



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Wednesday 3 June 2020

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
12th Meeting 2020, Session 5

CONVENER

*Gillian Martin (Aberdeenshire East) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Angus MacDonald (Falkirk East) (SNP)

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

Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Terry A'Hearn (Scottish Environment Protection Agency)

Michael McLeod (Scottish Government)

Francesca Osowska (Scottish Natural Heritage)

Mike Palmer (Scottish Government)

Elaine Tait (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Virtual Meeting

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Wednesday 3 June 2020

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Gillian Martin): Welcome to the 12th meeting in 2020 of the Environment, Climate Change and Land Reform Committee. I offer apologies for Stewart Stevenson, who is attending this morning's meeting of the COVID-19 Committee and cannot be with us.

Agenda item 1 is to decide whether to take agenda items 5, 6 and 7 in private. Any member who is not content that we take those items in private should so indicate by putting an N in the chat box.

As no one has done so, the committee agrees to take items 5, 6 and 7 in private.

Impact of Covid-19

09:01

The Convener: Agenda item 2 is to take evidence from Scottish Natural Heritage and the Scottish Environment Protection Agency as part of the committee's Covid-19-related scrutiny work. We will examine the immediate and short-term impacts of the current health crisis on the environment in Scotland and on both agencies, as well as the medium to long-term implications.

We will have two evidence sessions. First, we will hear from Francesca Osowska, who is the chief executive and accountable officer for Scottish Natural Heritage. Following a brief suspension, we will hear from Terry A'Hearn, who is the chief executive officer of SEPA.

I draw members' attention to paper 1, which highlights some of the issues that we will explore.

Francesca Osowska is joining us to explore the impacts of Covid-19 on Scotland's environment. Good morning, Francesca.

Francesca Osowska (Scottish Natural Heritage): Good morning, everyone.

The Convener: I will start with a general question about the impact that the Covid-19 pandemic is having on SNH's operations. How are you managing to operate, and what are you prioritising in your work? Every institution is having to prioritise certain things. What is SNH prioritising?

Francesca Osowska: Thank you very much for the opportunity to give evidence.

SNH moved to home working for all its staff relatively seamlessly. In the week commencing 9 March, when we recognised that home working was likely to be a significant factor for us, we invested in technology. We bought additional licence capacity to allow remote access to our systems. For around two or three years, we had been investing in our digital capability, so all staff were equipped with laptops before the start of the situation. The additional licences meant that we were able to begin to transition all our staff to home working on 18 March.

In such an unprecedented situation, it was inevitable that there would be a couple of teething problems, but I think that things went smoothly. That is testament to the investment that we made.

In addition, we provided the opportunity for staff to purchase small items of additional equipment to facilitate home working, such as a new mouse and cables to connect to additional screens. We have tried to be very flexible and to support staff who are working at home, and we recognise that many

colleagues have responsibilities such as childcare. We have a lot of home schoolers and people with caring responsibilities among our workforce.

We then went through a process of prioritisation. As you said, every organisation has had to do that. Just before the present situation arose, we had agreed a business plan for the year. We decided that we wanted to review that. In effect, we established a short-term, quarter 1 business plan, running from 1 April to the end of June, that focused on our work to address the twin crises of climate change and biodiversity loss. Those strategic priorities remained the same.

Through this period, we have continued that focus. We have also noticed, as I am sure that many members of the committee have done, that particularly when the regulations meant that people could only go outside for one period of exercise a day, there was an interest in nature. People have really engaged with nature, and we have been getting some great feedback on that through our social media channels. We have been looking at how we can capitalise on that and bring nature to people in their homes. On social media, we have been using the hashtag #bringingnaturetoyou so that people can enjoy nature as much as possible.

We have also enhanced some of our existing campaigns, such as making space for nature, which encourages people to think about how they engage with nature, whether through their window boxes or gardens or more widely, and we will continue to do that.

We have obviously had to change our customer services and our customer-facing work. Because of our home-working ability, we can still have good customer interface, whether via phone or email. We also have videoconferencing and telephone facilities. We can still provide desk-based development planning and management advice, and we are also still able to provide licensing services. We are prioritising those services according to greatest need—for example, we are prioritising licensing for those who require it from a health and safety perspective. We are still able to provide that service and will continue to do so.

The Convener: Obviously, you have not been able to carry out your site-based activities in the way that you would do normally, but the restrictions are changing and we are in phase 1 of recovery. Will you take me through how you have been managing the sites? Initially, your staff were not able to visit them, but we are now in phase 1, and the First Minister's route map sets out the way ahead to the next phase.

Francesca Osowska: During lockdown, we were not able to undertake any site visits, except when we required to undertake building safety

checks. We had to do periodic inspections of some of our buildings and that was allowable. We also have some livestock at our Tainish national nature reserve, which our staff could check and feed. However, we have not been doing other site-based work.

Now that we are in phase 1, we are preparing for opening up our facilities and our national nature reserves to the public. We are not yet in the reopening phase; we expect that to happen in phase 3, but we are looking at the risk assessments, the guidance that we will need to provide to staff and visitors, the supply of personal protective equipment that will be needed, and how we can manage the interface between our colleagues in SNH and visitors so that both groups are safe. Ensuring the safety and health of our staff and visitors is paramount.

You also mentioned survey work. Under phase 1, the guidance that was published on Sunday for the safe resumption of forestry working included guidance on outdoor working, which could include survey work, wildlife management, our work to combat invasive non-native species, and peatland restoration.

We are working through a process for those different projects—some of which involves working with contractors and other partners, and some of which we do at our own hand—to identify how we can take into account health and safety considerations. For example, we would want to know that anybody who undertakes that work does not have symptoms of Covid-19 and is not in a vulnerable group, and that there is no way of carrying out those tasks by other means, for example through satellite imaging or local knowledge. We are looking at the risk assessment and the PPE provision so that we are able to resume that work as soon as we can. That preparation work, in line with the phase 1 guidance from the Scottish Government, is being undertaken at the moment.

The Convener: You mentioned nature reserves. It strikes me that, with the changes to the restrictions on daily exercise and where the public can travel, it must be on your mind that it is nesting season and that, ordinarily, you would have staff in your nature reserves. I come from a coastal constituency that contains an SNH nature reserve. Many people who might not ordinarily go to a nature reserve might be taking advantage of the beautiful weather. You mentioned that people have an increased interest in nature, because the opportunity to enjoy it has almost been taken away from them. What are your thoughts on that? How are you managing the potential influx of people to nature reserves, when you might otherwise have had staff there to assist people to act responsibly?

Francesca Osowska: Last weekend was an important test of that, given that the phase 1 guidance came into effect on Friday. The guidance is very clear about not travelling further than 5 miles. If people respect that guidance, that should limit some of the honeypot effect. Unfortunately, as we have seen in some of the footage from the weekend, some places have been visited by quite a large number of people.

On Monday, I received a report from our local staff, who were able to assess, within the 5-mile visit radius, what happened in our nature reserves over the weekend. As you said, the weather was beautiful, so who can blame people for wanting to get out? The assessment was that some of our coastal national nature reserves—St Cyrus, Tentsmuir and Caerlaverock in Dumfries and Galloway—had seen a significant number of visitors, although possibly not beyond what we would expect on a normal sunny weekend in May. For our inland NNRs, we did not see a significant increase beyond what we might expect.

You asked about the challenges of visitor management without having staff there at the moment. In preparation for lockdown, reserve staff who were local put up appropriate signage. I am sure that you are familiar with some of the NNRs for nesting birds; they have that signage already. We hope that most of our visitors to NNRs are respectful. They go to nature reserves because they enjoy nature, and we think that the majority of our visitors are responsible. However, as soon as we are able to undertake more outdoor work, we will assess the challenges of an influx of visitors. We will look at whether that has had an impact on habitats and species and whether there has been an increase in litter, for example, and will take steps accordingly.

09:15

Claudia Beamish (South Scotland) (Lab): I am pleased to see you, Francesca. I would like to build on what the convener has been discussing with you and explore the role of nature and nature-based organisations in the green recovery. You have highlighted Scottish Natural Heritage's strategic priorities—climate change and biodiversity—and the committee is keenly aware that SNH is strengthening its connections with people as well.

As an ex-primary school teacher and eco schools co-ordinator, I wonder about the value of outdoor education and the use to which it can be put, in relation to social distancing. I also wonder about supporting community group involvement and maintaining social distancing in that way, in helping to develop nature, building on what we have been learning and sharing during the lockdown. Your thoughts would be valued.

Francesca Osowska: That is a really interesting set of issues. I absolutely agree that outdoor learning offers an opportunity for schools, nurseries and other learning environments to operate in a safe way, as it is easier to practise physical distancing in the outdoors. The evidence suggests that outdoor environments can limit the transmission of the virus and they are also really stimulating places in which to learn.

We are working with 115 schools in disadvantaged communities in the learning in local green space project, to encourage them and support teachers by providing material for pupils to learn outdoors. One of the nicer parts of my job this week was to receive and watch six videos from the participating schools, which were all absolutely fantastic. We are doing a little virtual prize giving later this month for those schools and their video submissions.

