



OFFICIAL REPORT
AITHISG OIFIGEIL

Net Zero, Energy and Transport Committee

Tuesday 7 December 2021

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
13th Meeting 2021, Session 6

CONVENER

*Dean Lockhart (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

*Fiona Hyslop (Linlithgow) (SNP)

COMMITTEE MEMBERS

Natalie Don (Renfrewshire North and West) (SNP)

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Liam Kerr (North East Scotland) (Con)

*Monica Lennon (Central Scotland) (Lab)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jim Fox (Food and Drink Federation Scotland)

Iain Gulland (Zero Waste Scotland)

Collette Stevenson (East Kilbride) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 2

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 7 December 2021

[The Convener opened the meeting at 10:18]

Decision on Taking Business in Private

The Convener (Dean Lockhart): Good morning, and welcome to the 13th meeting of the Net Zero, Energy and Transport Committee. Before we begin, I remind everyone that social distancing measures are in place across Holyrood. Please take care to observe those measures. We have received apologies from Natalie Don. Collette Stevenson is in attendance as a committee substitute.

Agenda item 1 is consideration of whether to take items 4 and 5 in private. Item 4 is consideration of the evidence that we will hear on the single-use plastics subordinate legislation, and item 5 is consideration of the committee's work programme. Do members agree to take those items in private?

Members *indicated agreement.*

Subordinate Legislation

Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 (SSI 2021/410)

10:19

The Convener: Our first substantive item is an evidence session on regulations that are subject to the negative procedure, which means that they will come into law unless the Parliament agrees to annul them. Last week, the committee took evidence on the regulations from the Scottish Government and, afterwards, we agreed that we would take evidence from stakeholders. We appreciate that the invitations to give evidence went out at short notice, so we are grateful to our two guests for joining the committee this morning.

I welcome our witnesses, who are Jim Fox, associate director of public affairs with the Food and Drink Federation Scotland, who is attending in person; and Iain Gulland, chief executive of Zero Waste Scotland, who is joining us remotely. Thank you both for joining us.

I put it on record that we have also written to the Law Society of Scotland to seek its views on the regulations, and that we have received short submissions from the Federation of Small Businesses, David Lonsdale of the Scottish Retail Consortium and Inclusion Scotland.

Before we begin questions, I will just check whether either of you would like to make a short opening statement to the committee.

Jim Fox (Food and Drink Federation Scotland): I am happy to go to questions, convener.

The Convener: Great. Let me start with the first question. What will be the real-life business impact of the regulations in Scotland? Has the Scottish Government fully and satisfactorily investigated the impacts in developing the regulations? I put that question to Jim Fox first.

Jim Fox: In short, yes. I do not think that there will be much impact at all on Scottish businesses. The measure has been trailed for a long time. Most businesses that pay attention to such matters will already be well on their way to ridding themselves of any of the items that are to be regulated. I do not see a problem. Before coming here today, I checked with several businesses, and they said that they have anticipated the measure for quite a long time. Similar measures are already in force in England and in Europe. We do not see a problem.

Iain Gulland (Zero Waste Scotland): Good morning. I echo what Jim Fox said. We are

already seeing a shift, with businesses moving away from the products that are under consideration. Obviously, Zero Waste Scotland supported the Government in the development of the restrictions. We were heavily involved in helping the Government with the consultation, particularly the stakeholder engagement, and we supported the development of the business impact assessment.

As I am sure colleagues have seen, that assessment demonstrated that 95 per cent of the plastic products concerned are imported into the United Kingdom, so there is a very limited impact on the value chain in Scotland. More polystyrene and expanded polystyrene, or EPS, products are produced in the UK, but we spent quite a bit of time investigating what is happening in Scotland, and we could not find any companies that will be impacted. The companies that produce EPS do so at a much greater scale compared to the sort of products that we are talking about—it is more to do with insulation. From talking to the key stakeholders that are involved in EPS, there was a recognition that businesses are moving away from those products quite quickly.

The Convener: Thank you for those responses. I will bring in the deputy convener, Fiona Hyslop.

