



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs, Islands and Natural Environment Committee

Wednesday 3 November 2021

Session 6



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Wednesday 3 November 2021

CONTENTS

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GOOD FOOD NATION (SCOTLAND) BILL: STAGE 1..... 1

RURAL AFFAIRS, ISLANDS AND NATURAL ENVIRONMENT COMMITTEE
9th Meeting 2021, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

*Jenni Minto (Argyll and Bute) (SNP)

*Mercedes Villalba (North East Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Burgess (Scottish Government)

Ashley Cooke (Scottish Government)

James Hamilton (Scottish Government)

Tracy McCollin (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs, Islands and Natural Environment Committee

Wednesday 3 November 2021

[The Convener opened the meeting at 10:30]

Good Food Nation (Scotland) Bill: Stage 1

The Convener (Finlay Carson): Good morning, everyone, and welcome to the ninth meeting in session 6 of the Rural Affairs, Islands and Natural Environment Committee. I remind members who are using electronic devices to switch them to silent mode.

Our first item of business is an evidence session on the Good Food Nation (Scotland) Bill with Scottish Government officials. I welcome George Burgess, who is the deputy director in food and drink; Ashley Cooke, who is the head of food policy; James Hamilton, who is a solicitor; and Tracy McCollin, who is the head of the bill team.

I invite George Burgess to make some opening remarks.

George Burgess (Scottish Government): I thank the committee for the opportunity to give evidence. I will make some brief opening remarks about the history of how we got to where we are.

It goes right back to 2009, when the Scottish Government published “Recipe For Success: Scotland’s national food and drink policy”. That was followed in 2014 by the discussion document “Recipe for Success: Scotland’s national food and drink policy—Becoming a Good Food Nation”. That is the point at which the term “good food nation” came into our consciousness.

The document set out a new vision for Scotland—that we should be

“a Good Food Nation, where people from every walk of life take pride and pleasure in, and benefit from, the food they produce, buy, cook, serve, and eat each day”.

That gives a sense of the breadth of the policy.

The non-statutory Scottish food commission was established in 2015 to provide advice to the Scottish Government on the challenges that Scotland’s food culture faces. The commission reported its recommendations to us in 2017, and a key recommendation was that we should provide framework legislation, which the bill represents.

In 2018, the Scottish Government committed to introducing legislation to underpin the good food nation policy, and the consultation ran from late

2018 through to 2019. As members will be aware, we were seeking to introduce the bill just as the pandemic struck, so it had to be postponed. We have now introduced the bill at the earliest opportunity.

The Convener: Thank you. We will move to questions. Mr Burgess, I understand that you will field the questions and direct them to the appropriate official. I appreciate that.

I will kick off with a question on the pre-legislative consultation. As you said, the good food nation policy has been in development since 2009. In 2017, the Scottish food commission made recommendations on a bill and on other aspects of food policy, then issues were raised in the consultation on the bill. Among the issues were whether the bill would deal with public health, food insecurity, provenance and local procurement of food, food waste and food education. To what extent have those recommendations been included in the bill? If they have not been included, why have they not?

George Burgess: Essentially, we are doing exactly what the food commission recommended should be done. As I said in my opening remarks, the good food nation policy covers everything—you might say from farm to fork, but it actually covers pre-farm and post-fork as well, including procurement and education.

In the bill, the requirement on the Scottish ministers and on local authorities and other bodies to produce plans sets out the issues that the Scottish ministers and all the other authorities must have regard to, including

“social and economic wellbeing, ... the environment, ... health, and ... economic development”,

so I think that all the topics that you outlined would be within the scope of the plans.

The Convener: That is certainly something that our committee will be looking at. We will be looking at the process of the bill, but we will also be taking evidence on such issues and making some recommendations.

There was also a question about there being an oversight role for an existing or new public body. How can we hold the Scottish ministers to account to ensure that what is in the bill happens?

George Burgess: The Scottish Government’s consultation in 2018 set out our view. At that stage, we indicated that we did not consider that a new bespoke oversight body was required. For one thing, Parliament—including this committee and the other subject committees—will have a role in scrutinising the Scottish Government. There are existing mechanisms for local authorities as well.

We did not see a particular need for a new body, so the bill does not provide for a new body. Nevertheless, in the agreement between the Scottish Government and the Scottish Green Party, there is a commitment to reconsider that, which is being done at the moment.

The Convener: Thank you. I have a final question. What will private businesses' involvement be and how will they play their part?

George Burgess: I wonder whether you are thinking about the recommendation from the food commission on reporting by private businesses. That is not included in the bill. The bill applies to the public sector—the Scottish Government, local authorities and other public bodies. Nevertheless, there is other work with the business community on reporting. There was an announcement at the 26th United Nations climate change conference of the parties—COP26—yesterday about a certain tier of businesses reporting on climate matters, which is obviously relevant to food.