More broadly, we support outdoor learning and learning in green space very directly. We support a set of materials—the outdoor learning directory—which provides excellent guidance and resources to teachers and educationalists. This year, SNH will provide funding of around £300,000 to 20 third sector organisations, such as Learning through Landscapes, the John Muir Trust and the Conservation Volunteers, to enable them to work with schools to practise outdoor learning.

We have done a little bit of mapping work, because we are aware that one of the challenges that schools might have is access to local green space, particularly at the moment, when travel is restricted. That work suggests that nearly all schools have access to local green space, so part of our work with schools is to think about how we could improve access to those spaces. The videos that I watched earlier in the week—obviously shot before Covid-19—were from schools that went to their local park and wood, where they discovered and learned a lot about something that was in their local environment.

Claudia Beamish: You have said encouraging things about schools, which I am sure you will share with MSPs more widely than in this committee, so that all of us can share and help promote those ideas to our constituents and, indeed, our schools.

Beyond that, how are you helping community groups and individuals who might be able to help with nature-based solutions as we come out of lockdown? A lot of community groups are involved with green growing and green issues.

Francesca Osowska: That is a good perspective. Our main channels for reaching the general public are our website and our social media channels. We are trying, as I think you are suggesting, to capitalise on the fact that people

are taking inspiration from nature at the moment. People want to help and they want to do their bit, so the campaign that we are running, make space for nature, is a real boon for somebody like me who is not a great gardener. Its principal tenet is that we should leave a bit of our garden—if we are lucky enough to have one—a bit messy. That will be good for bugs and invertebrates, which are food sources for birds and so on. That supports local biodiversity. We have had a very good response to the campaign.

We work with a whole range of community groups, both nationally and locally, to support their engagement in nature. We also work through a number of national partner organisations. I would highlight the Conservation Volunteers as an organisation that has real reach in local communities, and it enables us to tap in to community groups that want to support nature and are inspired by nature. We will continue to work with such groups as we emerge from the lockdown.

Claudia Beamish: Thanks very much.

The Convener: Finlay Carson has been having broadband issues this morning but he is here now, so I will grab the opportunity to let him ask questions while he can.

Finlay Carson (Galloway and West Dumfries) (Con): Thank you, convener, and apologies for my bad connection. My questions relate to fly-tipping and other damage that has been caused in our countryside.

As lockdown restrictions have begun to ease, we have started to see an increase in litter being left by those who visit the countryside, including national parks, which is spoiling and damaging our valuable green spaces. What is being done to tackle that type of behaviour?

With the temporary closure of household waste recycling centres, we have also seen an increased incidence of fly-tipping, which is not just random littering. What is SNH doing to address that?

Francesca Osowska: That is obviously a concern. Terry A'Hearn will speak to the committee later and will be able to talk about some of the measures that SEPA has put in place.

We are limited in keeping an eye on SNH land—principally national nature reserves but also other designated sites—because at present we are not able to have staff on site. We are preparing for them to return. We have been doing a lot of work in the early part of this week, as we move into phase 1, to assess our readiness for staff to resume outdoor working, including assessments related to their own health, which is paramount, but also of what safety restrictions to put in place to protect them and members of the public.

On litter and fly-tipping on our sites, this weekend was obviously quite revelatory in terms of behaviour. People were desperate to get out and it was sunny, so who could blame them? The reports that I had earlier in the week suggest that, although some of our NNRs were very busy and there is concern about litter, particularly in our coastal NNRs, the traffic to our other NNRs has not been beyond what was expected, so we are not expecting as big a challenge there. We will assess the situation as soon as we can and take steps to address it.

We will possibly come on to talk more about a green recovery, but it is worth saying that the slogan “Build back better” has become prominent and there is thinking about what the pandemic has taught us about the society that we want. A lot of people are thinking about the circular economy, the consumption of resources and reusing and recycling. The Scottish Government and SNH are committed to supporting a circular economy and the good work of Zero Waste Scotland.

Finlay Carson: This issue may have been touched on earlier when I was not online, but what work will SNH undertake to ensure that the Scottish outdoor access code is to the forefront of visitors' minds when they come into rural areas? In my constituency, we have seen some really bad examples of wild camping around Loch Ken, near Castle Douglas. Although we welcome wild camping to some extent, what can SNH do to get out the message that, if people are going to access the countryside, they need to take responsible decisions about litter and so on? Wild camping appears to be becoming more popular, so how will SNH get that message out to the public?

Francesca Osowska: We did not cover that while you were offline, so I am happy to speak about it.

Certainly, in the first phases as we went into lockdown, we were getting reports of antisocial and irresponsible behaviour by visitors and path users in particular areas. We also had reports from path users of land managers restricting access. We need to balance the needs of the different constituent groups. There were concerns on both sides, which is absolutely understandable, given the situation.

We have a strong duty to promote understanding of the Scottish outdoor access code. Following the ministerial statement on 9 April, which clarified that access rights continued to apply, we put out a lot of messaging on our social media channels. For example, our combined Twitter and Facebook reach was around 427,000. We had media coverage through about 19 publications, including ITV and the BBC. In that, we stressed the need for visitors to be

responsible, to observe physical distancing and to respect the fact that landowners and land managers might have concerns about disease transmission. We also referred to the particular season, as some lambing was still going on, and the need for care to be taken in certain places, particularly with dogs. There has also been a concern about wildfires. We have combined our messaging on responsible access with those other messages, depending on the season and the particular circumstances.

We have undertaken a survey of statutory access authorities in order to assess the nature and extent of issues, and it is fair to say that that has thrown up quite a lot of variation across the country. Most access authorities have experienced some issues, but there have been a relatively small number, and reports of access challenges have come from both the public and land managers.

We will continue with our campaign which is based on the Scottish outdoor access code and we will continue our dialogue with NFU Scotland and Scottish Land & Estates in order to understand their members' concerns, but we will also promote the benefits that can come from people engaging in nature while making sure that they do it in a local and responsible way.

09:30

Mark Ruskell (Mid Scotland and Fife) (Green): There have been reports in England of a surge in wildlife crime during the lockdown. I have not seen similar reports in Scotland, but I assume that the pattern will be broadly similar here. How are you addressing that? You have largely suspended your monitoring regime for this year, and groups such as the raptor study group, which would normally be up in the moorlands monitoring and scrutinising the work of land managers, are operating but are not doing that work because of the lockdown.

What should be the approach to wildlife crime in the phases to come? Do you have evidence that there have been issues already?

Francesca Osowska: That is a really important and serious subject. We have had individual reports of wildlife crime between the end of March and the beginning of June. We are not able to say whether they represent a spike in the data or are consistent with normal reporting, but we have had reports of some incidents in relation to nesting birds, badgers and freshwater pearl mussels. That is a concern.

We work really closely with Police Scotland, which has an excellent network of wildlife crime liaison officers across the country. Once an incident is reported as a crime, we can support

Police Scotland with evidence collection and any subsequent investigation. As you say, our ability to be on site to look at the effects and what might be done to mitigate a particular incident is limited at present, but as we prepare for more of our staff to be able to undertake outdoor work, we will certainly be looking at that.

When members of the public or organisations get in touch with us with concerns about wildlife crime, we have a very clear message to them, which is that, if they are concerned about criminal activity, they should report it to the police, and we can pass on, as well as generic contact details, specific wildlife crime liaison officer details where that is appropriate.

We are looking at our guidance for staff so that, when they can resume outdoor working, they are clear about the parameters of their work in terms of assessing any sites for damage. If a crime has been committed, we want to make sure that we do not interfere with any investigation.

Mark Ruskell: One of the issues here is to do with the raptor study groups. Obviously, there have been restrictions on their ability to go out and do their valuable work. The work of some of those groups feeds into statutory obligations that are placed on forestry operations and others. How can we swell that team of important monitors in the months to come? Has SNH discussed that matter with the Government? Clearly, you have a role, but so do others. If they can operate in a socially distanced and safe way, we would expect them to make a valuable contribution to monitoring and, potentially, tackling wildlife crime.

Francesca Osowska: Thank you for that interesting point. What we have been doing in other spheres but not necessarily in wildlife crime is enhancing our reach on citizen science. We have run a number of campaigns on citizen science, and one that was quite well covered in the media about a week ago was on assessing bird prevalence. From the response to that, we have seen again that people want to be involved in that way. We have untapped volunteer capability across our whole population to support us. Citizen science is one of the key ways in which we engage with the public and get them involved in nature. We have not taken that into wildlife crime per se and would need to think about that and some of the sensitivities around it.

Certainly, we know that, if people who are regular visitors to a beauty spot or nature reserve are concerned about wildlife crime, they know how to get in touch and do so. They are very clear about the channels that allow them to do that, and we always respond with the advice that I outlined. I am more than happy to have a conversation with the raptor study groups to see how that type of support could be enhanced while respecting some

of the sensitivities that might exist, given that we are talking about criminal behaviour.

Angus MacDonald (Falkirk East) (SNP): I return to the issue of site-based activities, specifically goose management. Clearly, there are still major concerns about the impact that geese have on crops in the northern isles and the Western Isles. I am keen to know what impact the pandemic has had on the on-going work in the northern isles and the Hebrides on that issue. Given that this is the season when geese cause most havoc, it would be good to know where SNH is on the issue just now.

