OFFICIAL REPORT
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Rural Affairs and Islands Committee

Wednesday 21 May 2025

Session 6

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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
NATURAL ENVIRONMENT (SCOTLAND) BILL: STAGE 1	2
DOG THEFT (SCOTLAND) BILL: STAGE 1	41

RURAL AFFAIRS AND ISLANDS COMMITTEE

17th Meeting 2025, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Tim Eagle (Highlands and Islands) (Con)
*Rhoda Grant (Highlands and Islands) (Lab)
*Emma Harper (South Scotland) (SNP)
*Emma Roddick (Highlands and Islands) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*Evelyn Tweed (Stirling) (SNP)
*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jacqueline Cook (Scottish Property Federation)
Sarah Cowie (NFU Scotland)
Ezgi Denli (Scottish Parliament)
Maurice Golden (North East Scotland) (Con)
Stuart Goodall (Confor)
Emily Johns (SSEN Transmission)
Elspeth Macdonald (Scottish Fishermen's Federation)
Dr Caroline McParland (Chartered Institute of Ecology and Environmental Management)
Jenny Munro (Royal Town Planning Institute)
Neil Stewart (Scottish Parliament)
Mercedes Villalba (North East Scotland) (Lab)
Stephen Young (Scottish Land & Estates)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 21 May 2025

[The Convener opened the meeting at 09:08]

Decision on Taking Business in Private

The Convener (Finlay Carson): Good morning, everyone, and welcome to the 17th meeting in 2025 of the Rural Affairs and Islands Committee. Before we begin, I ask everybody to ensure that their electronic devices are switched to silent.

I welcome Mercedes Villalba, who will join us for item 2.

The first item on the agenda is a decision on whether to take in private item 6, which is consideration of our draft annual report. Are we content to do so?

Members *indicated agreement.*

Natural Environment (Scotland) Bill: Stage 1

09:09

The Convener: The second item on our agenda is consideration of the Natural Environment (Scotland) Bill at stage 1. Today, we will take evidence from a panel of planning and business representatives. I have a long list of people to welcome to the meeting: Jenny Munro from the Royal Town Planning Institute, who joins us remotely; Jacqueline Cook from the Scottish Property Federation; Sarah Cowie from NFU Scotland; Emily Johns from SSEN Transmission; Stuart Goodall from Confor; Elspeth Macdonald from the Scottish Fishermen's Federation; Dr Caroline McParland from the Chartered Institute of Ecology and Environmental Management; and Stephen Young from Scottish Land & Estates.

We have allocated around 90 minutes for the discussion and we have quite a few questions to get through in that time. We also have quite a few participants, so I ask everybody to be succinct in both their questions and their responses. Some questions will naturally need only a yes or no response, so please feel free to give such an answer. Please indicate to the clerk or to me if you wish to participate, but there is no expectation that everybody will comment on every issue, particularly if you feel that the point has already been made or that that part of the discussion does not relate to your area of expertise.

You will not have to operate your microphones; we have a lady here who will do that for you.

I will kick off with a nice, straightforward question. In principle, do you support the introduction of statutory biodiversity targets? What impacts do you believe that the anticipated legal targets will have, in practice, for your sector?

Emily Johns (SSEN Transmission): SSEN Transmission really supports the introduction of targets. Legislation on compliance has driven forward action on nature. The classic example of that is biodiversity net gain in England, where legislation is definitely making changes and, although it is not perfect, it is driving forward nature restoration.

As part of Transmission's proposal for £22 billion-worth of investment in infrastructure in the north of Scotland, we are planning to invest more than £100 million in nature restoration if those projects go ahead. The really important thing—not only for us, but for anyone who is investing in nature restoration—is that the frameworks that underlie those targets enable that investment to happen.

Before we move to setting targets, a couple of key things could do with being fixed, because they will be the frameworks that underpin delivery of those targets. We do not have a Scottish biodiversity metric. Even though biodiversity enhancement is required under national planning framework 4, there is no Scottish metric and, therefore, no universal way of proving that biodiversity has been enhanced. Enhancement is part of the targets, but we cannot really prove that across the board. The current NatureScot guidance on peatland restoration is not being universally applied, and that restoration cannot be pushed forward until the guidance is clear and universally applied.

There has been some really good progress. There was a recent letter from the chief planner about ensuring that NPF4 is broadened and applied uniformly across the board. We also expect to see more guidance on avoiding the inappropriate use of section 75 agreements.

Overall, I would say “Yes, please” to targets, but we must ensure that the underlying framework allows those of us who will be driving delivery to do so in a meaningful way, and that our contributions are wrapped up in those targets.

Stephen Young (Scottish Land & Estates): We are supportive of targets on the whole, but they should be relatively high level at this stage, so that we can take a broad look at things, because we cannot manage and measure everything. It is important that the baseline targets are evidence led and adaptive, so that we can deal with future changes, particularly in relation to climate and habitats. They will also need a degree of flexibility.

With regard to whether the targets look at activity or outcome, sometimes, activity in relation to biodiversity is important even if the outcome cannot be assured, so we also need a balance between them.

We would like land managers to be involved in the development of biodiversity targets, so that experienced people, who have to deliver them on the ground, are involved in that conversation. We have a third-party accreditation scheme, called wildlife estates Scotland, which highlights and encourages best practice on estates.

Emily Johns touched on the importance of alignment across different policy areas. Lots of things are going on at the moment, but we must be clear about what is being asked of people, not in one silo but across everything. The Agriculture and Rural Communities (Scotland) Act 2024 will be critical to delivery, as will the land reform agenda and elements of the climate change plan. We need absolute clarity about what we are trying to achieve. We have had that, to an extent, in relation to climate change goals and measurable metrics. It is probably somewhat harder to achieve clarity in relation to biodiversity, but we have to try and get there.

In short, we are broadly supportive. There are estates that are doing a huge amount of good work at the moment and are keen to do more, and targets could be helpful in allowing them to do that.

09:15

The Convener: In practical terms, how will the targets affect your members? Do you have any indication of how they will be focused in the right area or how they will be worked up?

Stephen Young: Not really. As I said, it is very broad at the moment; I imagine that the specifics of how it will happen will come later.

In relation to cross-cutting with other acts, having biodiversity targets will influence what goes into other legislation, which will drive the meaningful, on-the-ground element of it. Our members are interested in the practicalities and how they will deliver the benefits.

The Convener: I will go to Jenny and then Elspeth and Caroline.

I am sorry, Jenny, but we missed the first part of your answer because you were on mute. Will you start again, please?

Jenny Munro (Royal Town Planning Institute): Absolutely. I hope that you can all hear me.

The short answer is that we support the introduction of statutory targets in principle. However, it is important that it does not become a numbers game or a system of checking boxes. The targets must allow us to achieve real, on-the-ground outcomes, and there must be awareness in that of what work is already happening to achieve the targets.

For example, a number of organisations—such as the national parks—are already doing a lot of positive work to achieve the targets before they have even been set. It is about understanding how the targets can support the work that is already being undertaken.

Part of that links back to certainty and confidence. Since the Planning (Scotland) Act 2019 came into force and NPF4 was adopted, we have heard from many of our members about lack of certainty as a result of the slow release of guidance to support implementation.

There is an important element around how the bill is implemented and around the need to front load into its preparation considerations about

outcomes and how it will work in practice, so that we are not waiting months or even years for the regulations or guidance to be able to implement it effectively.

Elspeth Macdonald (Scottish Fishermen's Federation): As the committee has probably seen from the SFF's consultation response, we are unsure as to whether statutory targets are the right way to go. From our perspective, it is more important at this stage to ensure that the targets are the right ones, rather than whether they are statutory.

If they are the right targets, statutory targets can be helpful in focusing resources in the right place to achieve the desired outcomes. However, we have to be alive to the fact that biodiversity is complex. The bill's policy memorandum reflects and recognises that, and the bill sets out what is clearly a broad framework. As Stephen Young alluded to a moment ago, we are not yet clear about what the process for setting the targets will be.

The Convener: Is that not a bit risky? We are going through the bill process, so we will have an act in six months or thereabouts. Has there been any indication as to the process for co-design and co-production, which we will no doubt have to make decisions on as part of secondary legislation in relation to targets and how we achieve those?

Elspeth Macdonald: Lots of discussions are going on around restoration and the biodiversity framework more generally. From our perspective, it is important that we get the targets right, rather than that we get them fast. The process should not overtake the desired outcomes.

Dr Caroline McParland (Chartered Institute of Ecology and Environmental Management): The CIEEM supports statutory nature targets for some of the reasons that other witnesses have touched on. There is a need for clarity, certainty and delivery.

Our response is around the scope of scientific evidence that is needed to ensure that those targets are right and appropriate for all those who would need to work together to meet them. For example, we have more than 800 members in Scotland, and there is a range of expertise available there.