We are engaging with businesses on food and drink. My colleague Dr Cooke can say a little bit about that, because he has been involved in some of that engagement recently.

Ashley Cooke (Scottish Government): In recent weeks, we have been discussing with business representative organisations their views on the bill and any concerns that they have. They will want to give their views to the committee in due course, but they have been providing us with feedback. We consult business quite a bit. We have a food sector resilience group at which, only yesterday, we discussed the bill and offered further engagement with any business that has an interest. When we create the food plans, there will be a consultation process for businesses and others to feed in to their development.

The Convener: There was a suggestion in some consultation feedback that we should refer not to private business but to enterprise. Was there any consideration of including large-scale private sector business enterprises in the bill?

George Burgess: As I said, the bill focuses on the public sector. There are limitations on the extent to which Parliament can impose duties on companies and other business entities. I am not suggesting that that was a determining factor, but, as I mentioned, there are other routes through which we can look at companies and their reporting.

The Convener: We will move on to questions on the purpose, scope and content of the bill.

Mercedes Villalba (North East Scotland) (Lab): The bill seems to be quite narrow in scope, specifically focusing on the good food nation plans. What was the thinking behind that? What

are the practical implications of having such a focused purpose for the bill?

George Burgess: You are right in saying that the scope is narrow in that it focuses on the plans, the requirement on the Scottish ministers and other public bodies to produce plans and, as I am sure we will discuss later, the effect of the plans on bodies in exercising their functions.

In that respect the scope is narrow, but the plans themselves must cover a broad field. I have already quoted the requirement in the bill to have regard to

“social and economic wellbeing, ... the environment, ... health, and ... economic development”.

That is not a narrow scope. The bill is precise in what it will do; the plans and their implications are broad.

Mercedes Villalba: I think that a lot of people expected that a right to food would be included in the bill. Can we expect to see that? If not, why was that decision taken?

George Burgess: Parliament can expect to see something on a right to food, but it is not in this bill and there is no intention to include it in the bill. It will be dealt with in the new human rights bill that was announced in the programme for government.

That said, the right to adequate food is relevant to the bill. The committee will see that section 3 includes a clear requirement for the Scottish ministers, when preparing their plan, to consider the right to food with regard to a range of international instruments. Those instruments already set out internal obligations that are binding on the United Kingdom and Scottish Governments and on other public bodies. You might say that the plans will give life to the right to food and will set out exactly how the Scottish ministers, local authorities and health boards are giving effect to that right to food.

The expression of the right to food itself will be in the human rights bill, but the right to food is relevant to this bill. The plans will help to give effect to that right.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): I hope that my question is not too tangential, Mr Burgess. It relates to your point that much of the policy detail will be in the plan. I realise that you cannot speculate much about what will be in the plan, but the bill refers to “relevant authorities”. Can you elaborate on what those “relevant authorities” are? Are they reporting authorities?

George Burgess: The requirement on relevant authorities to produce a plan is in section 7 of the bill. The Scottish ministers must produce a plan and so must the relevant authorities. The key

bodies are health boards and local authorities. There is also a power to specify other public authorities so that, in time, other public bodies could be identified and added to the list of relevant authorities. From the outset, health boards and local authorities are included.

Dr Allan: Am I right in reading the bill as not specifically attempting to create a new body to administer the bill?

George Burgess: That is correct.

Ariane Burgess (Highlands and Islands) (Green): The bill says that good food nation plans must set out the main outcomes to be achieved and the indicators that are to be used in assessing progress towards achieving those outcomes, but it does not set out specific outcomes or targets.

The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 has demonstrated that including targets within legislation can stimulate action, embed scrutiny and accelerate progress. The Scottish Government has already set many relevant targets that the bill could incorporate, including halving childhood obesity, reducing agricultural emissions by 31 per cent by 2032 and reducing food waste by a third by 2025. I am curious why existing targets such as those were not included in the bill, and I would welcome your thoughts on whether there is scope to add such targets before the bill is finalised.

George Burgess: You are correct in saying that the bill does not set such targets, but it requires that outcomes, indicators and measures be set out in the plans.

If we look back to the work of the Scottish food commission, we see that part of the work that was done for it, and then by it, was on the set of indicators. In recognition of the breadth of food and food policy, it looked at a basket of indicators, including many that have been mentioned on dietary targets, climate change targets and economic targets. Rather than set out in the bill what might be quite a long list of individual targets, the approach that we have taken is to require that they be included in the plans.