Fiona Hyslop (Linlithgow) (SNP): We are at a key stage in looking at the regulations, but part of the process will be about the guidance that the Scottish Government will provide. From your perspective, is there sufficient guidance on the implementation of the regulations? Would additional guidance be helpful for successful implementation of the regulations?

Jim Fox: We are broadly supportive of the approach. We welcome the change in relation to plastic straws, given the disability issue there. That was the last remaining hurdle for industry.

Iain Gulland: We support the Government with the guidance, and we will continue to do so. In the run-up to the implementation in June, the guidance will evolve. We will continue to work directly with and communicate with stakeholders right across the value chain to ensure that the guidance reflects any considerations that they have. The issues around the exemptions relating to straws and so on need to be articulated clearly, particularly for the hospitality industry and some other aspects. However, we are engaged with all those people, and we will continue to engage with them.

We know from other work that we have done that we need to be proactive in making sure that every part of the hospitality industry and the supply chain, and all producers, understand what is happening, so we will continue with that engagement on an on-going basis.

Fiona Hyslop: The issue is not just about guidance but about awareness. I know that the regulations are a long time coming, but is there sufficient awareness? Big companies will obviously be cognisant of what is happening, but smaller outlets and organisations might need to be alerted. Do you have a sense of that? Does everyone know what is happening, or is more communication required?

Jim Fox: I have not taken any soundings from very small businesses, but I have taken them from medium and large businesses. Large businesses have been aware of European legislation for a long time and are exposed to the Scottish Licensed Trade Association's briefings on that. Medium businesses fall into two camps: those that aspire to be association members, which will be well informed, and those that are not keeping up with the situation. I am not really aware of businesses at that level, so I cannot speak about how well informed they are.

Iain Gulland: We always say that we should not get complacent, but awareness levels are very high. We have been talking about plastics in general for a number of years, and consumer pressure has led to a lot more awareness among front-of-house staff. As I said, the supply chain is already evolving. Awareness is high but, as we get nearer to the implementation date, we will need to more proactively engage with not only individual businesses but their trade associations and other supply chains. We will continue to do that.

Liam Kerr (North East Scotland) (Con): Good morning. If the regulations come into force, a business or, indeed, a person who manufactures or supplies certain plastics will commit a criminal offence, resulting in a fine of up to £5,000. The Law Society of Scotland suggests that a criminal law sanction might not be justified or proportionate and might not be the best way to ensure compliance. It suggests that civil sanctions, which have been used in similar legislation, might be better. Do you or your members take a view on the use of a criminal sanction in the regulations?

Iain Gulland: To be fair, that is very much outwith my area of expertise. Zero Waste Scotland does not have a view on that issue. We would obviously take guidance on it from Government lawyers and others, but we are not part of the regulatory regime; we are involved in implementation of the scheme.

Jim Fox: I would say the same.

Liam Kerr: I thought that you might say that—it was certainly a risk that you might say that. You might give a similar response to my follow-up question. The investigation of potential offences and the enforcement of the criminal sanction will be done by local authorities. Is there any way of

knowing whether local authorities feel sufficiently resourced and, indeed, able to carry out full investigation and enforcement?

Iain Gulland: I am not aware of specific resource and capacity requirements. However, we will be communicating with local authorities and the Convention of Scottish Local Authorities about the guidance that is available to help them to carry out their duties. I am not aware of any issues having been flagged up at the moment.

Jim Fox: I will give a short answer on that. We are generally concerned about the authorities' ability to administer regulations. That concern is not particularly about these regulations, but several sets of regulations on the environment are coming to the fore. There are the proposals on the deposit return scheme and extended producer responsibility, as well as the regulations on single-use plastics. In general, we are concerned that the authorities that should be protecting our interests will not be able to do so because, with the best will in the world, they do not have the resources for that.

10:30

During the conversations and the evidence sessions on the DRS, we have asked several times about that, and we have never been given a real answer—we are still left with concerns. The DRS will cost us many tens of millions of pounds and, if fraud kicks in, the figure will be multiples of that.

In relation to implementation, there is a big gap between England and Scotland. We do not see any real move by the authorities to control the movement of goods between England and Scotland. They are already hard-pressed in trying to control things such as tobacco and drugs, and even people. Therefore, trying to control things such as single-use plastics might be a step too far.