We would like to see some strengthening of the biodiversity duty in the Nature Conservation (Scotland) Act 2004. As it stands, public bodies have a duty to have regard to biodiversity in their day-to-day functions. However, with statutory targets and a strengthening of that duty in the 2004 act, we would like to see a mainstreaming of biodiversity that could help to drive meaningful delivery of those targets across all Government departments. When put in place, those drivers would provide some of the incentives for meaningful delivery of targets that Emily Johns, Elspeth Macdonald and Jenny Munro have touched on.

By meaningful delivery, we mean that we would like to see biodiversity mainstreaming be a driver for investment in biodiversity. That means supporting all those who are engaged in delivering it and supporting an increase in capacity across NatureScot, Environmental Standards Scotland and local planning authorities, almost a quarter of which have no access to biodiversity expertise in their planning functions right now.

We are supportive of the targets, but the devil will be in the detail and in getting good-quality scientific expertise across the board to ensure that they are right for everyone and workable.

The Convener: From your perspective, therefore, one of the main benefits of the bill is that it will give some certainty about the direction of travel that the Government will want to take, and that will allow investment in the future.

Dr McParland: Absolutely. That is certainly what I hear from our members and from other bodies that we have engaged with, including quite a few members of the RTPI. Certainty is key to effective delivery.

Sarah Cowie (NFU Scotland): NFU Scotland represents around 9,000 farmers, crofters and land managers across Scotland. We believe and we know that they are already doing a lot of great work for biodiversity in nature.

We have concerns about the principle of placing targets for nature on a statutory footing, for many of the reasons that have already been set out. We understand that there has been a decline in nature and that we need to reverse and restore that, but we are concerned that placing nature targets on a statutory footing could lead to adverse consequences.

For one thing, the achievement of that target by all means necessary could mean ignoring other objectives of the Scottish Government. For example, the Agriculture and Rural Communities (Scotland) Act 2024 contains objectives for food production, rural communities and climate. We are concerned that the target might prioritise only that one aspect when there are other aspects to consider.

The second thing is that our members have concerns that, because biodiversity is so complex, they could do all the right things and still not get the results. Indeed, our members are concerned that they already do all the right things—they create the habitat, they do what they can for nature, they remove some of their land from production and they do all the other right things

that they are told to do—but, if they do not get the results, they might be penalised and scrutinised for that. We do not think that that is fair; we think that, as Stephen Young said, we should be focusing on actions rather than on the specific outcomes. By their nature, targets have a sense of focusing on outcomes, so that is our concern.

Despite that, if the Scottish Government is going down this track, we agree with the framework bill approach. We think that it is the right way to set a vision and an aim in primary legislation. The secondary legislation is where the targets, more stakeholder scrutiny and more detail can be worked through. It is crucial that that is bound in stakeholder consultation.

As well as what has already been said, co-ordination with other objectives and aims is crucial. That is another reason why we do not want to see targets in the bill. If they are to be introduced, we need them to be aligned with the Agriculture and Rural Communities (Scotland) Act 2024 and with the climate change plan update, so that everything is coherent and co-ordinated and not different things at different times.

The Convener: Just on that, when does the Government pitch in? We have been working with the 2004 act for quite some time. It is nine years since we effectively came out of Europe, but we do not yet have a replacement for the common agricultural policy. We still do not have a rural support plan. We are looking at a natural environment bill that will deliver biodiversity targets. Today, the Climate Change Committee has recommended a 26 per cent reduction in the Scottish beef herd. When will the Government make the hard decisions and bring everything together? There comes a point at which those targets have to be expressed. At the moment, there is a vacuum of information and a lack of knowledge about the direction of travel, despite the fact that we are in a climate and biodiversity crisis.

Sarah Cowie: For starters, we do not agree with the CCC's recommendation to reduce the beef herd. As far as we are aware, the Scottish Government is also pursuing alternative methods for reaching net zero. However, we agree that action is needed and progress needs to be faster, and that there needs to be more certainty for everyone. Farmers and crofters who want to make progress on climate change and nature but also deliver vibrant rural communities and produce food need that certainty, and the lack of certainty is definitely hindering those efforts.

It is crucial that all the initiatives are aligned and that we do not have different things happening at different times. We believe that having the detail in secondary legislation will allow the necessary flexibility.

Stuart Goodall (Confor): Thank you for inviting me to give evidence. There is a lot of uncertainty around the targets, and uncertainty is never a nice place in which to operate. In a sector such as ours, where we are looking at 35 to 80-year rotations for growing trees, targets can be helpful to focus action. However, as I said, there is a lot of uncertainty about what the targets will be, when they will be developed and how they will relate to other things.

That said—this might sound a bit like a plea—the forestry sector feels absolutely swamped by everything that is coming from the Government at the moment. We cannot keep pace with it all. With the CCC's new carbon report, climate change initiatives, economic development demands, community benefit demands, decarbonisation initiatives for other industries and so on, there is so much coming out that we just cannot properly engage with it. My team and I are struggling to provide proper evidence on what we are doing about it all. Anyway, that is just a moan—and, as I said, perhaps a bit of a plea, too.

From bitter experience, I can say that the key thing is that the targets need to be strongly evidence led. I used to work for the Forestry Commission, and, nearly 30 years ago, we developed a United Kingdom forestry standard through a world-leading initiative that brought together all the environmental, social and economic interest groups to consider the issue of sustainable forest management and how we drive environmental improvement through that. Subsequently, especially in the early years, a lot of poorly thought-through demands were made on the basis that they would help biodiversity, and some well-known non-governmental organisations came to me and asked whether those initiatives could be reversed, as they were not delivering what they were supposed to and were causing other problems.

The bill says, "We are going to set some targets. We will involve you, but you have no idea what the targets are going to look like—just trust us." That leaves us worried that we will just get into another cycle that will not move us forward very well. Therefore, we are looking for reassurances that people in the forestry sector will be involved. We have members who have been managing forests for decades, who know what is working and who are committed to multipurpose forest management. It is absolutely vital that those kinds of people are involved in the setting of targets and objectives, and that what is done is based on solid evidence.

I will add one final thing to that point. We have almost no evidence on the biodiversity benefit of wood-producing forests in Scotland; the private sector is having to go out and develop that

evidence, because it is just missing. Therefore, it is likely that the targets and expectations for that land use will be set in a context in which we lack evidence. That leaves me extremely worried.

Jacqueline Cook (Scottish Property Federation): I am here today on behalf of the Scottish Property Federation, which represents the real estate industry in Scotland. My day-to-day job is as a planning lawyer, so I am looking at the issues through that particular prism, as well.

In addition to the well-made points about clarity that have already been made, the SPF is broadly supportive of placing targets on a statutory footing. However, there are a couple of caveats to that. It is important to flag up the fact that, in addition to recognising that they would be imposed in an already complex and evolving legislative and policy context, we must recognise that proportionality will be key when it comes to implementation.

A balance must be struck between conservation and the development that will deliver essential infrastructure around Scotland—everyone needs housing and everyone wants better transport. We need to figure out a way in which all interests are properly represented.

09:30

There are different types of sites that should also be taken into account. This is obviously the Rural Affairs and Islands Committee, but urban and brownfield land will be subject to this legislation and should be given consideration, too. A broad-brush approach is not necessarily useful in all contexts, although it would give clarity.

One example that I can think of is down in England with biodiversity net gain. The 10 per cent biodiversity target figure applies across the board but certain places are overcomplying with it. For example, a 20 per cent requirement has been imposed in Cambridge, which means that people are avoiding Cambridge as an area for development. We need to avoid there being forum shopping in that way, which disadvantages some areas over others, and we need to consider things in a more strategic way.

The natural world does not respect jurisdictional boundaries or neatly packaged wards, so we need to think across the piece about how local authorities and their partners can work together to deliver the biodiversity preservation that we all crave.

Emily Johns: I will build on Jacqueline Cook's point and say that we already see that problem across Scotland under NPF4. The complete lack of consistency between local authorities on NPF4 and biodiversity enhancement is causing huge issues, especially for people like us who are building large amounts of infrastructure.

I mentioned the £100 million-worth of investment—we expect to be Scotland's biggest investor in nature restoration over the next 10 years. We must be able to apply that investment universally across our area, and I know that Scottish Power is facing similar challenges in the south of Scotland. We take our position as Scotland's single largest investor in nature restoration very seriously. As I am sure that you can imagine, the wheels are already in motion for a delivery plan for that investment.

I echo things that Caroline McParland and Jenny Munro brought up earlier on ensuring that the targets build on action that is already in progress. This is not an area in which everyone in Scotland is twiddling their thumbs and doing nothing. There are already loads of things happening because of lots of people, and I know that you heard from NGOs last week that are doing huge amounts of work in this area.

The Convener: Is there a general understanding of what the targets will be and how they will affect businesses in a practical sense? It is all very well ministers setting statutory targets, but how will that translate in practice? You say that there is lots of talk going on, but we understand that that is not the case in some sectors. We are in a crisis, so how long will it take to see how the targets will affect the work of businesses day to day? For example, there could be changes to UK forestry standards and how national parks deal with forestry. How long will it take for us to see secondary legislation with actual targets and information on how to deliver those targets?