Francesca Osowska: Thank you for the question. Yes, we completely recognise the issue. We have a range of goose mitigation schemes running across the country, including in the Outer Hebrides and the northern isles, which you mentioned. One of the issues that we are looking at as we move into phase 1 of safe working is how we can resume some of those monitoring and control activities. You will be aware of the very successful scheme in Orkney that looked at how we could get goose meat to market. We are working on how that can be resumed.

This has been an unprecedented situation in so many ways and it has only been right that our staff have worked in accordance with Government guidance and regulations. That has meant that some things have paused but, as we move out of lockdown, we will be assessing the impact that there has been on those activities and revisiting what we can do to ensure that we can get back on the ground and work on schemes such as the goose schemes to provide the mitigation that many farmers want and need.

Annie Wells (Glasgow) (Con): Can you share with us the key concerns that have been raised with you by industries, non-governmental organisations and the public during this pandemic?

Francesca Osowska: I will address those three groups in turn.

The issues that the public have raised have been more on the opportunity side. At the risk of repeating myself, there has been an engagement with nature that we have not seen before—people have really begun to notice nature in their daily exercise. We have started fieldwork for a survey into people's recreational behaviour during lockdown and what the implications of that are for their engagement with nature. We will build on the results of that, which we should get later in the summer, as we move into the recovery period.

Obviously, concerns have been expressed—we have heard about some of them today. There have been concerns about access legislation and littering, for example, and members of the public

who are very involved in nature have expressed concerns about lack of monitoring and so on. However, by and large, the public response has been more to do with the opportunities that now exist. For example, people are seeing dolphins closer to the coast now and seeing pine martens for the first time.

Our NGO colleagues and partners have expressed a key concern about viability. For many, the effect of lockdown has been a loss of income streams. Many have had to take difficult decisions on furloughing staff and stopping key pieces of work. We have worked with them to see what flexibility we can provide in our funding to support them through that period. We have an on-going dialogue with them on that. For example, we have been able to work with the successful recipients of money from the extremely successful biodiversity challenge fund, which was oversubscribed, to spread the funding over a longer period and to loosen some of the restrictions on it in order to support the work of our environmental NGOs.

We have had some engagement with the business community on development planning, given that our development planning assessment often relies on site visits. The lockdown has necessitated a change in how we conduct surveys and so on. We have taken a risk-based approach to that and, where we have data from other sources, such as aerial photography and satellite images, we have used that. We have provided some comprehensive guidance on development planning on our website, which I think has helped a number of our key customers. We will continue to work with them as we move out of lockdown.

09:45

A particular feature of the conversations with those groups has been mention of a green recovery. We have heard ministers and the Scottish Government give great leadership in thinking about how economic recovery from the pandemic can help us to address the twin challenges of biodiversity loss and climate change. Many of our stakeholders are asking us about that and about what it will mean. They support the green recovery approach that we would like to see. Natural capital is important for our economy. It is worth £196 million and provides 240,000 jobs. We want to be part of that dialogue and to support the Scottish Government as it plans a green recovery from the pandemic.

The Convener: Thank you for your time, Francesca. Is there anything that you would like to add to what you have said today?

Francesca Osowska: I am conscious of your time, but I want to emphasise my point about a green recovery.

This situation is unprecedented and none of us would have wanted to be in it. The First Minister has been very clear that this changes everything. We are thinking about how it changes some of our ways of working as an organisation.

I am clear—as Roseanna Cunningham was when she spoke to the committee on 29 April—that tackling biodiversity loss and climate change are still priorities. Those are our strategic priorities and we are viewing them through the lens of a green recovery.

Resilience is at the heart of that for SNH. We are discussing how we build economic, societal and environmental resilience into everything that we do. The pandemic has shown that all of that is related. Planetary and human health are related. Some of our contributions to the discussion on green recovery highlight the natural capital approach. I said earlier how much that is worth to the economy, but I should correct myself—it is £196 billion per year, which is astounding.

Our land-based industries, such as tourism and food and drink, are all heavily dependent on natural capital. Those are some of the recovery areas that we are thinking about and we are having a positive dialogue about how we can accelerate some of our green investment finance programmes and how we can inject urgency and pace into nature-based solutions. Measures such as peatland restoration and woodland planting support not only the tackling of climate change but biodiversity, as do urban green infrastructure, nature-based tourism and active travel. All those components help our environment and they support economic and societal resilience.

None of us would have liked things to be this way. However, if we can think about the opportunities that can come out of this situation, there could be positive environmental and economic benefits in the future.

The Convener: You mentioned biodiversity and, before I let you go, Finlay Carson would like to ask a final question about that.

Finlay Carson: We have previously heard that the Covid-19 crisis might have a positive effect on climate change. Do you think that the crisis will have a positive or a negative impact on SNH addressing the issues that we have had in meeting biodiversity targets?

Francesca Osowska: We have thought about that a lot. I know that your question goes wider than this, but I can give a statistic for our organisation. In April 2020, our carbon emissions from business travel decreased by 96 per cent

compared with the previous April. That is a staggering emissions reduction. That has prompted us to think about how we might organise our business differently in the future, using online methods. I commend the committee for operating its evidence sessions in that way.

Many emissions reduction statistics have been reported in the wake of the global lockdown. That positive emissions benefit will lead to positive climate and biodiversity benefits, but that will be the case only if some of the behaviour change that we have seen is locked in. The challenge for my organisation is how we lock in some of the good behavioural patterns that we have established, and that is a society-wide challenge.

On biodiversity, our biggest opportunity comes from some of the public engagement that we have had. I always get this quote slightly wrong but, essentially, David Attenborough said that people will not invest in something that they do not care about, and will not care about something that they have not experienced. As more people are experiencing nature, people are beginning to understand why biodiversity is important. Getting that groundswell of understanding will help us. By working collaboratively in the way that we are doing with the Scottish Government, our brother and sister non-departmental public bodies, ENGOs and landowners on the future for a green recovery, we can put nature-based solutions that tackle climate change and biodiversity at the heart of that process. I am optimistic about that.

The Convener: That seems a good note to end on. Thank you for your time, Francesca. Your evidence has been very interesting. It has been great to catch up with what is going on at SNH at this very challenging time.

I suspend the meeting briefly to allow for a change of witnesses.

09:53

Meeting suspended.

09:54

On resuming—

The Convener: Welcome back. We continue our examination of the impacts of the current health crisis on the environment in Scotland. I welcome Terry A'Hearn, who is the chief executive officer of the Scottish Environment Protection Agency. Good morning, Terry.

We will move straight to questions. I want to ask you a similar question to the one that I asked Francesca Osowska of SNH. What impact is the current health crisis having on SEPA's operations? What are you prioritising? How are you organising

things in your organisation in line with the restrictions that we all face at the moment?

I suspend the meeting, because it seems that we have lost Terry A'Hearn.

09:55

Meeting suspended.

10:03

On resuming—

The Convener: Welcome back to the meeting. We are on the second panel for agenda item 2, continuing our examination of the impact of the health crisis on the environment in Scotland. We are now able to speak to Terry A'Hearn, the chief executive officer of SEPA. Good morning to you, Terry.

Terry A'Hearn (Scottish Environment Protection Agency): Good morning.

The Convener: We move straight to questions. You might have seen the earlier session, in which I asked Francesca Osowska from SNH about the immediate impacts of the pandemic on that organisation. I also ask that of you, and what you are prioritising, given the restrictions that we are under right now.

Terry A'Hearn: The pandemic has obviously had a huge impact on us, as it has had on all organisations. I was in Australia for the first three weeks of the crisis. In early March, we set up an emergency management team that met every day. In mid-March, we closed a couple of our offices, in Balloch and in Stirling, because we had evidence that staff there might have had coronavirus. During the next week, we started asking people to work from home if they could do so. On 24 March, we closed all our 26 offices. That approach worked quite smoothly. As happened in many organisations, we made a huge effort and things worked quite well.

Some of our staff have had problems. We have around 1,200 people, of whom around 1,000 to 1,100 were pretty well set up to work from home in a comfortable way in the first few weeks. However, the other 100 or 200 had problems with broadband access or other problems such as not having good tables to work at or having to share facilities with kids who were at home. We have put in a lot of effort with that proportion of our staff. They might represent a small number of our overall staff, but the inconvenience to them has been great.

We were clear with our staff that they could do four things. They could work on getting themselves set up at home, including organising how they worked, lived and looked after elderly parents or children and so on. We ensured that

they were comfortable and that they understood that their first priority was to look after themselves. Our three other aims included that they should first try to do their normal work but that, if they could not do so, they should try to find other useful work to do. People have therefore been able to do things that they would usually struggle to get round to doing. For example, an important review of procedures in our laboratories had been on our schedule. Previously, we had not been able to get round to doing such work as quickly as we could have done, but it has now been carried out. Finally, we said that we knew that some people would not be able to work full time because of caring responsibilities and so on, and that they should feel comfortable and supported in carrying those out.