The Convener: I will follow up on that slightly wider point about resource at local government level. What personnel or additional resource will be required at that level to monitor the situation properly?

Jim Fox: I think that there is a problem, but I have no reason to volunteer ideas on what should be done about it. I am not an expert in that area. I just know that we are concerned that we will be exposed to fraud.

The Convener: That is understood.

Jackie Dunbar (Aberdeen Donside) (SNP): You spoke about the implementation of the DRS. Will you expand a bit more with regard to oxo-degradable plastics and wet wipes? What should be the priorities for those?

Jim Fox: Iain Gulland might be more qualified to speak about that, but I will speak about oxo-degradable plastics. We are concerned about having controls on the types of plastic that go into any recycling project because, if we get it wrong, the impact on the other plastics in the chain will be negative. If you mix different types of plastics, and one type is of lower quality, you come out with the lowest common denominator.

Iain Gulland: Obviously, oxo-degradable plastics are not included at the moment. That is a complex area, and the Scottish Government is seeking further information on it. We need to remind ourselves that this is not—[*Inaudible.*]—the throwaway culture and so reducing demand. If we are to be consistent in our approach, we need to think seriously about what we can do to bring in future restrictions on those things.

Sorry, but what was the other thing that you asked about?

Jackie Dunbar: The question was on oxo-degradable plastics and wet wipes.

Iain Gulland: As you will know, 94 per cent of respondents to the public consultation thought that action should also be taken on wet wipes, although they were not on the original list. You heard last week from the minister that the Scottish Government is working in liaison with the UK Government on what action could be taken on wet wipes. Consideration is being given to what more could be done to reduce their impact.

Jackie Dunbar: What are the economic and social opportunities around the shift away from single-use items? How can Scottish businesses and communities capitalise on those opportunities? Is any extra support needed? That is maybe a wish question.

Jim Fox: I cannot answer that. I am sorry, but I am not an expert on that area. If you are talking about single-use plastics in particular, I can talk more widely about the DRS but not about single-use plastics and the economic impact.

Iain Gulland: As part of the wider circular economy, we have provided evidence in the past about the economic impacts, such as jobs and new business opportunities, particularly in relation to reuse and the refurbishment of goods, for example. On reuse, we are certainly seeing a lot more growth in packaging-free shops at the local level, for instance. Zero waste shops are popping up all over. We have supported a number of those initiatives through grants in rural parts of Scotland—on the islands in particular—to accelerate the opportunities not just for dedicated zero waste shops but for other shops to have that type of facility. Obviously, they are increasing demand by consumers while meeting increased demand by consumers, as well. The shift away

from a throwaway culture towards a more circular economy will create much more economic opportunity, internal investment and social benefits.

Collette Stevenson (East Kilbride) (SNP): Good morning, and thanks very much for coming to the meeting.

I have visited the Coca-Cola Europacific Partners site in East Kilbride, which is in my constituency, and I know that there were challenges in finding a straw and attaching that to some of the products that are produced at that plant.

Do the regulations create any challenges around procurement for the public sector or businesses? Maybe you could say what you managed to do to solve that problem.

Jim Fox: You referred to straws. We use straws. You may have seen a particular product called Capri-Sun, which has a straw on the pack. We are probably at our second or even third iteration of a paper version of that straw that works. We know that McDonald's has gone through the same problem. Paper does not work as well as plastic, but we all recognise, of course, that that is the direction in which we have to go, and we are just about there. We think that we have a solution that works, but we have had our problems in getting there. That is pretty much behind us, as it is for most other people. Some of the other companies have had to change the way they think, but I have not heard anyone at all saying that that would be the wrong direction to go in. It has really been about how we do that as opposed to why we are doing it.

Iain Gulland: Similarly, I think that the lead-in to the regulations and the on-going discussions about plastics have led to innovation. As Jim Fox said, there are opportunities. We are aware that a number of companies not just in the UK but across Europe are now bringing products forward, particularly to meet the challenge around straws and to move away from plastics more substantially. That is to be encouraged, and that is what happens when legislation is brought in. The market innovates.