Emily Johns: That is a very good question. NPF4 was produced in 2023, but there has not really been traction on the back of that, despite biodiversity enhancement being a core principle in the framework. That is largely because the underpinning framework that I mentioned earlier is not solid enough, which makes it difficult to make decisions and take action.

An important point has been made repeatedly about expert engagement and involvement in setting targets. Targets cannot be set in isolation without the experts on the ground who are trying to deliver them. We would like to contribute to that process. There is no point in having a Scottish nature target that ignores the investment that is already being made by people who are working in transmission networks, distribution networks and renewables companies. Enabling businesses to contribute to the setting of targets is key. If targets ignore what is already happening and what businesses are already doing, we will miss out on a huge driver of delivering those targets.

Dr McParland: I will build on those points. There is a lot of on-going work on investment in nature, particularly from the private sector. However, the targets need to be focused on the realities of the pressures on biodiversity, as set out in the "State of Nature" report. One in nine species in Scotland is at risk of extinction.

We need to focus on the functionalities around habitat condition and the extent to which we can make practical changes, such as through peatland restoration and different forestry and farming practices. We also need to focus on widespread but declining species, not only those that are rare, because we need to focus more broadly on species and at scale. Looking at functions, structures and widespread but declining species is a much more practical way to set targets that we can work together to achieve. We need to have input from experts across the board and to tie in the delivery plans for the Scottish biodiversity strategy.

Jacqueline Cook: The key word that Caroline McParland mentioned is "delivery". From a developer perspective, the way that biodiversity targets express themselves in day-to-day practice is through the consenting process and development management. We are talking about targets that are considered at the beginning of the consenting process, when people undertake site selection processes and assess the impacts of proposed developments.

We also need to look at how any conditions are applied to planning permissions and ensure that a two-tier consenting regime does not emerge as a result of the bill. For example, there are consenting processes under section 36 of the Electricity Act 1989 and under the Town and Country Planning (Scotland) Act 1997, so how enforcement will be monitored is another issue.

The biodiversity targets will need to be taken into account downstream, along with a host of other considerations. Behind all of that is a very strained public sector in which local authorities do not have the resources to process consenting applications as quickly as they would like, with the necessary amount of detail. We need to think about proportionality regarding what is required not only on the compliance side but on the monitoring and enforcement side, later down the line.

Elspeth Macdonald: Your question about delivery is really important. The bill sets out a duty for ministers to set and meet targets, but, in reality, it will not be ministers who meet the targets—it will be businesses, planners and the people who are around this table, along with many others. The bill is very unclear, and the policy memorandum is not particularly clear, about how the next step will happen in delivering the targets once they are set.

The planning framework in the marine environment is very different from the terrestrial one. Very different frameworks and structures are in place for the marine environment, which will affect how the bill might work. I am sure that we will come on to this during the course of this discussion, but a lot needs to be carefully thought through when it comes to monitoring and reporting against the targets.

Ministers are expected to set and meet targets, but there is a big delivery gap in the middle. We do not yet know very much about that stage, but it is very significant and important.

Stephen Young: I agree on the point about delivery. The action plan that comes later is the important bit. I echo Stuart Goodall's point about being swamped by admin and legislation, so we need to ensure that there is clarity on that.

It has not been discussed hugely up to this point, but another issue that we need to consider is that, once we get to the action stage, the cost of delivery will be extremely expensive. There are different views on what the figure will be, but that does not matter—it is a lot of money—so we have to think about how we will afford it. The money cannot all come from public finance. There will need to be private investment, so how do we encourage that?

We have to understand that delivery has a cost, and it affects income for rural businesses. How can we make the agreements, which are currently not overly attractive, given their long-term nature and the risk that is involved for land managers? How do we get the template right? Can we work on the template now, while we work up to the target, so that it is ready to go at the same time and, as was mentioned, we do not have a long, trailed-out string of events that make things move more slowly? We can all agree that we need to move quite quickly. It is not a perfect situation, but we need to start making progress sooner rather than later.

The Convener: I will bring in Jenny Munro for a final comment before we move on to our next question.

Jenny Munro: I hope that you can hear me. Thank you for bringing me in, convener.

I want to touch on delivery and resourcing. I agree with the point that was made that, although the targets need to take account of a lot of the actions that are already being undertaken by organisations, we also need to ensure that we are doing the right things to meet the targets. If what we are already doing is not enough, we need to know that, so that we can put existing resources into what actually needs to be done. I imagine that one of the first things that organisations, including local authorities, will do when the targets come

into play is review what they are already doing and adapt their existing work to align with the requirements of the legislation.

If the bill is developed with the front loading of objectives in mind, the targets that we set should, in theory, guide us in the right direction and help us to ensure that our resources are directed to the right place and the right projects. If we take a holistic approach, the targets should not necessarily add to resourcing pressures; they should help us to better direct available resources to the right place.

Having said that, I want to touch on monitoring, which will be crucial to ensuring that we implement the targets in the right way. We have not necessarily been doing that as standard practice, so adequate resourcing needs to be in place to monitor progress.

For example, I am aware of research that has been undertaken by Planning Democracy on the implementation of NPF4 biodiversity policies and on the developing with nature guidance. What comes out of the research is the fact that policy 3 of NPF4 appears to be being considered in the majority of planning decisions. The researchers found that it was being considered in 86.4 per cent of the cases that they looked at. However, there is less evidence that the developing with nature guidance is being used in such decision-making processes—the figure was 4.6 per cent of the cases that were looked at—which has implications for the planning conditions that are being used to deliver NPF4.

Even when planning conditions are present in permissions, there is still a question about their implementation. I am aware of research that has been undertaken in England by Wild Justice, which found that 50 per cent of ecological mitigation and enhancement measures that were conditions in planning permissions were not found to be present on site.

Therefore, I reiterate that monitoring and enforcement are crucial and that, if policies and guidance are not being used and implemented as they should be, we need to know why. Is that due to a lack of resources for enforcement officers, for example? That is a really important element that must be considered through the bill process.

Evelyn Tweed (Stirling) (SNP): Good morning. It is great to have the witnesses here. Are the topic areas set by the bill sufficient to give an indication of overall trends? What kind of targets should be set to support nature recovery?

Dr McParland: I will take the second part of that question. Our view is that targets need to focus on areas such as habitat condition and extent. As I mentioned earlier, I focus on widespread but declining species, not simply rare ones. As a guide, you could look at, for example, species of conservation concern lists and clear linkages to 30 by 30 targets. We would like there to be a focus on the intactness, integrity and resilience of ecosystems.

We need to deliver at scale. From the Green Finance Institute's work, we know that the risks of biodiversity decline to the UK economy could lead to a drop in gross domestic product of as much as 12 per cent. For context, Covid-19 caused an 11 per cent drop. I am sure that the Scottish economy is analogous, so it is really important to get the targets right and deliver at scale.

We need to focus on reversing loss and increasing connectivity through links to nature networks. Many local authorities are already working hard to develop their own local nature networks.

The targets need to be focused on a broad and science-based increase in connectivity, resilience, structure and function.

09:45

Sarah Cowie: We are broadly satisfied with the three target topic areas in the bill, but I repeat my point about the need to set realistic and achievable targets. If there is too much focus on outcomes, that could be difficult, given how complex biodiversity and nature are. If our members were to do all the right things to achieve a certain target but it was not achieved, we would find ourselves in a difficult situation. Things need to be looked at holistically. We think that it would be much better if support and frameworks were in place to enable farmers and crofters to take action to improve nature and biodiversity, but we do not want to be restricted by very specific outcomes that could be really difficult to meet.

I would like to mention one issue that might be missing: species conflict. Although it does not need to be mentioned in the bill, we would like it to come under the bill's scope. I am sure that all committee members are aware of the difficulties that farmers and crofters face when, as they try to improve biodiversity and go about their farming business, they encounter species that can cause disruption and other issues. Therefore, it is really important that species management is included in the bill's scope. We cannot seek to improve biodiversity if we do not look at the issues that some species conflict can cause.

We need to look at biodiversity holistically, because, as well as causing issues for farmers and crofters, species conflict can impact other species. It is important that a holistic approach is taken to species and biodiversity. We need actions and incentives rather than simply outputs and targets.

Emily Johns: We support the general direction of the bill and the areas that are laid out in it, but, for us, it is important that a collaborative approach is taken to refining what those areas are and what the targets look like. That process needs to involve infrastructure providers, the people who go through the landscape, land managers, farmers, estates, non-governmental organisations and all the people who are involved in the day-to-day management of the land, who will be responsible for owning the delivery. It is fundamentally important that there is also the involvement of communities and the people who interact with those landscapes, as well as the experts on what nature restoration targets would be best for nature.

Elspeth Macdonald: The topics in the bill are broadly drawn and they provide a significant degree of flexibility, as we will undoubtedly start to see as the secondary legislation is developed and joint working is undertaken to look at specific targets.

As that development proceeds, we must recognise that we need to look at biodiversity in the context of change, not just loss, because our environment has changed and will continue to change. We should not go down the rabbit hole of having targets that aim to recover something that perhaps cannot be recovered. It will be important to think about the changes in biodiversity and how we can adapt to, and mitigate, environmental change.

