is absolutely right for us to consider for ourselves whether we want to make those decisions instead of simply mirroring exactly what someone else, whether it be the EU or whoever, is doing. We already look at what other regulatory authorities of note around the world are doing.

The converse of the allegation could also be true. It is possible that in future we will look at something that we think is of more substance and more concern to us than it is to the rest of the EU and elsewhere, and we will be able to do so more quickly. The argument that the same level of protection will not be provided does not hold in reality, because the mechanisms and frameworks will be in place to allow ministers in all four

Administrations to decide how we take forward a programme of chemicals work and the priorities that we want to ascribe within that.

The Convener: Does Paul Simpson wish to comment?

Paul Simpson (Syngenta): I have nothing to add.

The Convener: Okay. We move to questions from John Scott.

John Scott: Good morning, ladies and gentlemen. As you know, the proposed regulations provide for the automatic transfer of all existing REACH registrations held by UK-based companies and only representatives. Companies will be required to submit basic data to the HSE within 60 days in support of that and to submit the full package within two years. Does the HSE expect companies to be able to meet the requirement to submit basic data to the HSE within 60 days of the regulations being passed? What will happen if a company does not submit that data? Will the registration still be valid or will it lapse? Is there a risk of a large number of registrations becoming invalid 60 days after the regulations come into force?

Dave Bench: There were quite a lot of questions wrapped up in that. Inevitably, with a transition, we have to have a way of moving from the existing system to the new one, and we do not currently hold all that information. The approach that Department for Environment, Food and Rural Affairs ministers have reached in developing their policy in the REACH area has been to provide this two-step transition process for grandfathering in existing registrations in the UK. From an HSE perspective, we have been working with DEFRA since immediately after the referendum to put in place the planning to make sure that we can operate whatever system is designed, and we are prepared to do that.

Your follow-on questions were about "what happens if". Inevitably, whenever there is a deadline—we have seen this before in REACH, where there have been notification requirements for particular tonnage bands in recent years—we have to communicate in advance of the deadline, make sure that as many people as possible understand what they need to do before the deadline and keep encouraging them to do it. Mostly, compliance is about information and education and not about running around with a big stick when people have inadvertently got it wrong.

In the main, the approach with this kind of deadline, as it has been with previous REACH deadlines under the current system, is to make sure that everybody is able to comply as best they can. I would certainly not want to be drawn into any comments on the very rare occasions on which a small number of companies deliberately choose not to comply, because those are generally not the rule. That is not what we mostly find.

John Scott: Thank you. It is reassurance that we are seeking.

Tom Shields: I am concerned about the detail of the data change with the transfer of the existing REACH registrations that are held in UK-based and Scotland-based companies into the new REACH system. I believe that the UK is developing an information technology system specifically for its registrations, replicating the IT system that exists in Europe, which is called REACH IT.

The devil will be in the detail. If transferring is as simple as referencing the product references and then pointing with a link to the existing database in the EU system, that will be quite easy, but if it involves re-entering all the information that was necessary to do the registrations on REACH, it could become an enormous task. I am concerned about the large number of small and medium-sized enterprises that make up the chemical sciences community in Scotland, which would not have the resources to do that kind of data transfer—in effect, to reapply all the data in the EU REACH system into a UK REACH system. That might be an enormous burden on small companies in particular. In Scotland, we have 400 or so life sciences and chemical companies; only 20 or so companies are large, while the rest are SMEs. A large part of our industry is made up of small companies, and I am very concerned that they may not have the necessary resources to do that work

It is not clear what detail will be required or how the work will be done. It may be that it will be a simple thing to do, but if it becomes a complex thing to duplicate the information, that will be an area of concern.

John Scott: Am I right to say that the transitional arrangements could mean that UK authorities will not have access to full data on REACH registrations for up to two years? If that happens, what will be the implications? Why is the data needed, as opposed to a full transfer of the current data in the EU REACH system?

11:45

Dave Bench: I suspect that you are looking at me to answer that range of questions. The fundamental proposition here is that, under the European Union (Withdrawal) Act 2018, when we leave the EU, the existing EU acquis communautaire—the body of law that we currently work to—is placed into United Kingdom law and the statutory instruments that we are talking about

fix those bits of EU law that do not work in a UK-only context but we do not make policy change as part of that process. In effect, the framework that we currently work with in the EU for REACH and all the other chemicals regimes remains the framework that we will have, but simply on a UK-only basis. That brings with it a number of consequences, one of which is that there is a registration requirement in the REACH regime; in a no-deal scenario, there will be a requirement for everybody who wants to supply a substance in the UK to have a registration.