On public procurement, there are always opportunities ahead of the regulations. I have been working with a number of public sector agencies over the past couple of years on reducing the impact of plastics in their estates, and they have already been making changes. There is no need to wait until the summer in the run-up to the legislation. I think that there will be an opportunity for further changes to procurement across the whole of the public sector and for some of the main suppliers.

Collette Stevenson: In the work on procurement that you have carried out with organisations such as local authorities, is there some sort of clause that there should be a trail when it comes to products' end destination?

Iain Gulland: There is no specific clause, but that is absolutely the type of conversation that we have been having, not just with local authorities but with other parts of the public sector. It is about not just what the product is made of and where it comes from, but what happens to it at the end of its life. Obviously, we do not want things to have an end of life; we need to revive things that can be repaired, remanufactured or reused again and again.

We are beginning to see changes in the supply chain to support some of those initiatives but, ultimately, we still ask local authorities to understand what happens to their waste, including the products that they use in their estates and products that they collect from households and businesses. That is important.

We are all aware of the impact that the export of our plastics in particular has had on other parts of the world. Again, as well as being a moral issue that we need to take on board, that is an economic one. I have often said that, for every job that there is in just collecting materials for recycling, there are another eight in the reprocessing, remanufacturing and repurposing of products back into the supply chain. If we are serious about harnessing those economic opportunities for Scotland, we need to think about doing something more constructive with those materials here—hence the work on a circular economy.

Collette Stevenson: Are there opportunities to maximise the circular economy benefits? Are supporting enterprises innovating more in that area?

Iain Gulland: Absolutely. At the heart of the circular economy is the question of how we design a system so that we are not just doing something clever with waste but maximising reuse of all the products and materials that we already have, so that we reduce demand. Ultimately, the real pressure on the climate is from our linear economy. We take more and more stuff; we produce, manufacture and ultimately throw it away—quite often after one use—which is what this discussion is all about.

Jim Fox: Can I add to that?

Collette Stevenson: Absolutely.

Jim Fox: You are worried about exporting problem materials. Most of the countries that we would look to export to are already moving in the same direction, so those materials would not be welcome there, either. Europe has already moved

on that. I have heard that even China is regulating on the issue—sorry, I did not mean that to sound derogatory towards China. Countries around the world are moving in that direction. Big multinational companies will look at that and decide that they might as well produce one type of thing rather than several. Therefore, the direction of travel all over the place is to eliminate such things. The problem is not Scottish but global.

Collette Stevenson: That is good to know. Thank you.

Mark Ruskell (Mid Scotland and Fife) (Green): Is there any potential threat from the United Kingdom Internal Market Act 2020, or will we move towards alignment of regulations across the UK? Are any industry sectors or players still holding out for a market for drinking straws or anything else?

Jim Fox: I am not an expert on that act, but the court of public opinion will probably resolve some of those issues. Any big business, or even a good medium-sized business, would not want to be seen not to be on board with those types of regulations.

10:45

Iain Gulland: I agree. The internal market act is outwith the scope of my expertise, too, but any differentiation of standards will definitely have an impact. I echo what Jim Fox has said. There is a lot more consumer pressure, and even the big corporates with their supply chains are taking the issue much more seriously, so I think that we will see that sort of alignment.

Monica Lennon (Central Scotland) (Lab): What we have heard so far is quite encouraging, in the sense that businesses are already engaging and are prepared. As we have heard, Scotland is not a first mover on some of the issues, so we know that we can learn from practice elsewhere.

Zero Waste Scotland has been involved with disability organisations, including Inclusion Scotland, which has made a written submission. As a result, we know about the plastic straws advisory group, which I will ask Iain Gulland about in a second.

Jim Fox highlighted the example of Capri-Sun, which I am sure many of us, especially those with small children, will be familiar with. With regard to the targeted exemptions, someone who buys a Capri-Sun in a cafe or a place where they will be sitting in might request a straw, which for those cartons is quite narrow and little. What is the expectation on businesses with regard to having a range of straws to meet people's requests? We understand that, under the request system, to avoid any stigma, employees will not be able to

ask people why they need a straw. Will businesses have to look at the issue in a lot of detail, or can they just have one plastic straw in the cupboard?

Jim Fox: I am glad to say that we have not looked at this in a lot of detail—

Monica Lennon: But you might have to now.