10:45

Ariane Burgess: I have had conversations with Councillor Evison, who is the president of the Convention of Scottish Local Authorities, about the importance of clear outcomes. Although those conversations were on issues other than the Good Food Nation (Scotland) Bill, I learned from her that we need clarity in outcomes. Targets could give everybody who is writing those plans clarity around the direction that we need to go in with the bill.

I also hear from stakeholders a long-held hope for something that will act as a guiding framework for the Government for future bills that relate to anything to do with our food.

George Burgess: I will start at the end of that question and note that we see the bill as being exactly that framework. It requires ministers and other public bodies to set out their plans. It then provides for the circumstances in which ministers and other public bodies “must have regard to” those plans. We therefore suggest that it provides the framework that is required.

On Ariane Burgess’s reference to Councillor Evison’s comments, clearly what is appropriate for one local authority might be quite different from what is required for another local authority, because of their differing circumstances. However, some issues will be common across all authorities and public bodies. For relevant authorities, it will not be appropriate to specify at a national level the targets that each local authority, for example, must have. I am sure that the committee will want, nonetheless, to consider, as it takes evidence from stakeholders, whether targets should be in the bill.

The Convener: Although we understand that legislation is required to necessitate public bodies to produce a plan, it is not required for the Government to publish a plan. Are there practical implications in that regard? Does that potentially change the purpose of the bill?

George Burgess: Do you mean the requirement on the Scottish ministers to have a plan?

The Convener: Yes.

George Burgess: The convener is right in saying that there is nothing to stop the Scottish ministers from setting out a plan on a non-statutory basis. Plenty of policies and plans are set out in that way. When it proved to be impossible to introduce the bill in early 2020, we instead looked at that stage to prepare the plan that would be required by the bill, but on a non-statutory basis.

It is perfectly possible to create a plan on a non-statutory basis. However, the bill gives the plan teeth. It puts requirements around it in relation to consultation and scrutiny and—as I said earlier—it creates a legal requirement for ministers to have regard to it. That has consequences for ministers and for public bodies.

The bill goes beyond what would be the case for, if you like, an administrative plan that the Scottish ministers simply decide to create of their own volition. It creates the requirement on them to have the plan, and it sets out the effect of that plan.

The Convener: I will move on to questions from Beatrice Wishart shortly, but first Jim Fairlie would like to ask a procedural question.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): It goes back to something that George Burgess said earlier on. You will have to forgive me, George—I am a new MSP, so I have daft laddie questions. Finlay Carson mentioned the potential for an oversight body to be set up. Are there not already public bodies that could absorb the role of being an oversight body?

George Burgess: There are indeed. That is one of the things that we would want to look at as part of our consideration of the issue. Obvious candidates might include Food Standards Scotland, which stands apart from Government. However, Food Standards Scotland has very particular duties and functions, so it would not necessarily be as simple as conferring an oversight function on it. There are also other bodies. For example, I am sure that the Scottish Human Rights Commission would have views on the adequacies of plans in relation to the right to adequate food.

A number of bodies that would have an interest and that could provide oversight are already in that space. That is why, as I said, we did not at that stage of the consultation, in 2018-19, see a very clear need for a new body. However, that matter is being reconsidered.

Jim Fairlie: Why does the bill provide for the negative parliamentary procedure?

George Burgess: Most of the various delegated powers are, indeed, negative, but at least one is affirmative. We have prepared a delegated powers memorandum that your colleagues in the Delegated Powers and Law Reform Committee will, no doubt, scrutinise and provide this committee with a report on in due course.

Our view was that the negative procedure is adequate for most of the powers. The one in relation to which we have introduced a requirement for the affirmative procedure relates to the international instruments in section 3. My colleagues will keep me right, but I think that any change to that list is subject to the affirmative procedure.

Jim Fairlie: I might come back to that.

Beatrice Wishart (Shetland Islands) (LD): Good morning, panel. I am interested in the terminology. The phrase “have regard to” is used a lot. It seems quite subjective and open to interpretation. I would therefore like to get a better understanding of what it means throughout the bill. Could “have regard to” become “disregard”?

George Burgess: The phrase “have regard to” appears very frequently in statute. It is a well-worn phrase that the parliamentary draftsman uses because it encapsulates what we want to encapsulate.

If we think of a spectrum from completely disregarding or being required to disregard something—there will be instances when that is provided for in statute—through being required to have a bit of a look at it to being completely required to adhere to it, with no deviation whatsoever, the phrase “have regard to” is towards the latter end of that spectrum.

It requires the body to take something into account and give it proper consideration, not simply say, “Yes, we’ve looked at it once and that’s fine—we don’t need to go back to it.” It also requires the body to be able to justify the approach that it has taken. It does not, however, go as far as creating a slavish requirement to follow what is in the plan. There may well be circumstances, or other duties that the body is subject to, that mean that, in a particular circumstance, absolute adherence to the plan is not the right approach.