That is particularly true when it comes to the topic on threatened species. We must be careful not to set targets for something that is threatened because the environment has changed and is continuing to change in such a way that that species cannot be recovered to its previous numbers or its previous abundance.

We are reasonably comfortable with the topics, which are broadly drawn. However, as with much of the bill, the devil will be in the detail of what comes next. I very much agree with Emily Johns about the need for a really strong collaborative process as we move to the next stage of working out the detail, because that will be critical. We will set ourselves up to fail if we set targets to recover things, or to change the extent or abundance of things, that we cannot achieve because the changed environment will not support that. There is also the issue of what our benchmark for restoration would be.

Stephen Young: I broadly agree with most of the points that have been made, so I will try to be brief. I think that the aims are roughly right for where we are just now. As I said earlier, it is important that we keep them at a high level.

On land use, whatever the targets are, we have to avoid pitting one use against another—if it becomes a case of forestry against farming, we will get nowhere. We have to take an integrated, holistic and landscape-scale approach, so that we can move forward together.

Jacqueline Cook: I will pick up on the point about collaboration and taking an integrated and holistic approach. I read the bill in perhaps more granularity than is necessary for stage 1, but proposed new section 2F of the Nature Conservation (Scotland) Act 2004, as inserted by section 1 of the bill, separates target formation and amendment from the topics to ensure that the legislation is fit for purpose. It is proposed that the targets will be set almost exclusively with "regard to scientific advice", which is absolutely as it should be, but I think that there should also be a layer of consultation outside the scientific community to ensure that targets are realistic. There is room for the Scottish ministers to appoint whoever they think is appropriate to look at the topics, but the current phrasing in relation to breadth is useful in providing on-going flexibility.

The Convener: Our next question is on target alignment. I beg your pardon—Beatrice Wishart indicated that she might want to ask a supplementary question.

Beatrice Wishart (Shetland Islands) (LD): No, I am okay. My questions have been answered.

Tim Eagle (Highlands and Islands) (Con): Some of this has already been covered, but I am interested in the relationship between the Scottish biodiversity strategy and the statutory targets, which Caroline McParland mentioned earlier. Some written evidence suggests that we have to ensure that the statutory targets in part 1 of the bill align with the 2030 and 2045 deadlines. I am conscious that the strategy document hints at that. It states:

> "These targets, like our climate targets, will secure accountability, driving action across Government. They will be focused on achieving the overarching goal of this Strategy".

Do the witnesses have thoughts about how the targets would work with the 2030 and 2045 deadlines?

Dr McParland: The Scottish biodiversity strategy and the delivery plan actions are increasingly focused on ecosystems and ecosystem function. CIEEM would like those targets also to have that alignment. We do not have a great deal of time until 2030 or, indeed, 2045, when we consider the timescales for nature restoration and recovery, whether that is focused ofn particular species or whole systems. We need those targets to align more closely with the Scottish biodiversity strategy's delivery plan actions, which have already been developed and

should be the guiding light for setting the targets and making them achievable.

Tim Eagle: What do you think is the value of the statutory targets beyond what we already have in the six-year implementation plans for the Scottish biodiversity strategy?

Dr McParland: If the targets are statutory, that will drive focus across the Government to work to achieve and support them. That needs to go hand in hand with a strengthening of the biodiversity duty, as introduced by the Nature Conservation (Scotland) Act 2004. As I mentioned earlier, currently, public bodies must have regard to the duty alongside their day-to-day functions. In CIEEM's view and in my view, that should be flipped around: biodiversity should be a common thread through day-to-day functions, which is how we would start to give statutory certainty to bodies that are privately investing in nature restoration. It would also provide clarity to planners who are at the coalface, if you will, of delivery through development control, as well as to other land users such as farmers and foresters.

The value of statutory targets is that they provide a key legislative driver, rather than simply policy and plans. As others have said, we are working hard to adhere to those, but because there is no statutory driver, they are not necessarily applied consistently. They also take up a lot of time in a sector that is very constrained and is not always able to access expertise.

CIEEM's research shows that, of the planning authorities in Scotland, 22 per cent have no access at all to biodiversity expertise in their day-to-day planning functions. If there were statutory targets in this area, they would be a driver for work to change that. I hope that they would come alongside support for councils to bring in expertise. The expertise is certainly out there, but a lot of councils do not have access to it, or to enough of it.

Stephen Young: I agree that putting biodiversity on a statutory footing elevates its status, as we have seen with the climate change targets. It could be argued that climate change and other things have nudged biodiversity off the table and that it has been forgotten about because everything is about the statutory climate target. In that respect, giving biodiversity equal footing would help. Although you are right that we have many of the tools to implement the strategy already, we are not focusing on it or driving it forward. Statutory targets would give biodiversity more status and lift it up so that it sits alongside carbon and climate change.

Emily Johns: Alongside what has already been mentioned, having a statutory target gives private companies a solid footing on which to ask for investment from boards. In our case, we go to the Office of Gas and Electricity Markets for investment. Having statutory targets provides a real driving purpose as to why private companies should be investing in something—it makes that really clear. I have talked about the biodiversity enhancement principle being the driver for us getting the huge level of investment that we have because we can point to a piece of paper that says, "This is what companies in Scotland must do." It helps to drive the private investment that is desperately needed across Scotland to restore nature.

Jacqueline Cook: On the scale of investment and financial commitment that is required, the committee might be aware that the requirements down south outline three ways that BNG targets can be met. The first is through on-site provision, the second is through off-site provision, and the third is essentially through buying BNG credits. Buying BNG credits is the least desirable of those under English legislation. The cost of the credits starts at £84,000 for your bog-standard unit and, for very protected environments, it can go up to £1.9 million per unit. That will indirectly adversely impact small and medium-sized companies in a way that those in housing delivery, for example, really cannot afford, because the credits are such a large component of the BNG delivery mechanism.

Elspeth Macdonald: I will touch on the point about alignment in timescales with the biodiversity strategy and delivery plan. Something that needs to be very carefully thought through is how long you give something—how long it will take and at what point you say, "We've tried this to recover or improve something, and it doesn't appear to be working. Is it not working because it will never work or is it not working because we haven't given it enough time? How long will it need?" A criticism that we had of the delivery plan was that we felt that the timescales were very short for some of the changes that might be pursued.

On the point that Stephen Young made about climate change targets, I think that the policy memorandum recognises that, in lots of ways, they are much easier targets to set. They are not easy to achieve, but they are easier to set—but those targets are being missed. Biodiversity is a much more complex set of systems. I think that not knowing how long it might take to see changes will be quite challenging for the Government, public bodies and businesses. At what point do you decide to cut your losses and say, "We're never going to achieve this target for whatever reason," or, "Have we just not seen it yet because it's going to take a bit longer?" The complexity around how what the bill delivers matches the expectations of the delivery plans is going to be really important.

Sarah Cowie: The questions about the value in setting nature targets in statute and about the alignment with the SBS are questions that our members are asking us almost all the time. When the Scottish biodiversity strategy and delivery plan were published, that was their main question. They were wondering, "What does this mean for me?" Those documents have a very high level of detail, and it is difficult to translate that into what it means for a farming and crofting business.

10:00

We are also seeing delays with the climate change plan update, which will not be published until at least the autumn. We are also still waiting for detail on elements of the Agriculture and Rural Communities (Scotland) Act 2024, as has been mentioned.

For farming and crofting businesses that are being asked to take positive action now—the whole-farm plan requirements came in this year, so many farmers will have undertaken biodiversity audits already—we need that detail to be translated in order to give clarity. That is just not there yet, unfortunately. All of our members will be asking what it means for them. It is really not clear, and I think that that needs to be the sell.

Tim Eagle: Can I just double check something? I get what Stephen Young was saying about the status element, but I have some concerns about the necessity of that. The 2030 and 2045 targets are not in the bill; it just talks about the biodiversity strategy. On status, do you think that it should explicitly say in the bill that the new statutory targets are to align with the 2030 and 2045 targets?

I see that no one wants to come in on that. That is what was suggested in the written evidence from NFUS, I think.

Sarah Cowie: No, I do not think so.

Tim Eagle: I think that it was in SLE's evidence, too. Stephen, did you not put that in your written evidence? I will check and text you later to tell you whether I am right.

Sarah Cowie: We are happy with the vision and principles being set out in the bill, but we would want the specific details around targets to come through secondary legislation, for a number of reasons. We are still on a journey. A lot of science and evidence is there, but we are still on a journey with regard to how all those things interact—for example, how nature interacts with climate, food production and our changing weather patterns. It would be a concern for us if those details were locked into the bill.

The Convener: On that point, surely you need to pitch in at some point. You cannot just keep saying that you are waiting for this or that. The NFUS said in its evidence that the timescales should align with the 2030 and 2045 targets, as well as with the five-year rural support plan. We have not even seen the rural support plan. Do we wait until we have the biodiversity targets before we publish the rural support plan, or do we wait until we decide the response on climate change?