We therefore put a huge effort into supporting people in making the big shift to being at home and doing those four things and into ensuring that people felt supported in doing them. I sent video messages to all staff, and we sent emails to them and held question-and-answer sessions. By and large, that approach worked quite well.

We were able to define what our priority services were reasonably quickly. In the initial phase, the priority was preparing what we call regulatory position statements. Not every business that we regulate can currently do everything that we would normally require. Once it was clear that their workforces could not get out there or that they had completely lost revenue streams, as some of them did, we knew that they would be unable to do everything that we normally need them to do. We had the ability to make regulatory position statements and give them clarity on what they should prioritise. We got out about a dozen such statements, and we have made issuing further statements a top priority.

Our next priority was maintaining the hydrometric network, which underpins the plumbing system. Committee members can imagine what might happen if there were to be bad flooding incidents in the midst of a pandemic in which people are trying to deal with a major public health emergency. If we were slow to get warnings out at any time, that would be bad, but in a crisis and an emergency it would be even worse. Ensuring that we carried out critical maintenance on that network was therefore important. We also had to ensure that, if a category 1 or category 2 incident—for example, a major explosion at a plant—were to happen, we would be able to attend.

That was our approach in the initial phase. Since then, we have expanded it a little bit. People might think that, in the scheme of things, odour and noise issues are not the biggest environmental problems. Compared with issues

such as climate change, they are not. However, if someone is living with such problems, that can feel really terrible, as many citizens will have experienced. If that is happening during a lockdown it is even worse, because everyone has to deal with it 24/7. Sometimes, people are out at work and so their household might have to deal with such a problem only out of hours, which is still really bad. However, it might be that a primary carer is at home and having to deal with it 24/7 while other members of their household are at school or at work. We have gone through the information and have identified the top 30 sites that are causing significant amenity problems, and we have prioritised dealing with those. We have put in place a system in which we have clear priorities, so that the highest environmental and community impacts are dealt with. Although not every environmental issue can be dealt with as it normally would be, we can ensure that the most significant impacts are looked after and, further, that such issues do not make dealing with the pandemic and the lockdown harder.

The Convener: You have been able to structure the organisation so that a lot of people can work remotely. Do you see that continuing as we move past the crisis? Will you look at how you can carry out your operations in a way that allows more agile, flexible and remote working not for everyone but for a substantial number of people who work for SEPA?

Terry A'Hearn: We were looking at that issue anyway, and now the work will be fast tracked because of what has happened. The picture is quite interesting. In the first couple of months, the feedback that we received from staff was really pleasing, because people told us that they were proud of the organisation and of the way in which it was looking after people and working out how to protect the environment. In any crisis or emergency, humans can adjust their behaviour quite significantly and rapidly, and the changes have worked quite well for us, as they have done for most organisations and society in general. However, having got through a couple of months, people are realising that the situation is going to go on for a fair bit of time. I would not say that there has been a big shift in the past week or so, but we are starting to see quite strong personal variation. People who are more gregarious are saying that they are getting really sick of not being in an office and meeting colleagues face to face, while others are saying that they are enjoying the change and that it would be great if it would go on for a long time.

We are setting up a working group that will look at all the implications. It will look at what we have learned from our first couple of months of home working and at what organisations around the world have learned, because they have been

going through this, too. The group will also look at what our partners are doing, because we achieve things for the environment by regulating businesses and others and by working with partners on flooding. Those are our two services, so the way that we do our work has to fit with the way that they do their work. There is a lot to look at.

During the rest of this financial year, we hope to come up with a long-term plan for how we will work. I cannot give you any specific answers, but I can say that there is no way that we will go back to how we used to work. The questions will be about what the mix of things should be. The most important thing for us, in managing the organisation, is to understand what works for the workforce. That will be very different, depending on where people work—the situation for field workers is very different from that for office workers or lab workers. We also have to consider everybody's personal circumstances and, as I said, the organisations that we work with.

We see a huge opportunity to improve how much people enjoy work and how much they enjoy life, because we can take this opportunity to create much more flexibility. That will be of benefit to each individual, as a worker and a citizen, and to the environment of Scotland, because we will get a much happier and more productive workforce.

Finlay Carson: Following the easing of the lockdown restrictions last weekend, there was a big increase in the number of people starting to visit our beauty areas. Hand in hand with that, there was an increase in the amount of litter being left. The closure of household recycling centres has also led to quite a big increase in fly-tipping, with not only household and garden waste but, in some cases, industrial waste being dumped. How is SEPA supporting landowners and farmers who are having to deal with high levels of fly-tipping during the pandemic? In particular, how is it helping them to deal with asbestos and toxic waste? Do you see changes being made to how SEPA and the Government support landowners to deal with that issue in the future?

Terry A'Hearn: We regulate 33 sectors of the economy and, on the basis of the evidence that we have so far, that is the area in which we have had some significant challenges during the lockdown. There has certainly been an increase in fly-tipping and other forms of waste activity.

I will take the issue in two parts. The first relates to what we have been doing and how we can help now, and the second relates to what might happen in the long term. On the current situation, I will not give much detail on some of the things that might lead to enforcement, because I might jeopardise that enforcement. Towards the start of the lockdown, we said that we would use a variety of

techniques. We have intelligence relationships with other authorities such as the police. We also have the capacity to use drones and a range of other techniques—we were using them previously, but we have now accelerated and increased their use because we have the flexibility to get them out there.

10:15

There is a good group chaired by Scottish Government officials that includes representatives from Zero Waste Scotland, SEPA and the Convention of Scottish Local Authorities, and it meets regularly to work out a combined set of tactics. SEPA has been contributing by trying to ensure that we use our existing enforcement powers to maximum effect. We have also done some other things—again, I will be prudent in what I say—such as checking people who advertise the provision of waste services to ensure that they are legitimate. If they are, we check whether they are advertising that they can provide more services than they probably should be providing. We then contact them and take action to ensure that the right people are providing the right services in the market.

We are doing a range of things on the compliance and enforcement side. We are also trying to advertise those measures and publicise them as much as possible to landowners and local residents, highlighting that they should be careful about who they might be getting waste from or who might be taking their waste away. The chair of SEPA and I have been talking to chairs and chief executive officers of representative groups such as NFU Scotland and Scottish Land & Estates to see how we can help their members in a practical way.

On the commercial and industrial side, we have—as we set out in our regulatory position statements—temporarily allowed people to do some things that might help. For example, people are temporarily being allowed to store waste safely in places and facilities that they probably would not be allowed to use in normal circumstances. That will ensure that we reduce the waste stream out there.

With regard to the future, we should expand a bit more the range of enforcement and compliance measures that we have tried out during this period. For the first time ever, we have set up a dedicated enforcement team of specialists. It will produce a weekly intelligence report and think about how we can better disrupt the activities of people who are trashing the environment when everyone else is trying to do the right thing. That work is already in train, but it will be upgraded and our powers will be used more assertively.

There is a range of things that we can do, but, as I said, fly-tipping is probably the one area in which, from what we can tell, there has been a significant increase in non-compliance. It is a very difficult issue.

Finlay Carson: I will move on to agricultural issues. We understand that the milk supply is operating on a temporary basis because of the situation that we have without the milk market. Is that approach able to be applied to land? We are currently right in the midst of silage time. How is SEPA enforcing current legislation on the ground? Equally, if not more importantly, how are you supporting, advising and working with farmers and landowners with regard to pollution incidents and so on?

Terry A'Hearn: SEPA has a very good relationship with the NFUS, which has been built up over the years—it was well in place when I joined SEPA, five years ago—and we use those links at both the senior and operational levels. In general, we try to get a joint message out with a representative body, and that is even more important in a crisis. It means that the members of the body will get the message not just from us, as the regulator, through our own channels, but from the representative body itself.

We are trying to give very clear advice. In developing our positions, we do not simply come up with a position and ask the NFUS to send the message out; we develop the message within SEPA and then ask the NFUS whether our advice will provide clarity for its members and whether we are missing anything. That approach works quite well.

We are not currently going out to farms unless there is a very serious incident, so we have explored with farmers whether they can record on their phone or iPad the sort of things that we normally check and then have a phone discussion with one of our offices. There are challenges in that regard with verification and so on, but the vast majority of people will act responsibly. We can then pick up any issues. In doing it that way, we are spending less time travelling out to farms and we can spend more time with farmers, so it is something that we will do in the future. If they are not complying, it is often because they do not understand or they have not got their heads around the regulations—they might need some advice—although some might not be doing the right thing deliberately. We can devote more of our time and resource to those activities.

Some farmers proposed such things to us before the pandemic, but we have now started to look at those proposals and we will be able to fast track them because of the pandemic. The close relationship that we have built with landowners over the past 10 years is key and has proven very

effective in the crisis period. As a regulator, not having the relationships is hard at any time, but it is even harder during a crisis period. That is one area in which we are quite pleased with how things have worked.

It has been important to get a very early understanding from the NFUS and others of what the emerging issues are. Some industries have said, “Look, we think we might run into this problem,” and, in the first couple of months, they have not, but that has given us time to think about what regulatory requirements we would put around the issues if farmers had to do something different—for example, on the disposal of milk if they could not sell it.