As I said, “have regard to” is a well-used phrase across many statutes. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 was referred to earlier, and many of the duties in it are duties to “have regard to” plans, targets and the like.

Beatrice Wishart: Would bodies have to demonstrate that they had gone through that process?

George Burgess: Yes.

Jim Fairlie: What sort of functions does the bill team expect will come under section 4? It states that

“The Scottish Ministers must ... have regard to the national good food nation plan”

when exercising certain functions.

George Burgess: My colleague Tracy McCollin has some examples that might help with that.

Tracy McCollin (Scottish Government): The bill sets out that the Scottish ministers and relevant authorities need to

“have regard to the ... plan”

when they are exercising certain specified functions

“or a function falling within a specified description”.

The specified functions will be set out in secondary legislation and the specification will primarily be by reference to a subject area—for example, the provision of food in schools. There could also be a requirement to refer to certain aspects of related legislation. So, in the example

of the provision of food in schools, reference could be made to various parts of the Education (Scotland) Act 1980.

The idea is that it is a flexible approach that allows everything to be caught under the description, so that we will be unlikely to miss things. By describing areas rather than specifying functions, we will be more likely to catch everything that is of relevance to the plans. That means that the legislative powers will be focused more closely on the policy areas of real relevance to the delivery of the good food nation plans. If it would be helpful, I can give more specific detail on the provision of food in schools and the relationship between the description and the references to the 1980 act.

Jim Fairlie: It would be.

Tracy McCollin: It gets quite technical. The good food nation plans could include a reference to responsibilities with regard to providing food in schools, and they could also refer to the 1980 act—sections 53 and 53A of which, for example, are about “Provision of school meals” and “Promotion of school lunches”. That would be the specific reference to legislation, while the wider description would cover wider responsibilities relating to the provision of food such as on-going developments around procurement, food waste and healthy eating and nutrition for young people.

Jim Fairlie: So, elements of education could be included in that catch-all system.

Tracy McCollin: Yes, that is the idea.

Jim Fairlie: Does that mean that there is scope to say that something is still there in the plan if a local authority is trying to avoid doing it?

Tracy McCollin: No. I think—

Jim Fairlie: Or if it is not trying to avoid it but saying, “We cannot do that because of this.”

Tracy McCollin: Those considerations would probably already have been taken into account when food policy was developed. The difference is that there will now be a statutory requirement to take all those things into consideration in the exercise of the specified functions. The focus would be not only on the narrow aspect of the provision of food in schools, but on the wider policy environment. Therefore, in having

“regard to the good food nation plan”

there would be a statutory duty to expand the focus from a narrow one to a much wider one.

Jim Fairlie: Something has just popped into my mind. The World Health Organization has a definition of what a health-promoting school is, which I think does what you have just described. It encompasses the environment and everything

else. Has that been considered in the process of putting the bill together?

Tracy McCollin: I am sorry, but I missed the first bit of what you said.

Jim Fairlie: The World Health Organization has a definition of what a health-promoting school is, which includes the environment, the community in which the school resides, the ability to teach kids where their food comes from and all the rest of it. Has that been referenced, or was it looked at during the drawing up of the bill?

Tracy McCollin: I will pass that question back to George Burgess.

11:00

George Burgess: That sort of issue will be for the local authorities to decide on when they frame their plans. Let us take a hypothetical example. A local authority might decide that its policy, which it will include in the plan, is for all of its schools to become health-promoting schools. At the level of the specified functions that we provide in the bill, we might say that, narrowly in relation to school food functions or more broadly in relation to a wider set of education functions, local authorities would have to have regard to the local and national plans.

We are trying to achieve a balance. We could say that the Scottish ministers and local authorities in all their functions have to have regard to the plan. There are other cases in statute where that approach is taken. The difficulty with it is that there will be many functions to which the good food nation plan has little relevance. We would not want to get into a tick-box exercise in which we had to consider the plan even if we knew at the outset that it had little effect. Rather, we want to ensure that taking account of and having regard to the plan is focused on the functions to which it really matters and will make a difference.

That is why we have taken the approach that we have taken in the bill. It is so that we get the plans to bite where they need to.

The Convener: Should the Parliament not play a role in deciding what those functions are, to ensure that its concerns are addressed, rather than leave it to the Government’s discretion to decide which functions will fall under the requirement of paying due regard to the good food nation plans? I know that lists are dangerous because, often, it is not what is included in a list but what is not included in it that is important. We have provision for secondary legislation that might address that at some point, but is there not an argument for the bill specifying some of those functions rather than waiting for secondary

legislation? When is it likely that secondary legislation will be introduced on that?