When do we pitch in to get started? It is a moveable feast. We will never get to the stage where everything aligns and we can have a piece of legislation, as Stephen Young said, that is a thread that runs through everything. At what point do we need the Government to say what the targets are?

Sarah Cowie: The Government could act a lot quicker, but that does not mean that all that must be in the bill. These two things can both be true. We can have high-level principles in a bill that can come through the Parliament in its own way, but the Government can also act more quickly on setting the secondary legislation, publishing the rural support plan and coming out with the detail. Both of those things can happen.

The Convener: Thank you. If there are no other comments on that question, we will move on to our next question, which is about governance arrangements for targets. What are your views on the wider governance provisions in the bill relating to whether the targets should be consulted on, when they should be reviewed and how monitoring should take place?

Emily Johns: I echo what I said earlier: the current set-up in NPF4 is not governed properly and there is not the framework. We do not have consistency across local planning authorities, so anything that comes out of the bill needs consistency. I touched earlier on the chief planner letter, which highlights the need for consistent application of NPF4, which still does not happen, and to make sure that we avoid the inappropriate use of section 75 obligations under biodiversity enhancement.

In general, for governance on those targets, the framework needs to be there and the existing framework needs to be sorted out before anything can be done on targets.

On consulting on those targets, I have already talked about a collaborative approach; it is really important to consult.

Elspeth Macdonald: I will give a short answer. There absolutely has to be very close and detailed engagement on targets among Government, stakeholders and public bodies, because without that, they will fail. That is my sense.

The Convener: One aspect—I think that Caroline McParland touched on this—is the

capacity within NatureScot or, potentially, local authorities or other bodies, to undertake, first, the baseline research and, further down the line, the monitoring. Are there concerns over how that might work?

Dr McParland: I mentioned the capacity point earlier, which would also apply to Environmental Standards Scotland. With the expansion of its role, we would need to see support for capacity building. We would also need to see clear action-planning cycles, so that we have not just targets but a clear setting out of delivery, monitoring and accountability. We have concerns over capacity and the investment that is needed to support ESS, NatureScot and local planning authorities to deliver. They are already very stretched, so we need to make sure that they are in a position to help with delivery.

The Convener: Again, I come to Elspeth Macdonald, because we already have issues with stock assessments and the capacity of the marine directorate to bring forward marine plans. Does the SFF have such a concern?

Elspeth Macdonald: Yes, it is a real concern for us. Not so long ago, I was in front of the committee talking about the resources of the marine directorate being thinly spread over an increasing and growing workload—and I think that this will add to that.

It is also important to remember that, in the marine environment, it is often much more costly to carry out monitoring, because that is more complex and harder to do. It is generally more costly.

We are certainly concerned about the capacity, resources and costs of the marine side of monitoring and what the unintended consequences of that might be if resources are diverted from other areas. That is a significant concern for us.

Stephen Young: I echo that. For any of these things, making sure that you have the right resource to deliver is hugely important, and there is already pressure on NatureScot and others on much of this.

A lot comes back to clarity of goal. If everyone is sure about what they are trying to achieve and has everything lined up, it makes it much easier and takes less resource. Using all the data that we have available—from public and private sources—will help with that and cut down some of that work.

We have another concern. The key element that is missing is a requirement to consult the local land managers in the setting of targets. That is not in the bill, and we think that it should be.

The Convener: Stuart Goodall, you commented on the lack of data relating to biodiversity and commercial forestry. How will the industry be impacted? Will capacity in the public sector be the issue, or are there requirements for the private sector to set up and fund baseline data collection?

Stuart Goodall: The simple answer is that there are a number of different elements, of which I will try to make sense. It is always helpful to have robust evidence that has been developed by a respected organisation. In forestry, we have Forest Research. Across the board, where it has looked at biodiversity, climate change, carbon and all the rest of it, it has produced very good work. Generally speaking, we respect what comes out of it. We would look to that.

However, the last time that any substantial research was undertaken on commercial forestry—or productive forestry or whatever you want to call it—was 22 or 23 years ago. At that time, it was said that the forests that we planted last century, which were primarily about timber production, were hosting far greater biodiversity than had been expected. In parlance, the “ugly” forests of last century were delivering a lot that had not been realised; it was just not assessed or measured.

Since then, we have made radical changes to how we design, fell and restock forests. It is interesting that the recent NatureScot report, which looked at natural capital rather than biodiversity, has woodland as one of only a couple of areas for which the index is increasing—it has had the biggest increase. We are doing good things, but exactly what is causing that increase in biodiversity or key species is difficult to look at across the whole of Scotland, as opposed to looking at a snapshot or getting evidence from individuals.

I cannot see how we are going to change that in the short term—that is the fundamental concern for me. The private sector can happily work with Scottish Forestry, the Scottish Government and Forest Research to look at how we can do that in a more co-ordinated and effective way, using modern technology. Stephen Young already talked about coming together. We are really up for that—we are happy to do it, because a lot of landowners want to tap into investment to support work on biodiversity and climate change.

However, I go back to my point about uncertainty. I have no idea where all this is going, what it will mean, what will come out of it or whether some stuff that comes out of it will just be nonsense—“So-and-so said this would be great and they sound respected; in the absence of anything else, we’ve picked that up and we’ll run with it.”

There is currently a lot of positive intent and no real substance, which is really unsettling. I think

that we are all on the same page with what we are trying to achieve; we just lack certainty and a little bit of confidence about how the process is going to play out.

The Convener: We have a brief supplementary from Mark Ruskell, and then we will move on to the next question from Elena Whitham.

Mark Ruskell (Mid Scotland and Fife) (Green): We will come to part 2 of the bill, on environmental assessment, later, but it strikes me that a huge amount of work has already been done through the environmental assessment process around forestry licence applications and development applications. I am interested in your thoughts on how we make best use of the data that is already out there to help to set targets, monitor progress and guide decision making.

Millions of pounds are being invested every single year in assessment and working out what is happening with protected species and recovery, and with the environmental impact of development, yet I do not get a sense of where all the information and knowledge sits within the bill and in the strategies.

Dr McParland: There is a wealth of information already sitting in existing environmental impact assessments, and we certainly agree that it would be important to make that information more centrally available. The Scottish biodiversity information forum has made a number of recommendations around streamlining and centralising databases of biodiversity information. That information comes from a wealth of public and private sources, such as condition monitoring that is carried out by NatureScot on designated sites and surveys that are carried out as part of EIAs to inform development applications. I can share the SBIF recommendations after the meeting, if you like.

CIEEM would certainly agree that we need to have better access to that information as well to help decision makers in their day-to-day work, including delivering on their existing biodiversity duties, never mind statutory targets. The information is out there, but support is needed to improve access to it and to centralise it.

Jacqueline Cook: With regard to prioritising information that is gathered and delivered, I know that developers in the SPF feel like they bear the brunt of the burden when it comes to paying for the costs of ecological assessments, environmental impact assessments and so on.

For example, one member has said that two years' worth of data and environmental studies are required in order to submit a planning application, whereas two seasons' worth would provide the same information. Making sure that everything is properly scoped in order to meet everyone's requirements from the outset would be a good start.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): Good morning to everyone. I am interested in understanding what is happening from a policy coherence perspective—for example, ensuring that we are not operating in silos. Sarah Cowie from the NFUS has already touched on that. I would like to understand what needs to be considered in relation to the alignment of nature targets with the targets and policies in other areas to ensure that we are being effective and that we are providing regulatory certainty. We also need to be able to be fleet of foot to address things as they arrive.

Who wants to comment on that first? I have heard several comments this morning about consistency and alignment.

Elspeth Macdonald: That is a really good question, and Stuart Young touched on it earlier. This is a busy, crowded space—in marine, we have a lot of Government strategies, visions and action plans, and the Fisheries Act 2020, which sets out environmental requirements and obligations.

A set of fisheries management plans will be coming through for all our fish stocks. That is very much a work in progress, part of which will inevitably involve environmental issues and conservation. We have the new national marine plan for Scotland, which is yet to be finalised. It is still going through the policy-making process and is, I suspect, quite a long way from completion.

10:15

Stuart Goodall touched on this at the beginning. Small organisations such as ours can feel themselves drowning somewhat when they open documents and see links to all the other bits of legislation, bills and strategies. It is very easy to lose track of what is being done where. Are these things aligning? Are they in conflict with each other? Are they overlapping? Are there gaps? In the marine space, there is something to be said for taking a step back and asking, "What have we got? What are all these different instruments doing?" There is a mixture of primary and secondary legislation and reserved and devolved policies. I could not say with any confidence that the bill will align beautifully with existing legislation. There is real scope for overlap and duplication, and for regulations coming into conflict. There is a big job to do in unpicking how we have evolved into the regulatory position that we are in.

Emily Johns: Elspeth Macdonald hit the nail on the head—it is a very crowded space. The other angle to consider is the crowded space from the other direction, which is the global one. We have

the global biodiversity framework and all the targets that the world has signed up to.