Finlay Carson: That is useful, and I am pleased to hear about how you are working with farmers. Over the past few years, SEPA has engaged with farmers, and that has delivered far better rewards, with everyone trying to do the right thing. I appreciate your answers.

Claudia Beamish: I am pleased that you have made the time to come before the committee to help us to take matters forward together. I have a broader question about looking to what I might call a green recovery.

First, I will briefly ask about your temporary regulatory position statement on the fin-fish industry and aquaculture. I would welcome detail on that. You will know that this committee and the Rural Economy and Connectivity Committee take a keen interest in the industry.

I will briefly focus on biomass limits and management of sea lice—which I seem always to focus on. In the current challenging circumstances, are you addressing impacts on the wider sea bed, including from farmed-fish health and mortality—we have heard that there has been an increase—and the interconnection with wild fish? Is that working? Are there other issues that you would like to raise with or highlight to the committee?

Terry A’Hearn: I do not have to tell the committee that aquaculture is a contentious issue. In respect of those issues, under the regulatory position statement the user slice is varied for a small number of farms. That means that they can use more treatment than they would have used in an earlier period. We think that that will have benefit for wild salmon because there is a critical period for controlling sea lice. The regulatory position statement protects the environment: the amount of sea-lice treatment that fish farms can use and the conditions under which they can use it are very tightly managed.

Not many producers so far have had to use the increased flexibility in the biomass limit. This relates to the previous question: much of what is in

our regulatory position statement is to say to farmers that if they find themselves in a position in which they need to do something that they would not normally do, they have some regulatory flexibility to do it. However, under our regulatory position statements in crisis periods most businesses do not need the flexibility that we give them. In this case, not many have used the increased biomass flexibility, but it has been important for the few businesses that have used it that we allowed for it early on. If the pandemic continues and sales do not pick up, more might need to use the flexibility that we have provided.

We are working closely with the sector—this is another area on which we have tried hard to build strong relationships. In developing position statements, we worked closely with the industry to establish what would work. We called on key people from the coastal communities network, Scottish Environment LINK, wild fisheries and others to discuss what we were doing and to find out what they thought of it.

Last week, we had an advisory panel that included various groups. We understand that it was the first time that there had been a panel of representatives of the industry and other groups advising SEPA. There was support from everyone on the panel for what we are doing. People wanted to know how long measures would go on for, and how they will work.

We think that the two positions that we have allowed on biomass and medicine have not had an adverse impact on the environment, and that they will be managed well. However, if there were to be a big second wave of the pandemic around the world and sales did not pick up, we would have to work with the industry. What would that mean, for example, for the fish that farmers have now, and what alternatives would there be?

I return to the key point that early provision of controlled and managed flexibility gives business the confidence to consider options, knowing that in the worst case they can use that flexibility. That is how things have worked in the fin-fish aquaculture industry.

Claudia Beamish: Thank you. That is very helpful. It would be useful, if they are available and if it would be appropriate, for the committee to have sight of the discussions and membership of the advisory panel. It is always helpful to have reassurance on how you are working together with industry, communities and non-governmental organisations.

I have a broader question on the green recovery, but Mark Ruskell might want to come in on aquaculture, first.

The Convener: With your permission, Claudia, I will bring Mark in now, as he wants to ask a

supplementary question. I will then come back to you.

Mark Ruskell: Thank you, convener. It is good to see you again, Terry.

I want to ask about the biomass limit. Clearly, increasing biomass in the same pens will have an impact on animal welfare. As we move through the production cycle and the fish get bigger and crowd each other out, that might bring particular disease problems. We know that that is already a problem in aquaculture.

To what extent can you roll back on the biomass limits later in the production cycle? Are the limits that you have set for the farms that have applied fixed, and are they becoming the new normal?

Terry A'Hearn: We can vary a regulatory position statement at any time. When someone applies for a variation under a regulatory position statement, we reflect that in their authorisation. We can change statements when that is necessary.

The committee knows that aquaculture has been a difficult area for SEPA to regulate, and that there is some contention. As with anything in life, regulation works best when there is openness and trust in the relationship. That is why we have put in so much effort over the past couple of years with the industry and other interests. We need to stick close to the fish farmers.

Fish farmers are also considering alternatives. If they run into the sorts of problems that you describe and that becomes difficult down the track, what could they do with the fish in their farms? Are there alternative uses for the fish, taking into account what they could be sold for? We need to stick close to the farmers.

Significant environmental challenges remind us of how critical it is to act early and to be in close consultation. Rather than finding out at the 11th hour that increased biomass is causing a problem for animal welfare or lice infestation, we can see when things start to look difficult and we can consider options and how to manage that. That is how it will work.

I can assure the committee that we can vary what we have said if we think that the environment needs that, and we would not just sit here and make snap decisions about that. It is important that we work closely with the businesses that we regulate and that we keep others informed. We are in a difficult situation because of the pandemic, so it makes sense for everyone to band together to work out what the options are—although SEPA is the regulator and we will make the decisions that we need to make.

10:30

Claudia Beamish: How will recovery packages and future regulatory approaches support a green recovery and use lessons that are learned on industry resilience across the 32—I think you said—industries that you regulate? You might want to highlight particular issues beyond farming and the fin-fish sector. Answer the question however you want: it is about the green recovery.

Terry A'Hearn: SEPA completely accepts the science on the challenges and on the potential environmental, social and economic catastrophe that faces humanity unless we radically change how we run our economies and societies. That is at the heart of “One Planet Prosperity—Our Regulatory Strategy”. We have had that strategy in place for four years, so we think that we are well positioned to work with other parts of the Government, the third sector and business on a green recovery and, to a degree, on the reinvention of the Scottish economy that we need.

Because we had been doing the sector planning process, we were, when the pandemic hit, well placed to consider the immediate issues for the 30 or so sectors—it is actually 33—that we regulate. We have teams looking at existing issues in those sectors, at the issues that businesses that have closed will have when they reset, and at recovery problems and opportunities. We are doing that analysis so that we are well placed to work with Scottish Enterprise, businesses, local authorities and others. We accept that the pandemic is horrible and awful, but are pointing out that we have an opportunity to create a better future and to build back better, which people are talking about, and we are saying what big things we can do quickly.

We were already doing that work. As with most of what I have mentioned in my answers, we will accelerate that work. I will issue a public call for new sustainable growth agreements, which are our voluntary partnerships. Our first one was with Superglass Insulation, in Stirling. That business was losing money and might not have continued had not new management come in. It has had £40 million to £50 million of foreign investment and has doubled production—I was at the opening of the new facility—and has massively reduced its environmental impact. The company recycles glass, which is a good thing, and turns it into insulation for buildings and so reduces energy use, which is also a good thing. I would not overplay what we have done, but management at Superglass would say that we played a key role, as the regulator, in helping the company.

In the coming period, we will say to businesses that we are here to help them with the emergency and with the green recovery. We will say, “If you have big ideas about how we can build back

better, let's not wait for six months—let's get on with it now." We will devote resources to helping businesses that want to jump ahead rather than just take small steps.

Claudia Beamish: That is helpful and encouraging. How can you promote that to businesses that do not know about that forward-looking vision?

Terry A'Hearn: We do a lot to promote our approach. In late March, we put out a philosophy statement on how we would manage during the pandemic. That sounds a bit grandiose, but we were trying to say that we understand that everyone is in difficult circumstances and that we want people to use their best endeavours to meet their obligations. If they cannot do everything that we normally need them to do, they should not do things such as our paperwork and some monitoring, but they should make sure that they do the things that affect the environment and they should work with us, talk to us and so on. That is important because it builds trust. If we help people when they are in a crisis and say that we want to work with them on how to come out of the crisis better and stronger, we have a better chance.

We work through trade bodies and we write opinion pieces in the major dailies. We bring in international experts to provide support. We are using the range of mechanisms that we would normally use to get the message out.

For me, it is crucial that one of the biggest partnerships that we have is with Scottish Enterprise. I regularly meet Steve Dunlop, who is its chief executive. Scottish Enterprise is the Government's development agency, so Steve has the remit to say that future economic development in Scotland needs to be low carbon, low water use and low materials use in order to drive for a better environment and achieve better social outcomes. It is important to say that that is the only type of economy that will be successful; there will be no successful high-carbon economies. We do some general stuff, and the rest is bespoke to whichever industries we are working with.

Claudia Beamish: Thank you. That is very helpful.

Mark Ruskell: It is welcome news that SEPA is looking to accelerate its work on sustainable growth agreements, and I am aware that Superglass's work has been transformative for that sector. I assume that one operator that you will not be signing an SGA with any time soon is ExxonMobil at Mossmorran. I am interested to hear about your compliance work with such major industrial sites during lockdown. In the case of Mossmorran, as recently as last Friday, huge numbers of members of the public contacted SEPA—and me, too—about noise and a smell at

the plant. You were quick to get on Twitter and inform people that you had been in touch with the plant, and that the plant operators were going through a decoking process. That kind of communication is welcome.