The Parliament might decide that the nutrition of elderly people is important and that we want it to be a principle of the Good Food Nation (Scotland) Bill that is always referred to when anything emerges that might have an impact on it, but the Government might not suggest that as one of its specified functions. Why is there not an opportunity for the specified functions to be laid out in the primary legislation and, potentially, added to in the secondary legislation?

George Burgess: We considered whether we would specify a principal group of functions in the bill and others in the secondary legislation, a little like the way in which we have already specified the key relevant authorities in the bill. Local authorities and health boards are specified as relevant authorities in the bill, and there is a power to supplement that list. Eventually, we concluded that it was neater to have all those functions in one place—in a set of regulations.

I take the point about parliamentary scrutiny. The regulations would be subject to parliamentary oversight but, obviously, at that stage, the Parliament could take it or leave it. However, I expect that we will consult on the list of functions, so there will be an opportunity to feed in points.

We have been considering the appropriate timescales, and I envisage that the list of functions will be developed in parallel with the plan so that the two match up.

The Convener: There is concern that, as you suggest, the Parliament lacks the ability to scrutinise secondary legislation because it is a take-it-or-leave-it situation. That might be an issue.

I will bring in Rachael Hamilton.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I have a supplementary question. Do you want me to ask my other questions at the same time?

The Convener: No, just ask your supplementary question just now. Thanks.

Rachael Hamilton: Mr Burgess, it sounds as though the bill is putting the onus on local authorities to produce the good food nation plan—you have mentioned local authorities a lot. Have you considered the expertise that will be needed in local authorities? Nutritional experts will be needed to produce these reports, and it will involve local supply chain and logistics expertise. Have you considered these and all the other things that the Government is expecting local authorities to do without a specific budget?

George Burgess: There has certainly been engagement with local authorities and COSLA

throughout the development of the bill, going right back to the recommendations of the Scottish Food Commission and the consultation as well as much more recently. A number of local authorities already have plans in place that are very similar to what is proposed, so there is already expertise in the local authority community, although there might be a need for more expertise and, I would suggest, mutual assistance. It is not, as you will see, something that is simply being visited by the Government on local authorities and other public bodies. The first sections of the bill place that selfsame requirement to have a plan on the Scottish ministers. The sauce for the goose is sauce for the gander as well.

Rachael Hamilton: Let me drill down into that, because it is specific to the framework. You are saying that the Scottish ministers have a responsibility to give local authorities expertise and guidance, so who will create these reports and who will be accountable? How is that reflected in this first stage of the framework?

George Burgess: There are two sets of plans. There is the national good food nation plan, which the Scottish ministers are required to produce, and the first couple of sections of the bill relate to that plan. Section 7 onwards deals with the requirement on local authorities and health boards to produce their plans, which will be a matter for the local authorities to produce. In doing that, they are also required to have regard to the national good food nation plan, which will provide additional guidance for local authorities and other public bodies when they come to frame their plans.

That might sound like a rather top-down approach, but, in practice, we envisage it as a system of mutual aid. There will be good ideas and great ideas coming up from local authorities and other bodies about what they want to see in the national plan, so it will not all be coming from the top down.

Ariane Burgess: Beyond passing the bill, there is no statutory role for the Scottish Parliament in relation to the national good food nation plan that you just mentioned. The bill requires the Scottish Government to publish and lay before the Scottish Parliament its good food nation plan, but it does not make any provisions for ministers to consult the Scottish Parliament on its draft plans in order to provide for the Parliament or its committees to approve the plan. The bill also does not provide any oversight mechanism in relation to the Scottish ministers' and public bodies' requirements to produce a good food nation plan or to have regard to it when exercising the specified functions. I would like to understand the reason for the lack of parliamentary or other oversight of the national good food nation plan.

George Burgess: Section 2 sets out the key duties, the first of which is on the Scottish ministers to

“publish, and consult on, a draft of the plan”

and to

“have regard to any responses to the consultation.”

We have discussed already what “have regard to” means in that context and elsewhere in the bill. Therefore, it would be perfectly open to the committee or any other committee of the Parliament to contribute at that point to the consultation plan, and, under section 2, ministers would be required to have regard to those views. As you have noted, there is then a requirement to report, publish and lay before the Parliament the report on the plan every two years. Again, that provides an opportunity for the Parliament and its committees to look at what the Scottish Government has said and to hold it to account.

Ariane Burgess: In a previous theme, you talked about consulting local authorities on the issue and said that local authorities would be writing the local plans. Where is the scope for communities to engage with the creation of the local plans?

George Burgess: There is both a national requirement on the Scottish ministers and a requirement on the relevant authorities, including local authorities, to publish and consult. That consultation requirement is not limited to a certain group of people. We are not saying, “You can contribute only if you’re in a certain class of people or bodies.” It is an open consultation, and the requirement to have regard to consultation responses applies to each and every one of those responses.