Together with DEFRA, which leads on building the IT system, we have been trying to make it as simple as possible, but an amount of effort is inevitably required to place some details in the system. The initial notification that somebody has an existing registration that they wish to grandfather in to the UK system involves fairly basic identity details of the company and the substance. The two-year deadline is for the provision of the registration package, the size and nature of which depend on the tonnage band that the substance sits in.

We are not changing the formatting of all that information. Many chemical systems around the world use a format called the international uniform chemical information database, which gathers together in the same format all the information on substances. We will require the information in the same format, which means that if someone submits an IUCLID dossier to ECHA for the purposes of REACH registration, they can use the same dossier in the same format when they do the full data submission. They will have to send it to the Health and Safety Executive as well as to ECHA for the EU system, but they will not have to redo it in different formats. We are trying to make it as simple as possible.

Stewart Stevenson: I have a quick follow-up question for Tom Shields. You talked about there being 400 companies in the industry, most of which are SMEs. The regulations before us cover shipments of 1 tonne and over. What proportion of the 400 companies deal in quantities that mean that their shipments are below 1 tonne and are therefore not caught by the regulations?

Tom Shields: I do not have a figure for how many of the 400 companies would be in that category, but I will make a couple of points. First, the 1 tonne requirement is the point at which a company needs to have a REACH registration, but it does not mean that shipments below 1 tonne are not covered by REACH. The REACH requirements cover all the tonnages, but at the point at which a company is transferring 1 tonne, it must have a registration that takes it into all the data supply, validation, testing and so on that David Bench described. Every company is therefore covered by REACH. I cannot give the specific figure that Mr Stevenson requested without doing some research.

Claudia Beamish: I will pose a question to the whole panel, but you do not all have to respond, although you might want to do so on certain issues. You will know that the report "Environmental Governance in Scotland on the UK's withdrawal from the EU—Assessment and options for consideration: A report by the Roundtable on Environment and Climate Change on environmental governance in Scotland" has, for a range of reasons, highlighted the value of a UK-wide approach. The report has also highlighted that the Scottish Government might take a more precautionary approach to chemicals than what is argued to be the UK Government's risk-based approach. Do you have any concerns or comments about that?

Janice Milne: Where use of chemicals is of concern in particular instances in Scotland, we would have a discussion with the HSE. It might be that specific restrictions on particular uses would be required. It is important that we are clear about why that would be done so that stakeholders—the industry and so on—understand.

Dave Bench: We have for many decades now operated on a UK-wide basis. Officials and elected representatives across all the nations have recognised that a single decision operating across the whole the UK is generally best. It creates continuity and gives certainty. It provides a level playing field across the UK, which is desirable.

However, even within the current frameworks, there is the possibility for the nations to take their own decisions, if they wish to do so. It is rare, but it has happened in some of the chemicals regimes—although not, to my knowledge, in REACH.

One of the real opportunities in the discussions that we are having in the lead-up to leaving the EU is the chance to reset our working relationships across the UK nations. They have always been pretty good at official level, but there is an opportunity to be more strategic about approaches for the future. If we end up in a no-deal scenario, we will absolutely have to do that, but even if we do not end up in a no-deal scenario, the discussions that we are having now will help us to work better together in the future, and to make decisions that are sensible for the whole UK.

In general terms, all the chemicals regimes and the legislation for all the EU chemicals regimes are highly precautionary. Whoever is taking the decision, which will generally be the HSE with the Environment Agency—

The Convener: We only have another fifteen minutes left and we have quite a lot of questions to

ask. I am conscious that two of our witnesses are giving evidence via teleconference call and that one of them was trying to come in earlier.

Nishma Patel: Yes. I will be very quick. Automatic transfer of REACH registration data and having the transition period and the two-step process have been positive. Things could have turned out different.

Beyond that, there is great concern in industry. Points that were not mentioned earlier are to do with information requirements, which we have started to see in the additional guidance from the Government. You will see, if you look into the detail, that the basic data that is required is not as basic as was first proposed, but is more like part of the registration that has already been submitted. Some of the information is not readily accessible by companies. It is, because of Brexit, a tough call on companies to do it all in 60 days, alongside everything else that they will be doing to have their plans in place to have chemicals moving.