On private investment and the regulations that we, as private organisations, are having to align with, there are things such as the Taskforce on Nature-related Financial Disclosures, science-based targets for nature, the Global Reporting Initiative and corporate social responsibility. The bill has to sit within the many global regulations for private companies, and it is already a crowded space in the Scottish landscape. To echo the confusion that Stuart Goodall talked about earlier, there is a lot going on.

There are also a lot of external pressures. Any company that is looking to contribute, on a Scottish scale, to targets in Scotland also has those global pressures. There are also the different types of target that we are expected to set from a global perspective. “Crowded space” is a very good way of putting it, Elspeth.

Stephen Young: From a land use point of view, a lot of the tools are probably already there. We have a land use strategy, the idea behind which is to pull together all those different strands and have a joined-up approach. We have regional land use partnerships, which are sort of there but sort of not. We are still piloting them, but they could have a really strong role in this, too. The Agriculture and Rural Communities (Scotland) Act 2024 has pulled together a lot of those strands. Many of the tools are there; it is just not all coming together as it should. However, there is potential to do that. We do not need anything extra to enable us to do it; we just have to do it.

Sarah Cowie: I completely agree with Stephen Young and Elspeth Macdonald. It is such a crowded space. The position of farmers and crofters is similar—they get overwhelmed with the amount of policies, regulations, aims and objectives that are coming out. That is a really tricky space to be in, so it is for the Scottish Government to try to ensure that there is that alignment. It is one area where we think that secondary legislation is important. It leaves regulations open to scrutiny, and to flexibility and evolution, given that science and even social and cultural attitudes change. That is really important.

Although alignment is extremely important, what we, as farmers, crofters and land managers, would like is incentivisation to do more for climate and nature. The Scottish Government has to sort out its alignment, and I think that the land use strategy and the Agriculture and Rural Communities (Scotland) Act 2024 are part of that. However, what people on the ground want is increased and assured funding for farming and crofting, and active food production that goes hand in hand with nature and climate. Farmers and crofters are being asked to do a lot more with a lot less. They are operating in extremely difficult supply chains, with slim margins. What do they want in order to achieve these outcomes? They need more investment, more funding and more confidence in the sector, which will come only through public and private funding. It is about incentivisation.

Mercedes Villalba (North East Scotland) (Lab): Good morning, everyone. Thank you for having me back. I have two questions, if you will indulge me.

My first question is for the NFUS. We have heard this morning that the organisation believes that the focus needs to be on actions, not outcomes. I also heard that the NFUS does not want to see targets in the bill.

The committee took evidence from the Scottish Government when the bill was introduced, and it said that its view is that targets are a key way to drive action and that it already has a strategy and six-year delivery plans. Therefore, the idea is that the third part of the biodiversity framework will be the bill, with its statutory targets, and that the third element of the statutory targets, along with the strategy and the delivery plans, will be how we drive action forward.

If the NFUS disagrees with that—and it sounds like it does—what does it see as the best way to drive that action, given that we already have the strategy and the delivery plans? If not statutory targets, then what?

Sarah Cowie: You are right. We disagree with that for a number of reasons that I have already outlined. Because nature and biodiversity are so complex, setting them on a statutory footing could lead to counterproductive or unintended consequences.

Mercedes Villalba: I will clarify that my question was, “If not statutory targets, then what?” As you said, you have outlined your reasons why you oppose statutory targets. That is on the record. What would you like to see instead in order to drive that action forward?

Sarah Cowie: This relates to my answer to the previous question. The framework incentivises farmers and crofters to do more for nature and climate. As I have said, farmers’ primary aim is to produce food. That is what they are here for, and that is what we need in this country going forward. They are also being asked to do more for climate and nature, and they are already doing a lot for climate and nature.

The whole-farm plan requirements came in this year, but there is still some uncertainty around the Agriculture and Rural Communities (Scotland) Act 2024 and certain aspects of the different tiers, and around how that will support farmers and crofters to do more.

It is about providing that framework, investment and funding—not just financial support but advisory support for farmers and crofters to make those decisions. They are willing and want to do more, but they have many different and competing priorities. It really is about that framework of support and incentivisation to do more.

We think that that is absolutely fair. Farmers and crofters deliver a lot that is in the public interest, and supporting and helping them to do that is the right way to go about it. It empowers them to do it, whereas statutory targets might be binary, or black and white, which might lead to unintended consequences or adverse outcomes for our members.

Mercedes Villalba: Is there something that the Government can do with the bill to support farmers to drive forward that action? It sounds as though you are saying that it is more about making sure that what is in place is clearer.

Sarah Cowie: We need to see clarity on the different tiers in the Agriculture and Rural Communities (Scotland) Act 2024. We do not have all the detail yet. Clarity in terms of the bill can come through the secondary legislation and consultation on what that is going to look like.

We are not shying away from biodiversity and climate responsibilities, but we do not want arbitrary targets that can adversely impact other outcomes. It is about alignment, but it is not about the bill and tying things into legislation that could have adverse outcomes. It is about looking at things in the round and making sure that there is alignment, that there is consultation and, crucially, that there is flexibility if something is not going in the right direction.

Mercedes Villalba: I also heard you touch on investment, which relates to my second question, which is for the wider panel. When the Government was working on the bill, seven topics were identified by the programme advisory group, and only three of those topics are being taken forward in the bill. One of the topics that is not being taken forward is investment in biodiversity. I heard that mentioned by a few of our witnesses today.

Dr McParland said that CIEEM would like to see targets as a driver for investment in biodiversity and noted that 22 per cent of planning authorities do not have access to biodiversity expertise, and Jacqueline Cook, on behalf of the SPF, spoke about local authorities not having the resources. It seems that there is a funding gap.

My question, therefore, is whether you believe that the protection and restoration that we are discussing can happen without public investment. How likely is it that the outcomes can be delivered without a statutory target on public investment? What is your view on the lack of a target on public investment in the bill?

Dr McParland: CIEEM has not commented specifically on that point, but there is a clear resource gap in relation to our existing delivery on biodiversity. Statutory targets provide a legal incentive for a combination of public and private investment in nature restoration that will aid that delivery—and it does need to be a combination of investment. Private organisations such as SSEN Transmission are already investing significant amounts in nature restoration, but, as is the case with planners working in development control, they need certainty that what is being invested in is going to be achievable.

As I say, one reason for having statutory targets is to provide a legal driver for having public and private investment. However, as we touched on in our response and in some of the points that I have made today, those targets need to be clearly linked to some of the existing pieces, including the Scottish biodiversity strategy and the delivery plan, and there needs to be a clear plan for monitoring progress on targets and for the adaptation of targets if the evidence from that monitoring shows that we need to make a change. Therefore, we would not suggest having rigidly imposed targets, because it is a changing world. A number of times in my career, I have seen situations in which targets for the restoration of a site have been set and then unexpected factors have come up that meant that perhaps those were not the best targets to have set in the first place.

Mercedes Villalba: Do we need a specific target for investment? The Scottish Government said that it believes that there is a risk of perverse outcomes, such as greenwashing. I would therefore be interested to hear your views on whether a target for investment would be helpful.

The Convener: I ask witnesses to be incredibly brief. I have not chaired this first session particularly well and we are considerably over time. We will have to cut things incredibly fine, as we have five minutes for another 20 questions, so I ask you to keep your responses as tight as possible.

Dr McParland: Avoiding the risk of greenwashing involves engaging the right scientific expertise in the setting and meeting of those targets.

Emily Johns: Public investment can unlock private investment. The initial steps towards initiatives such as the facility for investment-ready nature in Scotland—FIRNS—programme and the associated prospectus involve public investment, which can unlock private investment, as the public involvement means that the programmes become trusted and secure places to invest money.

Stephen Young: Protection and restoration cannot be achieved without public funding. Blended finance is probably the future in that regard. However, there is also a role for public funding in relation to skills and training and in developing that knowledge and understanding throughout the industry. The public sector also has a role in facilitating that private finance, giving the broad parameters and then letting it do a lot of the heavy lifting.

Jacqueline Cook: It very much depends on the targets and how onerous they are. I agree that blended financing is the way forward. It is important for parties to supplement the scientific evidence and for consultation on targets as well as topics to be undertaken.

Jenny Munro: As I said, the targets should help us to ensure that we are directing the available investment and resources to the right places to meet those targets. However, it is important to highlight that resources alone will not necessarily result in positive outcomes in and of themselves. We support targets that are focused on outcomes, principally to track how we are doing in the long term, supplemented by outputs as a shorter-term measure, but we do not see how tracking investment alone would necessarily benefit those measures.

The Convener: I will briefly suspend the meeting for a comfort break of, I hope, less than five minutes.

10:29

Meeting suspended.

10:36

On resuming—

The Convener: Welcome back. Our next questions are on part 2 of the bill, "Power to modify or restate environmental impact assessment legislation and habitats regulations".

Rhoda Grant (Highlands and Islands) (Lab): Do our witnesses agree that the proposed new single overarching power to enable the Scottish ministers to modify by regulation the EIA legislation and the habitats regulations is needed? What impact would that power have on your work?