Jim Fox: What I would volunteer is that we are talking about the straw, not the container, and it would be quite easy to decant the contents of a container into a suitable vessel—say, a tumbler or cup—to allow a normal-sized straw to be used. We have not considered the issue, but up to now we have not had any problems.

The regulations now give us the problem of having to move from plastic to paper. We have not had to consider the disability issue in the past, but we will do so now. I do not know whether we have had a discussion on the matter yet.

Monica Lennon: It is essential that the disability and equality issues are considered.

Iain Gulland of Zero Waste Scotland has probably had more direct involvement with this matter, so I would be interested to hear about the level of guidance that will be required on the targeted exemptions. Someone who requests a straw will not have to give a big explanation for doing so, but they might not have their own cup handy and might therefore feel at a disadvantage. Can you comment on that, Iain, given Zero Waste Scotland's close involvement in the plastic straws advisory group?

Iain Gulland: As well as carrying out the business and regulatory impact assessment, we have been heavily involved in the equality impact assessment, the island communities impact assessment and the fairer Scotland duty impact assessment, so we have been discussing the issues quite intensively. We have also worked closely with some of the disability groups on the matter, so we are well aware of the potential challenges. I hope that the guidance will reflect that.

Without getting into the detail of every single circumstance, I have to say that we have seen in this area a degree of innovation and application from people on the front line. I go back to the point about the need to update the guidance continually and to proactively listen to people and find out how they will solve some of the individual issues that might arise. We will update the guidance as we move forward and look for clear channels of communication to other areas that might be struggling ahead of the regulations coming in. Obviously, we do not want to wait for these situations to arise.

With the implementation of the carrier bag legislation and other legislation, that has been the course of engagement that we have taken. We have talked to people not in the supply chain but right on the front line in the hospitality industry who will have to serve customers and we have heard what they think the challenges will be. We know that we will have to address those issues, and we are working on them directly with the groups that you have mentioned.

Monica Lennon: That engagement is important. Wet wipes have been mentioned already. Last week, I asked the minister about them and what other items might be covered by future restrictions. You quoted a figure of 94 per cent of the public being in favour of a ban on wet wipes, so it looks as though the public is way ahead of the Government on this issue. What more does Zero Waste Scotland think could be done to minimise the use of single-use wet wipes? When should the Government in Scotland look at the issue again and add them to the list of restricted items?

Iain Gulland: I do not think that I said that 94 per cent of people wanted a ban. I would have to check the consultation on that. They certainly wanted further action on wet wipes but I do not know that they asked for an out-and-out ban. They said that further action on wet wipes would be productive.

The reason why we have the list that is going forward is because readily accessible alternatives to what is on it are already available. Although there are alternatives to plastic in wet wipes, such as a cellulose layer, there is still some work to do to understand the impact of those in the wider environment and whether they are degradable. Some other technical aspects need to be worked through, but clearly wet wipes have been highlighted as a massive issue, particularly through beach surveys here in Scotland and across the UK. It is not just a Scottish issue; it is a UK issue, so there is an opportunity to work at the UK level to have a ban or further restrictions put in place. From discussions with the Scottish Government, I know that it is keen to look into that at pace. The issue is on the agenda.

Monica Lennon: Thank you for that clarification.

The Convener: The final question is from me. The single-use plastic regulations that we are considering are part of a wider series of environment-related regulations that will come into force in the months and years ahead. Jim, would you like to take this opportunity to give your view on which of the future regulations might have more of an impact on business and cause your members some concern?

Jim Fox: Thank you, convener; I welcome that.

All the regulations that are coming our way are, largely, the right thing to do but, as Morecambe and Wise said, they are not necessarily in the right order. We have worked on the DRS for a while now, we think it is the right way to go, and we have supported it for four or five years. We are, however, struggling to get to the endgame, and I know that the minister is considering delaying it. We hope that she delays the implementation of the DRS because some parts of the industry are ready to go, but some are not. The DRS cannot be delivered in parts; it has to be the whole thing.

Our best estimate of the right time to go with the DRS is September 2023. That will still give the industry a problem, because England and Wales will not be ready until late 2024, which could give rise to the potential fraud that I alluded to. If cases are more than £4 more expensive in Scotland than in England, we will start to see people trying to make money on that.