It will be for each local authority to determine what its process is, but I am sure that there will be opportunities for community and grass-roots engagement, as there has been throughout the work leading up to this point, including the work of the Scottish food commission, the summit that we held in late 2017 around the preparation of the bill, and the public consultation to which I have referred. Therefore, there have been opportunities throughout the process and there will be opportunities not only for non-governmental organisations or statutory organisations but for everyone to get involved in the framing of the national and the individual plans.

Ariane Burgess: Yesterday, I heard about the local governance review, but some of the community groups that I spoke to did not even know that it existed. Therefore, I am curious to know the Scottish Government’s thoughts on what can be done to ensure that people understand that a plan is being made on their behalf and how they

can contribute. Despite all the consultations that we hold across Scotland, it seems that we are not really reaching the people who need to be involved.

George Burgess: Yes, it is always much easier to reach the usual suspects than others who are not traditionally or regularly involved in consultations. I would not suggest that it is an easy thing to do.

If all that was involved was publishing a plan, sticking it on a website and waiting three months to see what responses came in, I would suggest that that is an inadequate approach to consultation for such an issue. For such matters, we need to get to a wide group of stakeholders, including the institutional stakeholders, the NGOs and the general public.

Jenni Minto (Argyll and Bute) (SNP): My question follows on from the questions from Ariane Burgess and Rachael Hamilton with regard to local authorities, health boards and other public organisations. Mr Burgess, as you mentioned, some local authorities already have plans in place, and one size does not fit all. Therefore, what flexibility does the bill give to public bodies to draft their own good food nation plans? I am very aware of consistency versus equality.

George Burgess: The bill is not very prescriptive. In section 7, which mainly concerns local authorities and other public bodies, we have set out the requirement on them to have regard to the list that we have touched on already several times, being social and economic wellbeing, the environment, health and economic development. There is also the requirement that they have regard to the national good food nation plan. Beyond that, it is really up to the individual bodies to determine what is best in their circumstances. Therefore, we are not creating a template for the plans—it will be open to the local authorities to frame and develop them in the way that best fits their circumstances.

Jenni Minto: That is great. Thank you. I have read the bill and seen the terms “must”, “may” and “have regard to” every so often, so your answer is helpful.

How will the bill allow for the effectiveness of the public bodies’ plans to be overseen by the Scottish Government?

11:15

George Burgess: It will do so both through the requirement on the Scottish ministers to lay before the Scottish Parliament a report on the plans every two years and through section 11, which requires local authorities and other bodies to report on a similar timescale.

We are not requiring local authorities and other bodies to report to the Scottish ministers. We are not putting ourselves in the position of marking their homework. Rather, as long as they follow the requirements in publishing their report, we are not putting in any further checking by the Scottish ministers of their plans and progress.

Karen Adam (Banffshire and Buchan Coast) (SNP): Good morning to the panel. I note, as a caveat, that my question is about how data has been gathered and used to inform the development of the plan as distinct from consultation on a finalised draft plan.

In the spirit of COP26, I highlight that reforming food systems is crucial if we are to hit our targets. In Scotland, the debate centres on what it means to be a good food nation. Will you comment on best practice in an international context and on how Scotland can learn from other countries as we seek to reform the food system? We do well in pioneering best practice in our world-beating food and drink sectors, but can we nevertheless learn from the likes of Italy on food culture, Finland on local food and Brazil on dietary guidelines? Those are just a few countries that have made changes—and acknowledged progress—from which we can all learn.

George Burgess: There are two different aspects to that question. First, the bill does not require data, but the requirements for the national and individual plans to set out measures will nevertheless be data driven in many cases.

I mentioned earlier the work that the Scottish food commission has begun to look at potential indicators and targets and the availability of data in that regard. In some cases, the data is readily available, which is great. In other cases, there will be things that we might quite like to know but that we simply do not have the data for, nor would it be proportionate to seek it. In those cases, we might need to look at using proxy measures instead.

A year or so ago, your predecessor committee scrutinised the Agriculture (Retained EU Law and Data) (Scotland) Bill, which contained a provision on data collection. It focused on the agri-food element, but we had in mind there the need to ensure that we have the powers and mechanisms to collect the relevant data.

On the second part of your question, which was about learning from others' experiences, that is absolutely what we should do. It should not be a case of people saying, "If it's not made here, it's no good." Our colleagues in Northern Ireland recently produced a consultation on a food strategy, and we will look at that as an example to learn from. In the international space, the Food and Agriculture Organization of the United Nations publishes a wide range of material on the right to

adequate food that includes case studies from other nations, and that will be one of the sources that we will look to in order to find good examples. Of course, something that works in one country will not automatically work in another, but that should not be a reason to dismiss it out of hand without considering it.