On the two-year timeframe, it is not as simple as moving data from one database to another: there is so much work involved. EU REACH gave industry eight years to fulfil the objective. Two years is a really short timeframe, so there is a lot of concern among businesses about getting the data for a UK REACH database.

Finlay Carson: We understand that there will be an automatic transfer of registration. What is your understanding of the proposed "transitional light-touch notification process" for registering imported chemicals? How significant will the burden be on UK companies that will become importers and be required to register such substances?

Dave Bench: Again, the consequence of a no-deal exit would be that in the UK there would be a REACH regime that replicates the requirements of the current EU REACH regime. That would place obligations to register substances on some companies that have not previously had that responsibility. A new additional burden would be placed on companies as a direct consequence of a no-deal exit.

Finlay Carson: A specific example that has been mentioned is chemicals that are used to purify tap water. Can you highlight any other significant examples?

Dave Bench: I am not sure that I can highlight particular examples. Finlay Carson has highlighted an example in which companies that are downstream users, and whose importer-supplier already holds an EU REACH registration, currently have no obligation to hold an EU REACH registration themselves, but will be under that registration obligation in a UK-only REACH environment. That will apply to quite a number of companies, but I cannot say exactly how many.

The Convener: Does either of our remote witnesses have anything to add?

Nishma Patel: On downstream users, at the moment, such companies rely on their suppliers having an EU REACH registration. Currently, they have no involvement in the registration process. They possibly also have no experience in or training on delivering or complying with REACH registration. From day 1 of Brexit, those companies will automatically become importers and will have to fulfil the registration obligations very quickly. Being able to do that and to access the information that they need—REACH promotes not testing on animals and sharing data—will be a tough call on companies that have not previously had to complete such a registration process in order to fulfil the obligations.

Tom Shields: My concern is the additional cost. In the scenario that Finlay Carson described, we will be moving to a situation where a company faces costs that it currently does not have through being covered by REACH across the EU. That will put off companies from getting involved in some investments and some operations. I am really concerned about that.

Finlay Carson: So, have no significant risks for public health or the environment been clearly identified?

Tom Shields: I do not see such risks, but I see the risk to commercial viability, given the additional costs.

Mark Ruskell: I want to go back to basics. How will the functions of SEPA and the HSE change under the new UK REACH arrangements, and what are you doing to transition to those new functions?

Dave Bench: At the moment, the competent UK authority for REACH is the Health and Safety Executive, using expertise from the Environment Agency. That is because of how the system was set up by DEFRA in the mid-2000s. The thinking behind the statutory instrument for a no-deal scenario includes consideration of how to set up a governance framework that properly reflects the devolution settlements. The statutory instrument designates the UK agency—the HSE—and gives the Environment Agency a specific role in providing it with environmental expertise. However, as part of that role, the EA is required to engage with the environment protection agencies of all four nations.

That formal obligation does not exist in the current framework, although such engagement does take place: the committee heard Janice Milne explain how it currently happens with the

Environment Agency, SEPA and other agencies. However, that is an informal arrangement that is supported by agency agreements. The statutory instrument on REACH will deliver a formal arrangement.

Mark Ruskell: What will that mean for SEPA?

Janice Milne: It will mean very little change. As Dave Bench said, the instrument will formalise the collaboration that, as I said, already happens in practice. The Environment Agency's chemical assessment unit will consult on chemicals of concern. We have UK technical experts in SEPA who have peer reviewed the dossiers; that will continue. SEPA will continue to work with the Environment Agency and others on campaigns. There is a UK enforcement group that includes SEPA, the Environment Agency and the HSE.

As I said, there will not be much change, although it will be formalised. We will need to be mindful of changes to REACH and react quickly to those. That will also be formalised.

Mark Ruskell: Will that mean additional work?

Dave Bench: One cannot know whether, for a UK-only environment, in which it would be up to ministers from all four nations to decide on their ambition for a chemicals work programme, we would carry on at roughly the same level or have an ambition to take particular action or a direction on a UK-only basis. As I said before, one of the opportunities that is presented is that we can think about our priorities, rather than the priorities of the whole EU, and about whether we should be considering some things more quickly than the EU does.