Again, EPR is the right thing to do. We are largely supportive of it, but we still cannot get Governments—and when I say Governments, I probably mean Westminster but I am also talking about some part of the Government in Edinburgh—to say whether the DRS is part of an EPR scheme. We have been waiting for two years, or perhaps three, for a VAT ruling from Her Majesty's Revenue and Customs.

I talked about getting things in the right order. We have EPR coming in between Scotland's DRS and England's DRS, which is really confusing and will be a problem. We also have single-use plastics in the background. Although it does not impact on EPR and the DRS, the plastics packaging tax comes in next April, and to avoid a plastics packaging tax, we need to be able to use recycled content of up to 30 per cent. In the business for which I work, we are already doing that, and lots of other businesses are already doing it. However, as pressure is put on more and more people to use at least 30 per cent recycled material—which is the right thing to do—they will not have the material to use, because the DRS will not be up and running.

You can start to see the disconnect. The DRS should be up and running to provide the good materials that will allow people to move to recycled material content. It is all directionally right, but it is in the wrong order. That is how I would sum up the situation.

The Convener: That is helpful.

Iain, do you have any thoughts on the same question?

Iain Gulland: To a degree, I sympathise with what Jim Fox is saying, but we are in a climate

emergency and need to take action. If we are serious about ending our contribution to climate change, we will have to tackle our throwaway society and our waste issues, and we will have to do so at pace.

There are things that are being done quite quickly due to consumer pressure and the legislation on producer responsibility that is happening at a UK level, which Jim mentioned. In Scotland, we are supporting the Scottish Government to develop a route map for achieving our targets by 2025 and beyond in relation to the climate ambition. That will give us an opportunity in Scotland to look at what is already happening with regard to regulations and, as Jim is probably alluding to, set out a clearer pathway with regard to how everything fits together and the sequencing. It is quite a dynamic space, for obvious reasons—it is about taking action to tackle climate change. There is huge momentum, certainly in the public, behind the view that we need to tackle some of the issues, and do so quickly.

The Convener: That wider perspective is very helpful and is appreciated. It will help to guide the committee in the months ahead as we continue to look at the issues.

That brings us to the end of our questions. I thank Jim Fox and Iain Gulland for joining us—enjoy the rest of your day. We will suspend briefly, and move to the next agenda item when we resume.

10:58

Meeting suspended.

10:59

On resuming—

Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (SSI 2021/412)

The Convener: Agenda item 3 is consideration of a negative instrument. I refer members to paper 3. The instrument is laid under the negative procedure, which means that its provisions will come into force unless the Parliament agrees to a motion to annul it. No motions to annul have been lodged.

The Delegated Powers and Law Reform Committee considered the instrument on 23 November and determined that it did not need to draw the attention of Parliament to the instrument on any grounds within its remit.

Do members have any comments on the instrument?

11:00

Mark Ruskell: I welcome the broad intention of the instrument, particularly given the 26th United Nations climate change conference of the parties—COP26—and the commitments that were made around methane reduction, and also the need to improve the ecological condition of our fresh water resources.

My slight concern with the instrument is about the choice of cut-off point for transitional arrangements. Larger farms will have to move quickly in dealing with slurry in a more responsible way but, for smaller farms, there will be a delay. There will be a transitional period of up to five years, with the regulations not really taking effect until 2027. That leaves us just three years before we are meant to meet the 30 per cent methane reduction target.

I do not object to what we have before us, but I would like to find out more information from the Scottish Government about where it drew the line in allowing smaller farms to adapt over a much longer period. More information would be useful to understand the Scottish Government's thinking on the matter, and to understand which trade bodies and others the lobbying came from.

The Convener: That seems a sensible suggestion. I can see that no member wants to add to that, so are we agreed that the committee will write to the Scottish Government in those terms?

Members *indicated agreement.*

The Convener: Excellent.

Does the committee agree that it does not wish to make any further recommendations in relation to the instrument?

Members *indicated agreement.*

The Convener: Thank you. I now close the public part of the meeting.

11:01

Meeting continued in private until 12:46.

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