I wonder about what is happening behind the scenes, and whether the lockdown has impacted on the way that you regulate. Clearly, you were in contact with ExxonMobil on Friday, but were you able to visit the plant? Was there a need for SEPA officers to gain access to the plant and see what was going on, or can you effectively regulate remotely, without physical access? Are there times when you need to be on site?

Terry A'Hearn: I have a couple of comments on that. First, in the philosophy statement that we put out—as I said, it sounds a bit grandiose, but we wanted to make a general statement—we said that if people try to do the right thing they will find us supportive and helpful, and that if people deliberately do the wrong thing, they will find us uncompromising.

On whether we need more or fewer regulations to bolster the economy, what we need is regulations that make it easy and quick if people are doing the right thing, and difficult, painful and expensive for people who perpetually do the wrong thing. That is what we are trying to do.

In many cases, it is not much of a handicap not to be able to go to a site. For example, a lot of the stuff that we do with Exxon involves best available techniques assessments. That applies to Shell, too, although we do not have as difficult a set of issues with Shell. However, it is a joint plant, and we sometimes have issues. We might have a meeting at the plant, but it does not really matter which meeting room we are in, because we are really just going through a technical assessment, which can be done over the phone or by video. That applies to a fair few of the sites that we regulate.

However, as with a lot of things in society at the moment, when we say, "It's actually working okay with my colleagues talking by phone or video," that is because we have spent years developing relationships. I suspect that your organisation will have found the past couple of months more difficult. That applies to most of the businesses that we regulate—we have established relationships, and a lot of the stuff that we do can still go on okay, certainly temporarily.

Sometimes, it is more important to get out there, which is why, under the Government's guidelines, we have tightly defined the situations when we actually need to go out for a site visit or to an incident. That has been pretty limited so far, although we will probably start to increase the number of visits a bit. Sometimes, 100 per cent of

what we need to do to get compliance can be done over the phone; sometimes, if 10 per cent of the activity can be done at the site, it might make a big difference. There is that mix of issues.

I will always be cautious about this, but we are also trying to use other mechanisms such as drones or intelligence. We have started doing that a bit more in the past couple of months, and we think that there are more effective ways even than site visits that we can use that might give us significant new evidence that can improve our ability to ensure compliance and enforcement. In the first couple of months, the lockdown has not been a big barrier to our ability to regulate. If it goes on for a year, it will start to get a lot harder.

Any time that we send someone out, there is a health risk, so we obviously have tight controls over what they do, and we have not let that happen much. We need to target it and do it only when we really need to be out there to ensure compliance.

Mark Ruskell: So we should watch out for drones over Lochgelly in the months to come.

Terry A'Hearn: I will not say where they will be.

Mark Ruskell: I want to go back to the green recovery. We have looked at the route map to £1 billion and the work of the Scottish conservation finance project, in which you are working with partners to lever in private sector finance to help the green recovery. Will you say a little bit about what you see as the incentive for private companies, landowners and individuals to invest in that area?

For example, the route map report mentions non-native invasive species such as hogweed and how landowners could take out loans to tackle invasive species and would then pay back those loans through the savings that they would make in future. I have been trying to get my head round that. A landowner at the top of a catchment could do the work to remove the hogweed and get the money for that, but I do not see where they would make savings. The savings would accrue to people who are further down the catchment.

That is one example. I am trying to get my head round the approach. Is taxation not a better way of ensuring that we get investment in nature conservation and building back better?

Terry A'Hearn: I have a long history of working with the finance sector. Since 1992, the United Nations has had a programme involving banks, insurers, pension funds and asset managers, which has always been the main club for that sector to get together and work out what to do on the environment and social issues. Under a memorandum of understanding, I ran that for the UN in Australia for 10 years when I was working

for the Victoria Environment Protection Agency. That is why I decided to approach the Scottish Wildlife Trust and fund the Scottish conservation finance project.

On the one side, we have banks with their lending and investments, pension funds and asset managers—people with money trying to find things to invest in—and on the other side, we have landowners, conservation groups and businesses with ideas about how to reduce their environmental impact or develop new products that have a lower environmental impact. Those sides do not know how to talk to each other. All that money is sitting there with people who are looking for investment opportunities, and there are all the investment opportunities, but those people do not normally interact.

The purpose of the project is to find different mechanisms to bring those people together. As you say, in any one circumstance, something might work and it might not, and you cited an example of that. One example from Victoria was when a pension fund came to me at the EPA saying that there were huge problems with farming in Australia because not much of the country can be farmed, and because we were applying European farming methods, we were destroying the little bit of land that could be farmed. Lots of farmers' returns are marginal, so they could not do things such as retire parcels of land to let them recover or provide habitat to increase biodiversity.

The pension fund worked with the EPA, the agriculture department and a group of farmers. The fund said that, if it put in a bit of money and the ag department reduced some of the money that it put in, it could be done on rotation over several years so that the farmers could retire some land and get some supplementary income. The pension fund actually got its commercial rate of return, the ag department put in a bit less money and the farmers' returns increased. There were also better environmental outcomes and long-term security of food production. I cannot remember much of the detail about how that worked, because it was in 2007, but I know that it is now the highest returning asset in that \$8 billion pension fund.

The £1 billion challenge is about finding ways of bringing together different partners to work out what Mark Ruskell has just described. They need to work out how the profit-making parts make money and how those who have conservation objectives achieve them. How do we bring together the different objectives and find a way of financing them and generating commercial, environmental and social returns? That is really what the project is about. There are a whole lot of people with a whole bunch of money and a whole lot of people who would like to get some of that

money. How do we bring them together to construct bespoke projects that work for everyone involved?

I have given a general answer, but that is because the project was not set up by a Government body saying how it should happen and how the investment should be constructed; it is about providing a bit of a bridge for people to get together and work it out.

10:45

Angus MacDonald: My question is on novel coronavirus in the human waste water system, which perhaps strays into operational issues. We know that traces of SARS-CoV-2 were found in the sewerage system in the Netherlands before the first confirmed coronavirus case was discovered. We also know that the virus degrades quickly once excreted from the body, although scientists have found limited instances of infectious virus in faecal matter. The potential enteric transmission could have implications for those working with human waste and waste water. Has that been on SEPA's radar during the pandemic? Have you had discussions with Scottish Water about the issue?

Terry A'Hearn: Yes. Some six or seven weeks ago, the Dutch—I think that it was the Dutch, although I might be wrong about that—said that tracing can be done in the waste water at sewage treatment plants, which will give additional information about the level of the virus spread in that area. We were one of the first agencies in Europe to start working on that, and we have been working closely with Scottish Water and others in the health system and in Government on how we can do trials. That would be in addition to the personal tracing systems that the Government has been setting up. It would give us additional information that would help everyone to understand where the virus is.

I do not think that there have been any significant issues with Scottish Water about the potential impact on its workforce, but I cannot confirm that. However, the issue has not been raised with me.

In our work with Scottish Water on how to test the waste water, a huge priority of both organisations is how to protect our workforce in carrying out that work. I can confirm that we are doing the work to contribute to the overall health assessment, and I can confirm that we are doing everything that we can to protect our workers and Scottish Water workers. I am pretty sure that there has not been an issue with the impact of waste water on workers, but I have not got information to say that I can completely guarantee that.

Angus MacDonald: It was good to get that on the record. Thank you.

Annie Wells: We are easing out of the lockdown restrictions. Will you share any concerns that industries, NGOs or the public are raising with you at this time?

Terry A'Hearn: There are opportunities and potential problems. On the opportunity side, some businesses that have had to largely or completely shut down a facility are considering whether they can reduce its environmental impact when they restart it. When running a big facility or factory, there are occasional shutdowns. Those are precious periods for businesses, but they obviously want the shutdowns to be as short as possible, because the products that they sell are not being produced.

We are starting to look at the opportunities. Again, this is one of those areas where taking a sector approach helps, because we can talk to a whole sector rather than business to business, although there are benefits from doing both.

On problems, a number of issues have come forward, including whether there will be abandoned sites. A number of businesses are operating at the financial margins, because of lost production and sales. Some businesses are going under and might leave abandoned sites, which has clean-up costs. That is always a risk, but it is a bigger risk in an economic downturn. We are focusing most on that issue.

As was raised earlier, fly-tipping continues to be a problem, and we need to consider how we get on top of that.

The other thing is the disruption of supply chains. Some businesses need access to certain chemicals or materials from international supply chains to manage their environmental impacts. Most of them have managed so far, but we do not know what will happen in future. If the disruption is for three or four months, most businesses are able to work with and manage that, but it might be different if the disruption is for nine months or a year. It goes back to our working closely with those business sectors and the community to understand what the problems might be, so that we have things in place to cope rather than needing eleventh-hour solutions.

The Convener: That has exhausted our questions. Mr A'Hearn, do you want to flag up anything else that is relevant to SEPA's response to the pandemic or any future plans to deal with the situation?

Terry A'Hearn: I will reiterate a point that I have made a few times, because it is important to the way that we are running the organisation and therefore important that the committee is aware of

it. Things will change. We will continue to require people to make their best endeavours to meet their obligations and to tell us early about any problems that they think that there will be.