12:00

The Convener: I am afraid that we need to move on, but I will take a quick question from Finlay Carson.

Finlay Carson: We heard earlier about the potential financial issues for Scottish companies importing. What are the panel's concerns about Scottish companies that export chemicals to other European Economic Area countries?

Tom Shields: The concern is that, if we export the same products to the EU and the UK, over time different standards might evolve, against which we would have to register—we would have separate registrations, more costs and perhaps more delays.

I find it difficult to believe that the Health and Safety Executive could adopt the full powers and responsibilities of the European Chemicals Agency and not need more resources. I am concerned about that being recognised and resources being provided. If the agencies do not have enough resource, registrations will take a lot longer, which will have a significant commercial impact on companies in Scotland.

Dave Bench: The workforce plan for HSE for the no-deal scenario includes additional staff to deal with REACH issues—the new things that we would be taking on that we do not currently do.

Stewart Stevenson: I have a simple question, which we have covered to some extent. First, how important is it to keep up with EU REACH—in other words, to remain in sync—to whatever extent we can? How will that work in practice? That is the important question—we have covered the former. I ask that while assuming that we are going to keep up.

Dave Bench: That is, essentially, a policy question. The policy lead is DEFRA. I can tell you about the HSE's preparedness for dealing with Brexit in various scenarios. If we are given a steer on how to respond to things that are happening elsewhere, we will deliver on that. However, that is a policy question.

Stewart Stevenson: Have you, as an official, been given any indication that it is expected that a course would be pursued other than keeping track with REACH? That is not a question for 50 years' time; it is a question for—

Dave Bench: As I alluded to in my earlier answer, it does not necessarily make sense to say that we will just mirror a decision that somebody else takes without thinking about it or deciding whether it is relevant to the UK. The plan is to have UK consideration of EU decisions, and then to decide whether we will give effect to the same or a slightly amended decision, or not replicate the decision at all for the UK. The essence of the plan is that we will consider what is done elsewhere and decide whether we want to do it.

The Convener: We have asked all our questions. Before we wind up, do panellists want to add anything?

Kate Young: On the potential for regulatory divergence, we worry that in pursuit of negotiating free trade deals there would be significant pressure not to follow EU regulations. We have already seen a leaked UK-India trade review in which Indian companies identify EU regulations on endocrine-disrupting chemicals as being something that they would like to be removed. We would be worried that the UK would not continue to follow EU decisions. That does not just cover banning an individual chemical; it is also about updating the REACH process. There are endeavours by ECHA to improve the quality of registration dossiers. We would worry that the UK would also not follow wider changes to the regulations.

To return to my earlier point on stakeholder engagement, I say that we are very keen for there to be continued technical expertise. We do not think that HSE currently has sufficient environment or public health expertise, so continued devolved Administrations' involvement would be very significant in terms of voting representation.

The Convener: I guess that Dave Bench would like to come in, given that HSE has been directly mentioned.

Dave Bench: Without understanding the allegations it is difficult to respond, but my instinct is to say that we have quite a lot of public health, general human health and environmental expertise.

For REACH, the EA provides environmental expertise. On all other chemical regulatory regimes, we provide the environmental expertise, which involves a much more substantial number of people.

The Convener: We have run out of time. Thank you very much, everyone, for answering our questions.

12:06

Meeting suspended.

12:08

On resuming—

Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2018

The Convener: Item 4 is to take evidence on the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2018.

I am delighted to welcome our panel. Mairi Gougeon, the Minister for Rural Affairs and the Natural Environment, is supported by Scottish Government officials Katy Hindmarsh, head of EU operational readiness in the EU hub for environment and forestry; Don McGillivray, deputy director, environmental quality and circular economy; and Hugh Dignon, head of the wildlife and biodiversity unit. Good afternoon to you all.

John Scott: Thank you very much for coming to the meeting, minister.

The notification outlines various legislative powers that the proposed statutory instrument would transfer from the European Commission. In some cases, the powers would transfer to the Scottish ministers and in others they would transfer to the secretary of state with the consent of the Scottish ministers. How would the legislative powers be exercised? Would it be by regulation? Which parliamentary scrutiny procedure would apply? In cases in which the proposed instrument would confer legislative powers on the secretary of state with the consent of the Scottish ministers, how would the use of the powers be scrutinised by the Scottish Parliament?