Karen Adam: We have signed up to international human rights laws that protect the right to food, but the Scottish Human Rights Commission is calling on the Government to take action and go a little bit further to ensure that the bill is fit for purpose in tackling poverty and health-related inequalities while supporting local economies and industry. How important has it been that people with lived experience of food poverty and lack of access to good food have had input? How has that been ensured in the development of the plans?

George Burgess: We talked earlier about the approach to consultation on the plans as they are being developed. The traditional three-month consultation that seeks written views is a good start, but it is not the sum total. The Scottish food commission had people from a range of different backgrounds, including—this is important—a member who was experiencing food poverty. What she said made the biggest impression on me when I attended some of the commission's meetings. She would say, "This good food nation stuff is all very well, but where can I buy a cabbage? Good food is great, but what if I cannot physically access it?"

From the food commission onwards, we have taken the lived experience of individuals into account, and I suggest that we will need to do the same all the way through the development of the plans.

The Convener: The bill requires the Scottish Government to consult on a draft plan. At the risk of going over ground that we have already covered, I note that there is no obligation to consult in making the plan itself. Given that the bill might cover other areas that it does not cover at the moment, and given your previous response, surely it would be sensible to consult as part of the work on the initial plan rather than the draft plan. Moreover, should the bill not contain an obligation on public bodies to consult during the formation of their plans rather than draft plans, to ensure that stakeholders, those with lived experience and organisations that represent older people with malnutrition or children who receive school meals are heard?

George Burgess: We could get tied up in procedural knots if we started putting in statutory requirements at a number of stages. Obviously, it is an issue that the committee will want to consider, but, as I have said, the success of this

will not depend on Government officials sitting in a building and dreaming up a plan, with the first thing that anyone outside sees being the draft plan that is published under the requirements of the bill. Instead, we need an inclusive process that involves other bodies, and, as we have said, the process of engagement with local authorities, businesses and others is already under way.

Rachael Hamilton: On the convener's point about pre-legislative consultation with public bodies, the fact is that things have changed since the initial consultation was carried out. Mr Burgess mentioned procurement through local authorities and public bodies, but I note that that used to come under European Union legislation, which meant, for example, that there was no requirement to state the country of origin. If there is no pre-legislative consultation, how will we be able to create a good, effective piece of legislation that encourages further public procurement of Scottish produce?

George Burgess: There is a difference between requiring that consultation take place and consultation happening. For instance, our public sector food forum, which is meeting today, brings together local authorities, the college and university sector and others in the wider public sector with an interest in food. The forum was born out of the pandemic, but we have seen real value in it looking at issues such as public procurement.

As you rightly said, we are no longer bound in the same way by the EU rules, although most of the requirements are in retained EU law. There are also a number of international obligations, not least the World Trade Organization agreement on Government procurement. I am sure that you were not suggesting this, but what can be done in procurement is not a free-for-all.

I am sure that the committee is aware that the UK Government—in particular, the Department for Environment, Food and Rural Affairs—is looking at developing a food strategy on the back of the report from Henry Dimbleby. One area that he flagged up and that the UK Government is considering is public procurement. Similar issues will be coming up in all parts of the UK, and there is already agreement between the Scottish Government, the UK Government and our Welsh and Northern Irish counterparts to use our interministerial fora to look at such issues.

Rachael Hamilton: You have pre-empted my next question, because I wanted to ask what joint working there would be, involving the national food strategy and DEFRA. Henry Dimbleby's report, which I read last night, is very much based on a whole-system approach to food as opposed to the rather narrow approach of a good food nation. How can the Good Food Nation (Scotland) Bill be effective if we do not look at it alongside other

current and future legislation? For example, if we want to have good, resilient, local food supply chains but we do not know what a future agriculture bill will say, how can we ensure that policies are created that allow farmers to reduce their environmental impact and create good, local, accessible food for people and local authorities? That will not happen right across Scotland, because not all farmers are producing food to finish.

George Burgess: I go back to a discussion that we had earlier. You might say that the bill is narrow, but the plans are broad and they are required to cover social and economic wellbeing, the environment, health and economic development. We should not see a good food nation as something that is narrow; it is, in fact, very broad, and it would have coverage as wide as anything that our colleagues in Whitehall are looking to prepare.

The committee will be aware that a great deal of work is already under way on the agriculture bill and that the agriculture reform implementation oversight board is preparing proposals for the future agricultural support system. Similarly, our health colleagues are working on diet and obesity and measures on promotion. The Good Food Nation (Scotland) Bill does not sit in isolation, as many other developments are going on at the same time, and they will have to be taken into account in setting the good food nation plan. Indeed, the plan will have to be taken into account in those other developments as well.