We spend most of our time with business on behalf of the community. Mark Ruskell mentioned ExxonMobil, which we spend a lot of time with, because its facility causes problems for the local community. When we work with businesses and get information from communities, if we can find out early about the problems and the green recovery opportunities, we will have the best chance to minimise the problems and create a different type of economy.

As a regulator, we focus on problems and compliance issues—that is bread and butter for us—but I stress to the committee that we will focus just as much on the recovery opportunities. If we cannot help the economy to change as we come out of the pandemic, we will get all sorts of problems and bigger compliance issues in the future, and that economy will not work. I wanted to reiterate that key point.

The Convener: Thank you for that and for your time this morning. We will suspend to give members a 10-minute break.

10:52

Meeting suspended.

11:02

On resuming—

Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill: After Stage 2

The Convener: The third item of business is a session with Government officials, following receipt of a letter from the minister signalling the Scottish Government's intention to lodge amendments at stage 3 of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill in relation to seal licensing, which we discussed last week.

I welcome our witnesses from the Scottish Government: Mike Palmer, deputy director for marine planning and policy; Michael McLeod, head of marine conservation; and Elaine Tait, marine evidence manager. Thank you all for coming in—virtually—to see us this morning.

We will move straight to questions. Could one of you give us an overview of the policy intention of the proposed change and what it actually means? I am not sure who is best placed to answer that question. We will go to Mike Palmer—over to you, Mike.

Mike Palmer (Scottish Government): The overall policy intention of the amendments is to enhance and improve the welfare of seals. The amendments would do that by prohibiting the licensed shooting of seals in certain specific circumstances and by increasing the maximum penalties that could be applied in relation to killing, injuring or taking seals.

We believe that those purposes are congruent with the purposes of the bill. The amendments would increase the maximum penalties, as I have said. They would not introduce new licensing provisions but would vary the current provisions. For those reasons, we believe that they are consistent with the overall purposes of the bill.

The Convener: It is not as though the Government is introducing a new crime, because this is about licensing. At the moment, someone can get a licence to cull or manage the seal population somewhere. However, the amendments would mean that those licences would no longer be awarded, because that would not be in line with the requirements of the United States with regard to our exporting fish to it. Can Mike Palmer provide clarification on that?

I should register an interest in that I am the Parliament's grey seal champion. It is important to put that on the record, so that people do not think that I am trying to hide it. I have an interest in

seals, obviously, coming from the largest seal haul-out area in Scotland.

Mike Palmer: Currently, there are a couple of grounds on which the Scottish ministers—the Scottish Government—can grant licences to shoot seals: to protect the health and welfare of farmed fish in and around fish farms and to prevent serious damage to fisheries or fish farms. As a result, a degree of shooting of seals happens within the fish farm sector and the wild recreational fisheries sector. The proposed amendments would take away those two grounds on which licences can be granted. They would adjust the current licensing regime rather than bring in or take away a licensing regime.

You are absolutely right to reference the US legislation that is coming in to protect marine mammals, because it is another factor, and it has influenced the timing of the amendments more than anything else. The amendments also have the purpose of improving the welfare of seals. We are proposing the amendments both for domestic reasons, to protect the welfare of seals, and because of the broader international movement, which the US regulations have crystallised in a way, to protect marine mammals against injury or killing. The United States has taken that forward by saying that it will not accept imports of commercial seafood products from any fish farm that might have shot or injured seals intentionally.

Those two policy developments have come together and brought us to this particular set of amendments at this time.

The Convener: That is clear, but when did the US bring in that condition about not accepting fish from other countries? I would like to know when that was and how long the Scottish Government has had to deal with it. We have questions as to timing—why now?

Mike Palmer: We totally understand that it is very unusual to lodge amendments of this nature at stage 3. We have been on a journey around the US regulations.

Members may recall that, in 2018, during the committee's inquiry into the impacts of salmon farming, we notified it that we were liaising with the US authorities. At that point, the US authorities were developing their legislation, and we have been in constant dialogue with them since then to clarify and understand exactly what its requirements are and how we need to comply with it. That has been a tortuous journey in some respects, because it is very complex legislation; the various conditions and requirements are wide ranging and needed to be gone into in some depth with the US authorities in order that we could understand exactly what we need to do.

In March—so, really very recently—we finally got written confirmation from the US authorities that they would require us to take legislative action by way of amending our licensing regime. Up to that point, it had not been clear that they would require us to take exactly that set of actions. We are still seeking to clarify some aspects of their requirements, which is why it has taken us until stage 3. We had hoped to be able to lodge amendments earlier in the bill process, but we were not totally clear on some aspects of what was required, even at stage 2.

From our point of view, it is unfortunate that we have not been able to lodge the amendments before this stage; we would have liked to do it earlier. That has been the result of the quite challenging process that we have had to go through with the US authorities to clarify certain aspects of the bill.

Just after we heard in writing from the US authorities what they require, the Covid-19 situation emerged, and that has created a lot of pressure on our resources—we were unable to develop our proposals with the speed that we would have liked. The pandemic has had an impact on us in that resources have been redeployed elsewhere. The US, too, is feeling the pressure from that.

The Convener: We totally understand that.

Finlay Carson also had questions on the timing, but this seems like a good point at which to bring in Claudia Beamish on stakeholder engagement. I will give Finlay Carson the chance to contact me if he wants to come in on the timing issue, but I will go to Claudia next.

Claudia Beamish: Good morning to the panel. I will leave it to the panel to decide for whom my questions are most appropriate.

I have listened carefully to what Mike Palmer has been saying about timing, but there is concern among committee members about how stakeholders will be affected. In 2018, our committee considered the issues of the shooting of seals and the injury of seals by acoustic devices, which my colleague Mark Ruskell will come on to. I am concerned, in the public interest, about how stakeholder interests will be dealt with.

11:15

Mike Palmer: I am happy to answer that question. I will give a summary to kick off and then hand over to my colleagues, who will give a bit more detail. Because of the compression of the timeframe, we have not been able to do the kind of formal consultation with all stakeholders that we would like to have done. However, we have made efforts to go out to some of the key stakeholders

that we know will be directly affected, particularly in the farmed fish sector and the wild fisheries sector.

I will hand over to Michael McLeod or Elaine Tait, who will give a bit more detail on the kind of engagements that we have had with those sectors.

Michael McLeod (Scottish Government): As Mike Palmer says, we have been engaging with the sectors that will be directly affected by the changes. We have had a series of meetings with them over the past couple of months. After the minister wrote to the committee at stage 2, we wrote to every current holder of a seal licence to make them aware of the proposed changes. We have done our best to inform everyone despite the difficulties with timing and the ability to have stakeholder engagement in the current circumstances.

I have also tried to have conversations with NGOs. Clearly, they have been badly affected by Covid-19 in that a significant number of people are furloughed. However, just before the furlough process kicked in, I informed them that we would be bringing forward proposals very quickly, although at that point we were not 100 per cent sure about that.

Because of the circumstances, we certainly have not had the level and depth of engagement that we would normally aspire to have.

The Convener: Before Claudia Beamish comes back in, I will just check whether Elaine Tait wants to come in to supplement that evidence.

Elaine Tait (Scottish Government): I have nothing to add to what Mike Palmer and Michael McLeod have already said on the issue.

The Convener: Thank you—it is always best to check.

Claudia Beamish: I do not know whether there is any further comment on the point that I tried to bring out, which is that the committee looked at the issues in 2018. I appreciate that United States law is important and that we have to get our approach right in that regard, but it is hard to understand why, over the past two years, we could not simply have proceeded and implemented changes on the basis of the concerns that were expressed by the committee and a range of stakeholders outside the Parliament in relation to seals and other marine conservation issues.

Mike Palmer: I understand the point. We were cognisant of the concerns that the committee raised about the seal licensing regime during its inquiry into salmon farming. We ultimately addressed that point in our responses to the reports of the Rural Economy and Connectivity

Committee and the Environment, Climate Change and Land Reform Committee.

When the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill came along, given this committee's concerns and our resulting policy thinking—which was reflected in our response to the committee's report—we looked at whether we should use the bill specifically for these kinds of measures. We did that at the outset of designing the bill, but that was before the Covid situation had emerged and before it was clear what would be required in order to respond to the US regulations.

We took the view then that we should do what we routinely do anyway, which is to place the concerns and issues around the seal licensing regime in and among the range of issues that we would routinely consider in terms of amending and improving our primary marine legislation and the Marine (Scotland) Act 2010. That is a process that we routinely go through as part of good governance. However, given the parliamentary timetable and so on and so forth, there was not a defined set of proposals to bring through a set of amendments to the 2010 act at that time. There still is not, because we are still in the process of putting together what might be improvements to the 2010 act at some point in the future.

That was the thinking at that time. Clearly, things moved on with the developments around the US regulations, which forced the timing. We were also very conscious of the pressures on parliamentary time resulting from the Covid situation. Those developments coming together brought us to the conclusion that it would be sensible to draft the amendments now so that we could use this bill. The decision is the result of a set of developments that have occurred since we first thought about the bill.

The Convener: Claudia, are you happy for me to move on to the next committee member?