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): We fully intend that there will be a role for the Scottish Parliament to scrutinise powers both through this process and through the legislation that will be put before members. For future powers and regulation carried out through Scottish SIs, we already have in Parliament a process that allows for such scrutiny. We are still looking at the process for regulations that are made under SIs to see what the role for future scrutiny by the Scottish Parliament will be. The Cabinet Secretary for Government Business and Constitutional Relations will be looking at that work to see how we can move it forward.

John Scott: In a belt-and-braces approach, is that more likely to be by means of an affirmative instrument rather than anything else?

Mairi Gougeon: I cannot answer that at the moment. Our intention is to be as open and transparent as possible when it comes to creating policy and exercising regulations in the future. As for what that will look like, as I said in my previous response, a procedure for Scottish SIs is in place at the moment. Work is on-going on the future process for functions and regulations that would be exercised by the secretary of state with the consent of the devolved Administrations.

John Scott: What consideration has been given to whether the joint procedure at Westminster and the Scottish Parliament could apply? Why was it—presumably—considered that it would be unsuitable for the proposed instrument to be subject to joint procedure in the UK and Scottish Parliaments?

Mairi Gougeon: We did not feel that the joint procedure would be resource efficient for this process, which is why it did not proceed.

John Scott: Could such joint procedure have the benefit of allowing the Parliament to consider, for example, the scrutiny procedure that would be proposed for any regulations to be made by the Scottish ministers under the proposed SI?

Mairi Gougeon: We have not identified any other candidate SIs that would fall into the bracket of being suitable for the joint procedure.

John Scott: I have to ask you a further question on transfers, if I may. The notification states that the proposed process is designed

"to ensure that the regimes continue to function smoothly, without the need for amendments to the legislation by

Parliament every time a change in the technical details is required".

Should such changes to environmental law not come before the Scottish Parliament?

Mairi Gougeon: Again, we aim to be as open and transparent as possible on any future regulations that we might make. We have tried to do so throughout this process. We have a scrutiny process for statutory instruments at the moment. We intend to share with the committee as much information as possible. For draft SIs, we cannot do so until they are laid at Westminster, but as soon as the final versions are laid we will share that information with the committee. We intend to do so as and when information emerges, as it is in all our interests for that to happen.

Finlay Carson: The notification states:

"There are no financial implications associated with the proposals".

In previous letters, it was stated that you did not expect there to be significant costs in relation to SEPA's overall resources. How has the Scottish Government reached that conclusion when no financial assessment has been made?

Mairi Gougeon: I will set out why we have reached that conclusion. The process that we are going through is to ensure that, if Brexit day comes and we are in a no-deal scenario, our laws will continue to function. That has been the absolute priority for us. We cannot end up in a position in which 29 March arrives and we are unable to enforce the legislation that we currently have in place. It has been the priority from the start to ensure that we have that readiness on day 1.

12:15

Unfortunately, although we are trying to work as closely as possible with DEFRA and other Government agencies to work through the process, because of the timescales that have been imposed on us and the lack of time that we have had to get through the process or look at the future frameworks, we have not had the opportunity to undertake impact assessments. We continue to engage throughout the process with stakeholders and our public bodies, such as SEPA and SNH, which will largely be responsible for delivering some of these SIs.

As far as I am aware from that engagement, no particular issues have been raised about the capacity to deal with the regulations. As I said, it is about ensuring that the work that is currently undertaken can still happen on day 1 if we end up in a no-deal scenario.

Claudia Beamish: You partly answered my question in your response to Finlay Carson's question, but could you tell us a bit more about the stakeholders that you have engaged with? Obviously, because of time, it is not appropriate to read out a list, but could you let the committee see a list of the stakeholders that you have engaged with? Has the dialogue with stakeholders shaped or changed the legislation in any way?

Mairi Gougeon: It is also DEFRA's responsibility to undertake a lot of that work. It has an online resource library that it has opened up to particular stakeholders to let them see the SIs as they develop. Some areas of these statutory instruments would affect SEPA in particular as the regulator. We are in constant discussion with SEPA anyway and we feel able—as does SEPA, as far as I am aware—to deal with any additional burdens. It is about ensuring that we are able to do in the future what we currently do.

In terms of engagement with other stakeholders, my officials might be able to say more.