Dr McParland: The short answer is no, CIEEM does not support the overarching power to make modifying regulations, especially when it comes to sections 3(e) and 3(f), where "modify" could mean "revoke" or "repeal".

We have tried and tested EIA and habitats regulations regimes in place. They were subject to a European Union regulatory fitness and performance programme review 10 years ago and deemed fit for purpose, and they have been rigorously tested in case law. They are also far more flexible than is indicated in the policy memorandum, which provides the reasoning for the bill.

There was quite a lot of discussion about regulations 9D and 11 of the habitats regulations at last week's committee meeting, so I will not reiterate all of that. However, the stated need for flexibility comes with a lack of non-regression and a lack of some of the limits that were set out in the European Communities Act 1972, where those powers were to be taken in order to achieve the aims of the directives. There is nothing like that in the bill.

None of the proposed changes addresses the fundamental issues around the implementation in practice of EIAs and habitats regulations assessments in Scotland. We have already touched on some of those issues, which relate to capacity. My organisation's members and colleagues, clients I work with and regulators are all extremely busy and extremely stretched. The real issues are around capacity.

The law is not complex. I realise that I speak with the benefit of years of experience, but there are basic triggers for an EIA, which relate to location and type of development. Those are fundamental protections, which protect some of our nationally designated sites and our protected species. There are similar fairly simple triggers in the habitats regulations.

There is already a great deal of flexibility. I will give the example that is available on NatureScot's casework web pages in relation to habitats regulations. It concerns the upgrading of the A30 between Mallaig and Fort William, which resulted in the loss of nearly 8 hectares of oak woodland in the Glen Beasdale special area of conservation. The habitats regulations allowed for that loss to happen, because the project was deemed to be of overriding public interest. They also allowed for compensatory measures through enhancement, through good invasive non-native species management and good deer management outside the site, to bring 14 hectares of oak woodland up to qualifying status. That was later added to the site. That is a really clear example of the existing powers and flexibility that we have with the habitats regulations. I could also talk at some length about the EIA regulations and their flexibilities, but I am mindful of the time.

On the arguments that have been made about the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 and its sunsetting, the one point that I would make is that we already have a range of primary legislation. For example, there is the Wildlife and Countryside Act 1981, as amended by more primary legislation—

the Wildlife and Natural Environment (Scotland) Act 2011—and the strategic environmental assessment legislation. The fact that our existing EIA and habitats regulations happen to be secondary legislation is only a historical artefact of our having been members of the EU. There has never been anything to stop us having that sort of legislation as primary legislation, so the continuity act argument is weak in the extreme.

Therefore, CIEEM does not support the proposed powers.

Elspeth Macdonald: Again, as with part 1 of the bill and the statutory targets, we said in our submission that we were unsure about what is proposed because there is so little in the bill about how the powers are to be used. Sections 2 and 3 of part 2 of the bill give ministers a very broad suite of powers, but there is very little detail, aside from some broad but by no means comprehensive examples that are set out in the policy memorandum.

We also feel that part 2 of the bill does not provide sufficient checks and balances for the wide range of powers that the bill intends to give to ministers. We do not feel that there is enough in the bill to allow us to form a clear view.

Emily Johns: I will pick up the second part of the question, which was about the impact that the powers would have on our work. For SSEN Transmission, the key thing is that it is important to note that the proposals in the bill to amend EIA regulations for town and country planning are applicable only to non-overhead line projects, but overhead lines are some of the biggest pieces of work that we have going on in Scotland.

The regulations that relate to electricity works are not included in the scope of the bill, because those are a reserved matter. The UK Government has stated that environmental outcome reports are intended to set the scope of assessments for reserved matters, which means that, as the Scottish Government looks to amend powers that are related to the EIA regulations and as the UK Government develops its approach to EORs, it is really important that any divergence in those requirements does not create additional complexity, duplication or situations that could really affect the timing and delivery of critically important nationally significant infrastructure. We have already talked a lot about the complexity of that area, but any divergence could have really big knock-on impacts.

Sarah Cowie: The way that the consultation was set out and the way that the bill is set out have made it very difficult to ascertain the impacts and the scope of the actions that ministers could use the powers for, despite the examples that were set out. We are fairly comfortable with the fact that, and we understand that, legislation has to be amended to ensure that it is fit for purpose, to provide clarity and accessibility or to improve the operation of regulations. However, we need to have the safeguard that, when changes are proposed or made, there must be thorough stakeholder consultation and impact assessments must be carried out on the effect on different industries. The important point is that stakeholder engagement is crucial.

Mark Ruskell: I will direct this question initially to Emily Johns. It is about what really needs to be fixed. You described the two separate, although related, regimes of environmental outcome reports and the regime that we have here for onshore infrastructure. What changes, if any, would you like the bill to make to the EIA legislation and the habitats regulations? Does the system that we have at the moment broadly work in facilitating development, as Caroline McParland suggested?

The view of the Government is that we are really going to struggle to meet our offshore wind ambitions without some changes, but I am struggling to see what the changes should be and where the good practice is in the UK or in other regimes. I know that you are not here to speak for the entire renewable energy industry—it is a shame that we do not have anybody here from Scottish Renewables or that sector—but perhaps you can attempt to field that question.

10:45

Emily Johns: That is a good question and a broad question. I will not attempt to speak for renewables more broadly; I can speak only for transmission operators. We work in a dichotomy of two consenting regimes: section 37 of the Electricity Act 1989 on large overhead lines, and the Town and Country Planning (Scotland) Act 1997. Those are already quite different in different respects, so the closer we can keep them, the more straightforward things will be for companies like ours.

The bill does not lay out what specific changes would look like; it simply lays out the power to make changes. I do not want to comment on something that is not in the bill. I can go away and look more and get more guidance from the town planners and the experts on EIAs.

Mark Ruskell: Basically, does the system work for you in facilitating economic growth?

Emily Johns: Broadly, yes, although it could always be better. I can go away and get more specifics and come back to you.

Mark Ruskell: Caroline, do you want to come in on that question as well?

Dr McParland: I am broadly in agreement with Emily Johns. In my day job in environmental consultancy, I work alongside organisations like Emily's. The uncertainty around what the proposed powers would entail is a key issue. I have touched on the capacity issues, which I will not reiterate, but I have two other key points.

First, in its recent report on the appropriate use of framework legislation, the Delegated Powers and Law Reform Committee stated that such legislation needs to be quite narrowly defined, that appropriate use needs to be made of super-affirmative, affirmative and negative procedures, and that powers that are taken "just in case" there is a change in the future are not appropriate. The power in part 2 is an example of an inappropriate way of conferring such powers.

My other point is that a great deal can be done through improved guidance—I am referring, for example, to division of planning and environmental appeals guidance. The one example of changes that could be made that is given in the policy memorandum refers to electronic EIAs. Guidance on that could be written very readily; it does not need legislative change. A robust plan-led system and full support for the delivery of NPF4, alongside the existing regulations, would give us what we need. We certainly do not need the proposed sweeping, loosely worded changes.

The Convener: Before Mark Ruskell asks his next question, I should say that Scottish Renewables was invited to attend but was not available.

Mark Ruskell: My next question follows on from that, because the purposes for which the proposed power can be used, which are outlined in sections 3(a) to 3(f), are extremely broad. Under section 3(c), it can be used

"to ensure consistency or compatibility with other legal regimes".

Emily Johns has already mentioned the regime under the Electricity Act 1989. I am interested in any other views on that. When it comes to environmental assessment and the habitats regulations, what would be an ideal system? Can we get a view from the property and housing sector?

Jacqueline Cook: I very much echo what has been said by Caroline McParland and Emily Johns. We already have a lot of levers that can be pulled to effect the changes that we need. Adding yet another layer of legislation will not necessarily clarify the issue.

I do not see why the powers to amend legislation that are in the bill are necessary. They are nice to have rather than essential, and they could cause more confusion.

May I clarify the second part of your question? On what, in particular, do you wish to have a view from the real estate and housing sector?

Mark Ruskell: I would like to hear how, from your perspective, the proposed powers could be used in a way that would be beneficial. We are trying to understand how the powers might be used and how you might wish to have them used. In England, there is a lot of discussion about the changing regimes and the indication that the Government there has given about how it is going to change things. Do you have anything to add on that?

Jacqueline Cook: There needs to be transparency, meaningful consultation with industry and clear guidance. As Caroline McParland has pointed out, none of the clarifications that industry and house builders, in particular, would welcome need to be in legislation. They can all be provided through policy and guidance, which are much more agile in keeping pace with economic requirements.

For the time being, we need to work with what we have, rather than adding to that. I am not sure that I can say much more on that at this point.

Mark Ruskell: That is fine.

My final question is for Caroline McParland. The existing system of environmental assessment within European law has functioned for 30 or 40 years. I want to get a sense from those who carry out environmental assessments in industry, and from your clients, of how beneficial it is to have certainty in the system. Is the system a well-used one that people understand? Are people satisfied that, broadly, the current system does what it is intended to do, or is there a real appetite for changing it and reform?