Rachael Hamilton: The same would apply, perhaps, to the Child Poverty (Scotland) Act 2017.

George Burgess: Yes.

Rachael Hamilton: What is the definition of a good food nation? I have read the Government's definition and it is very wide.

George Burgess: Yes.

Rachael Hamilton: However, it does not take into account what food is available in local supply chains. I have read some of the consultation responses from local authorities and they are not happy. They feel that there is a lack of clarity, because the definition is three or four sentences long. Will it be tightened up so that other aspects are covered by the bill?

George Burgess: I am not quite sure what the criticism is of the definition of a good food nation. The bill does not directly define or rely on a definition elsewhere of a good food nation. Rather, we have set out the breadth of topics that the plans will be required to include.

Rachael Hamilton: Okay. I will leave it there.

The Convener: Jim Fairlie has a supplementary question.

11:30

Jim Fairlie: I might be going over old ground, but, in relation to the definition of a good food nation, which Rachael Hamilton has just mentioned, the best definition that I have heard came from James Withers. He said that, if we want a good food nation bill, we have to be a good food nation, which will require a culture change. However, that is an aside.

Let us go back to the subject of local authorities, as opposed to national Government, being responsible. You can correct me if I am wrong, but I take it that local authorities will have discretion within the confines of what you give them as a plan to work to. Certain local authorities will get that approach and say that it is vital, but others will say, "We need to get the building sorted out." How can we ensure that local authorities buy into the idea of setting up a good food nation plan?

George Burgess: Local authorities, individually and through COSLA, have been involved throughout the development of the good food nation agenda. I am sure that you are right in saying that some local authorities are more proactive on that than others. I can think of some that have been very active on, for instance, linking school food to local provision. Schemes that we fund, such as the food for life programme, help local authorities across the country to do more on that.

I mentioned earlier that there is room for mutual support and learning. Rather than each local authority going away and doing its own thing, there should be regular comparing of notes. We do not want all their plans to look exactly the same, but the local authorities that have already put in more effort can perhaps provide assistance and guidance to others.

Jim Fairlie: That goes back to what I said in response to Rachael Hamilton's questions about creating a culture where that is what we aspire to.

George Burgess: Yes.

The Convener: We all understand that the food and drink sector of the economy is complex, as are health and social care and other sectors. One of the responses to the consultation suggests that the area is too complex to be assessed only by key performance indicators and that there needs to be a far broader understanding of how the system works and how we can deliver the cultural change that Jim Fairlie mentioned.

How does the Scottish Government intend to oversee how effectively public bodies are performing? How will the Scottish Government

expect to be judged on its performance? Will that be through KPIs? Will the Scottish Government oversee public bodies? If so, does that suggest that we need an independent body to oversee the Scottish Government?

George Burgess: As we have already covered, we do not provide in the bill for any scrutiny function for the Scottish ministers in relation to the plans and reports that will be produced by local authorities and other public bodies. That will be left to their own scrutiny mechanisms.

The Convener: What do you envisage that that process will be? When you set that out, how did you envisage that local authorities will go through a self-assessment process to ensure that they are fulfilling the desired outcomes?

George Burgess: Under the bill, local authorities will be required to publish reports on the implementation of the plan every two years. Members of local authorities are subject to the electoral cycle and the views of their local electorate, and this might well be one of the factors that will be taken into account.

Rachael Hamilton: In effect, you are saying that, if they get it wrong, voters will be able to vote them out, but they cannot vote out the Scottish ministers for introducing a bill that does not contain the ability for local authorities, through the guidance of the Scottish ministers, to set targeted policies, implementation plans, success indicators and reporting arrangements.

George Burgess: Local authorities and other public bodies will be required to have regard to the national good food nation plan in setting their plans. To that extent, there is a top-down approach in the setting of the plans, so local authorities will not be entirely free to do as they please.

Rachael Hamilton: I do not think that that is clear, but the committee can discuss the matter and dig down into it a little further.

The Convener: You suggest that local authorities are held to account because of the electoral cycle. How does that apply to health boards?

George Burgess: It probably does not apply to them in the same way. The question was specifically about local authorities.

The Convener: Is there a gap in the bill in relation to how the health authorities will judge or self-assess their responses to the good food nation plans that they put in place?

George Burgess: It might be worth considering other duties that health bodies have to report on matters. There is no shortage of scrutiny of what health boards do or their performance on a range

of matters. Their good food nation plans will be just another one.

The Convener: As we have no further questions, I thank Mr Burgess and his team for coming in and answering our questions. It is much appreciated.

11:36

Meeting continued in private until 12:47.

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