Katy Hindmarsh (Scottish Government): We have written to all the stakeholders to inform them of the process that we are going through in fixing deficiencies. Policy area officials have done the same with their stakeholder networks. We have also used our existing networks to communicate with SNH, SEPA and other public bodies. We have also made information available publicly on the Scottish Government website. As the minister said, DEFRA has created an online reading room, and the Scottish Government has put forward the names of relevant stakeholders and academic experts for whom we think it would be helpful to have access to some of these SIs. We have therefore used a variety of forums to get as much meaningful stakeholder engagement as possible on the instruments.

Claudia Beamish: It would be helpful for the committee if you could send us a list of those in Scotland that you are engaging with.

Katy Hindmarsh: I am happy to send a list.

Mark Ruskell: I want to turn to the provisions in the SI on industrial emissions and the Scottish Government's ability to select the best available techniques. I am trying to get my head round how that power might be used. For example, on Friday I visited a glass reprocessor in Alloa, in my region, that has quite poor environmental compliance. It recognises that and is looking to make medium-term and long-term investments in technology. How will engagement with the industry work under the powers in the SI? Is there the potential for divergence between Scotland and the rest of the UK? What does the SI mean right now to a glass manufacturer when its shareholders are thinking, "Oh, we've got a horrible SEPA report—we need to make investments"? Where is the certainty in

that and where is the engagement? How do you reassure people and provide that certainty?

Mairi Gougeon: If we wanted to apply our own best available techniques in Scotland, we would be able to do that, but ideally we would be working across the UK to do that.

We do not want there to be any lowering of our standards once we come out of the EU. That was clear from the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. We want to keep pace with what is happening there.

I have some figures here in relation to BAT. We have 230 installations in Scotland, to which 14 BAT conclusions currently apply. There are another eight BAT conclusions that could apply to another 160 installations, and I think that there are 11 further activities currently being looked at that could become further BAT conclusions.

In relation to the regulator, SEPA, we will obviously maintain a close engagement with Europe to see what is happening there because, again, we do not want to see a lowering of our standards. However, as I said at the start, if we want to apply our own best available techniques, we have the powers to do that.

Don McGillivray (Scottish Government): To answer Mr Ruskell's question about how the power is used, it is applied through SEPA's permitting process under the industrial emissions directive. Essentially, the BAT reference documents set a standard that the regulators across Europe agree, and that standard is applied to specific installations through the SEPA permitting process. SEPA will take into account the circumstances of a specific plant and apply the requirements of the BAT document in a way that is suitable for that specific plant.

Mark Ruskell: So we will not lose that.

Don McGillivray: No. That will stay exactly the same. The only difference is that the source of the BAT will change. All of the existing BAT will stay as part of retained EU law but, in terms of how BAT is developed in future, it will be a UK or a Scottish reference document instead of an EU one.

Finlay Carson: The notification indicates that it is important to achieve business certainty. Can we have an assurance that environmental protection and enhancement will be given an equal weighting when this notification is approved?

Mairi Gougeon: Absolutely. As I said to Mark Ruskell, we want to maintain high environmental standards. That is of paramount importance to us. We do not want to lag behind the rest of the EU. In fact, we want to be environmental leaders in that regard. That is certainly one of our key priorities.

John Scott: Under the SI, powers to amend annexes 1 and 2 of the mercury regulation would be transferred to the secretary of state, with consent of the devolved Administrations. The annexes detail mercury compounds and products containing mercury that are currently regulated by the EU regulation. What process will be employed here, and what will happen if consent is not forthcoming? Can you provide reassurance that the requisite resource exists in the Scottish Government and SEPA in relation to mercury aspects of this SI, and is SEPA sufficiently funded to deal with that?

Mairi Gougeon: As I said earlier, we are continuing to engage with SEPA through this process to ensure that it is not subject to any extra burdens.

Although the frameworks are still to be established—we are still engaged in that piece of work—consent is a statutory requirement. That means that, should the secretary of state wish to amend annexes 1 and 2 of the mercury regulations, he would be unable to do that without our consent, because there is a statutory requirement in that regard.

The Convener: As there are no further questions, I thank the minister and her team for attending. We will now continue in private session.

12:24

Meeting continued in private until 12:45.

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

The Scottish Parliament
Pàrlamaid na h-Alba