Claudia Beamish: I still have concerns, but Mike Palmer has answered as he sees fit. Thank you.

Finlay Carson: I have the same concerns as Claudia Beamish. We have heard some responses as to why the seal licensing proposals have been brought forward, but my concern is that the bill is a tight one and it was made clear at the outset that it would deal with only certain issues. I believe that the seal licensing proposals are outwith the scope of the bill that was introduced for us to consider. I do not buy the idea that the proposals could not have been raised at stage 1, given that, as we have heard, there have been concerns since 2018. Members lodge amendments during the bill process and a bill will

be amended to ensure that we get the eventual law right.

This is not a good way to make law. It is not good governance; we will not get the opportunity to scrutinise the amendments properly and, as Michael McLeod has said, there has not been the depth of engagement that would normally happen. Introducing amendments so late in the day is very disappointing.

Given the committee's concerns about the welfare of seals, I am really concerned about adverse, unintended consequences of bringing in these new laws. My colleague will raise our concerns about acoustic deterrent devices, but I put on record that this is not acceptable. Although I have listened and I understand the reasons, I still do not understand why something could not have happened at stage 1 to allow us to get stakeholders involved.

Covid-19 will become the excuse for so many things—I do not buy it in this instance. Convener, I do not have another question but it is important to say that I am not happy about this being brought in at stage 3.

The Convener: Finlay, do you want a response from any of our guests, or are you happy just to leave those points on the record? Mike Palmer may like to respond.

Finlay Carson: Mike, are you happy that this is the right bill? Is there no alternative legislative vehicle? The amendments are all a bit rushed because of the US requirement, which is not a good reason for making law.

Mike Palmer: We fully acknowledge and recognise the concerns that Finlay Carson has raised. I have said that the situation is not ideal and that we would have wished to provide more notice. Back at stage 1, it was not clear that the US regulations would require us to go to these lengths. It seemed to us then that any measures about seals would be better done in a future package of marine amendments, alongside other amendments to marine legislation that would be introduced at some point in the future. I am reiterating what I said earlier.

With regard to your question, we believe that this is the right bill. There is a good fit between the overall purpose of the amendments—to improve the welfare of seals while not bringing in a new licensing regime or taking one out—and the purpose of the bill, which is to increase penalties for breaches of due welfare for animals and wildlife. That is exactly what the amendments do; they improve the welfare of seals, which are a species of wildlife, by taking away a couple of conditions in the licensing. That seems to us to be in the scope of the bill and that is the position that we have arrived at.

Mark Ruskell: I will move us on, because we are where we are. The Government has known about the need to prevent the damage to marine mammals since 2017 and it has taken a long time for this licensing proposal to be introduced. I am glad that it is being introduced, but there are potentially consequences that could impact on other marine mammals.

As I see it, if we rightfully remove the licensed killing of seals, the industry could respond in two ways: it could use tensioned nets and seal blinds to prevent the access of seals to aquaculture cages, but it could also continue to use acoustic deterrent devices. There is scientific literature on ADDs and their impact on marine mammals—not only on seals, but also whales, dolphins and porpoises. According to a 2010 study by Northridge and others, ADDs can be detected at more than 14km from the sound source.

11:30

Another paper, which was written in 2014 by Lepper and others, found that commercially available ADDs can cause injury, stress, hearing damage and behavioural disturbance. The same study went on to state that there is a credible risk of exceeding injury criteria for both seals and porpoises.

This year, a study by Götz reported concerns about the new wave of acoustic deterrent devices, which are called "GenusWave". Will the witnesses acknowledge that there is an impact on marine mammals from acoustic deterrent devices?

Mike Palmer: We are absolutely aware of the concerns about ADDs. The issue came up in the inquiry that this committee undertook, and it prompted us to undertake a programme of work to look into ADDs and their impacts. We are undertaking government-funded research, so that we can have proper evidence-based development of policy on ADDs and how they should be addressed as a non-lethal deterrent in future.

I will hand over to my colleague Elaine, who can give a bit more detail on our work.

Elaine Tait: At the moment, a range of non-lethal measures are used by fish farms and the river fishery sector to deal with seal predation. That range of methods includes seal blinds, tensioned nets and also ADDs. As Mike said, we appreciate that there are some concerns regarding disturbance and the potential impact of those devices on cetaceans.

When the committee reviewed the impacts of fish farming, there was talk about various unknowns and uncertainties. We have commissioned research on that, which aims to start to fill some of the key gaps on the extent of

ADD use across the sector—including how and where they are used, duty cycles and places in which ADDs are not used—to get a full picture. That means that when we start to move forward we will have a strong evidence base and knowledge about how ADDs are being used.

The effectiveness of ADDs is also part of the project. We will work with the industry to get a feel of their effectiveness. That project will also look at developing science-based industry guidance about how ADDs should be used in order to reduce any potential environmental impact. All that work is on-going and it is due to be completed this year.

As well as funding that research, we are undertaking a review of the current management and regulation of ADDs. That is also on-going and once the review is completed we will set out further details.

Those are the two workstreams that we have at the moment, and we are conscious of the concerns.

Annie Wells: I have two further quick questions. Can you tell us when the research started, given that there was a committee inquiry in 2018? Can you foresee any potential unintended consequences that might need more investigation?

Elaine Tait: The research commenced last summer. It is on-going and will complete later this year. As I said, we are interested in finding out exactly what is going on, so we are not looking at the impact of ADDs in particular. Really, we are looking at efficacy and usage. It is clear that we do not know how these devices are used and, in order to move forward, we need a solid evidence base.

The Convener: Before we wind up this session, Mark Ruskell will ask a supplementary question.

Mark Ruskell: The US Marine Mammal Protection Act is clear. It prohibits the taking of marine mammals, and it says:

“The term ‘take’ means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.”

The act defines harassment as

“any act of pursuit, torment, or annoyance which—

- (i) has the potential to injure a marine mammal ... in the wild; or
- (ii) has the potential to disturb a marine mammal ... by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.”

With due respect to the witnesses, the issue is not about whether ADDs are lethal; it is about their ability to disrupt, annoy and harass marine mammals, whether they are seals, whales,

dolphins or porpoises. There appears to be a major issue with compliance with an act that—let us face it—was drafted in 1972. Surely, the compliance issue is not about the extent of the use of ADDs; it is about the nature of that use and their impact on marine mammals. I would like to push our witnesses for a response on that point.

Michael McLeod: You are absolutely right about the MMPA. We have to achieve comparability with how the US uses its regulations, and it has a process that enables the use of acoustic devices. We will be working towards having something that is comparable in that regard. However, to get to that position we need the evidence base that Elaine Tait outlined, because it is the use that creates the noise in the marine environment, and that is what will determine the level of effect that that noise will have.

The Convener: I thank our colleagues from the Scottish Government for talking to us this morning. As we have finished our questions, they may leave the meeting.

Annual Report 2019-20

11:38

The Convener: Agenda item 4 is consideration of the committee's draft annual report, which covers the committee's business during the parliamentary year from 12 May 2019 to 11 May 2020.

If any members have comments to make, they should please put an "R" in the chat function. Claudia Beamish has had to leave, because she has to attend another meeting, but she asked me to put on record that, in the section on petitions, she would like there to be a one-sentence comment on the petitions that we have taken evidence on or examined. She would also like the report to feature some photographs taken when we used to be able to go out and about and do things.

Mark Ruskell: It would perhaps be worth putting something in the annual report about our social media and wider public engagement, which is a real theme of this committee and something that we have been doing successfully. We had a citizens forum on agricultural subsidy, possibly at the end of last year. We have been considering the feedback from that forum, and it would be worth reflecting that in the report.

If we are compiling statistics on the number of meetings, it would be worth looking at the length of meetings. We have had detailed but quite lengthy sessions every Tuesday and we have covered a lot of ground. It would be good if we could explain to the public the number of hours for which we have met in order to work hard on environmental issues, from climate change to animal welfare.

The Convener: I agree. It might also be worth mentioning in our report that we are the first committee to pass a statutory instrument remotely. It is always good to be first, even though it is not in the best circumstances.

Finlay Carson: I was going to mention most of what Mark Ruskell raised. We certainly need to emphasise our outreach programme, because some of it was pretty innovative, particularly when we were dealing with things such as the deposit return scheme and climate change. I would like to see something included on that.

We have always had good, healthy debate about which photographs we should have in the report. That is important. I am happy for the convener to sign off the text, if we include those other bits, but it is probably a good idea to send us a final draft that includes the graphics and photographs, to make sure that we are all happy. We are not vain about our photographs, but it is

always good to see them before the report goes to print.

The Convener: Sure—we are not vain.

No other member has asked to speak on the annual report.

Are members content for me to sign off on the report, with the caveat that Finlay Carson gets to check that he looks good in his photographs? It looks as though all members are content.

Are members content for me to finalise the report before it is published? It looks as though all members are content.

That concludes the committee's business in public. I thank everyone who has joined us. It has been a good session, and we got a lot done. The committee plans to meet informally next week to progress work programme items, and we intend to meet formally in the week beginning 15 June.

11:42

Meeting continued in private until 11:58.

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