Dr McParland: The people I deal with daily, especially clients, would not want more legislation that they would have to get to grips with. We have heard about the sense of overwhelm in the forestry sector around targets. We have a system that has been tested in case law and that is integrated into infrastructure bodies' processes. The EIA regulations are applied during the early stages of deciding whether a road or overhead line is needed and then where it should go, and that is done hand in hand. Those systems are understood.

The complexities come through gathering scientific evidence to support assessments, which is where we need more capacity in the sector. The last thing that anyone needs is more legislation, and we certainly do not need something that is as openly worded as the bill.

Jacqueline Cook: Sharing baseline data and facilitating shared knowledge would be a lot of

help and would prevent reinventing the wheel when it comes to assessment.

Mark Ruskell: Do we need legislation for that?

Jacqueline Cook: No.

The Convener: To close off our discussion on part 2, I have a very simple point. In previous evidence sessions, we have heard concerns that there are no overriding or overarching environmental safeguards or limitations, that there is no non-regression provision and that there appear to be few safeguards around the overarching power that the bill would deliver. Is part 2 needed at all? Should we scrap it altogether, or does it need to be hugely amended to put safeguards in place? I hope that we can have brief responses on that.

Dr McParland: As a minimum, we should certainly have a non-regression provision and very clear safeguards, but I personally do not see part 2 as necessary at all.

The Convener: No one else wants to respond, so I will bring in Mercedes Villalba.

Mercedes Villalba: All my questions have been answered. Thank you, convener.

The Convener: Excellent. That is good to hear.

We will move on to part 3, which is on national parks. Emma Harper has a question on that.

Emma Harper (South Scotland) (SNP): It has been interesting to hear everybody's comments so far. There are issues with the proposed changes to the aims of national parks. Confor's submission says that it supports

"the clear inclusion of sustainable economic development of communities",

and Scottish Land & Estates said that the bill

"could more explicitly reference jobs, housing, and the support of rural businesses".

We have challenges in rural areas and we want to focus on retention, home building and sustainable economic development. I am interested in any views on the proposed changes in the bill to the statutory purposes for national parks. What will be the practical impact of the changes on your sectors? As I named Confor, I will go to Stuart Goodall first.

Stuart Goodall: The key thing for us is that sustainable forestry is about how economic, environmental, social and societal outcomes are brought together, balanced and delivered. We have a huge amount of experience of that and we have the means to do it.

Our experience with the existing national parks is that the focus is simply on environmental and maybe some societal outcomes, and there is a complete lack of focus on economic sustainability. It sounds trite, but it is true that, if you do not have financial sustainability in your forestry, you cannot sustain environmental and broader societal benefits, and all the evidence that we have supports that. We are concerned when we see national park plans and interventions that are so narrowly drawn.

I will add that, whether in a new national park or in an existing one, we are increasingly seeking to be proactive in engaging with communities—for example, on a new woodland creation scheme or on harvesting a forest for the first time and redesigning it. There is often concern about species content and environmental benefit, which we completely understand and seek to work with, but, more and more, people are asking us how many jobs are related to the measures and what economic benefit will come from them.

We earlier mentioned community benefit, which is a significant area that we are looking at. That aspect has been underplayed because a perception has arisen that, with either new productive forestry or existing productive forestry, there is a tension between an economic and an environmental outcome. I think that we can resolve that tension and deliver significantly for both.

More and more, it is about how forests can be an engine for economic growth. There is a significant area of forestry in national parks. Having a focus on sustainable economic development is not necessarily exactly the same thing, but it would help in considering how we can have truly sustainable forestry and how national parks can work with the forestry sector to support local jobs and to drive local economic activity. The sector would love to do that, but we feel that it is not of significant importance for the national parks.

Stephen Young: I largely agree with everything that Stuart Goodall said. It is about balancing the aims. As you well know, there has been tension in the south-west of Scotland over a new national park, which might not have been the case if we had had a more balanced debate about it.

If you look at the national park plans from the existing national parks, a lot of the challenges that they talk about relate to housing and jobs, but the aims do not explicitly say that the parks can cover those matters, so it is about balancing that up.

There also needs to be a bit more focus on the people who already live and work in a national park or a proposed national park—that would be really helpful. A lot of the focus has been on visitors coming into the area and what it can do for them and for other people, just not for the people who live and work there. If we have that balance

and we can support the local economy, it is a win-win for everyone and it can be really positive.

Clarity about definitions of the aims would also be good. There could be some changes there. For example, it is not clear what cultural development means. We should ensure that everyone is clear about the language. Sometimes, you do not need to make changes through legislation; you could just have those definitions somewhere so that everyone knows what the terms mean. That would, I hope, provide more of the balance that everyone is looking for.

The Convener: Rhoda Grant, did you want to come in?

Rhoda Grant: I do not have any questions.

Elena Whitham: I will explore the fact that there is a strengthened duty in the bill on public bodies to "facilitate the implementation of" national park plans and not just to "have regard to" them. I am interested in exploring some of the submissions on that.

I know that SLE has concerns about the unintended consequences of that provision, including the possibility of ministers having to facilitate a plan that they might not agree with. Will you talk us through your thinking around that?

Stephen Young: When the national parks develop the park plans, they talk about being at the cutting edge and pushing the boundaries of what is happening, which is good and positive. However, if you then force all other agencies, possibly including the Government, to support and work towards those aims, you could have cross-cutting priorities.

For example, if a national park plan has a requirement for more affordable homes, the Scottish Environment Protection Agency might have concerns about those homes being built on flood plains and so on. Where do we find the balance point that allows everyone to abide by their statutory functions? National parks have specific remits and specific skills, but the proposed duty lifts their plan much higher within the hierarchy of other bodies as well.

Our other slight concern is that the duty could prevent plans from being aspirational. Other bodies will want to know that, if they have to meet an aspiration, they can do so within their remits. There could be some tension between different bodies, and we would not want such aspirations to be taken out of the plans.

11:00

Elena Whitham: I would like to hear Confor's thoughts about having to help to implement the park plan versus just having to have regard to it.

Stuart Goodall: It comes back to the point about whether we are fully involved or whether the aspects that we consider to be important are fully involved in the preparation of the plan. At the moment, they are not.

We would be very concerned about that, and I am not quite sure how the arrangements would work for us as an organisation. If you are not fully involved in what goes in, you are not bought into what comes out.

Sarah Cowie: We have concerns about having a "have regard to" amendment. It relates to what the primary function of public bodies is and how they can carry out that function. It is important that public bodies carry out what they are set up to do. That relates back to previous discussions about the capacity of public organisations and public bodies to carry out their statutory functions in the light of increasing amounts of regulation, policies, aims and objectives. We are concerned that the national park disrupts the natural order of things in terms of what public bodies are supposed to do.

On national parks in general, the existing national parks have not delivered as well as they could have done for rural communities, including farming and crofting businesses. We would be concerned that any amendments to the aims could bring negative impacts, and we would want that aspect to be safeguarded before we could support anything like the proposal that has been made.

The Convener: This is a question for Confor, I suppose, as your members will take part in discussions on the UK forestry standard and so on. We heard concerns about the change of administration for local authorities and changes in priorities. The council might find that it has to fund some things that allow it to facilitate the implementation of the national park plan. How do you see that flowing? If the duty is put in place, how would a national direction of travel—for example, the UK forestry standard—tie in with or have regard to a national park plan that might have only some of your members' involvement?

Stuart Goodall: I wish that I could answer that sensibly. As you say, we have national strategies and the UK forestry standard, which is robust in itself. You influence the outcomes that you are seeking to achieve by how you design a new woodland or by how you seek to prioritise certain outcomes from a forest. Ultimately, we are always trying to deliver multipurpose outcomes. That is the point that I am trying to come back to: you can manage a forest entirely for environmental outcomes, but you cannot manage a forest entirely for economic outcomes. That is just not possible.

So much resides in the UK forestry standard to ensure that there are multiple benefits. I would be reluctant to see the UK forestry standard being

driven at a national level, a national park trying to drive things at a national park level and seeking more influence, and local authorities also trying to do that. That would just make a mess, especially given that we have a UK forestry standard that is designed to bring all those interests together. That is a recipe for too many cooks.

We totally want to be a productive partner with local authorities and national parks. At the moment, however—coming back to the previous question—it does not feel as though we are a partner in that respect. A lot of things are being imposed on the sector and on individual land or forest owners. There is therefore a lack of certainty about the future, which undermines investment and the delivery of all the benefits that we would like to see. The more complex we make the arrangements, the more we are making things worse.

As a sector, however, we are totally up for exploring how we can work with people. Can we just do it in a joined-up way that includes all aspects of forestry?

Tim Eagle: There is a new power that allows national park authorities to impose fixed-penalty notices. Does anybody have any comments on that?

Stephen Young: Some of the parks are keen on that. It gives them a lot more weight on parking and on lighting barbecues and fires, for instance. It is a useful thing for them to have in certain situations. I assume that the power will not be used as a backstop beyond the usual measures and the work of rangers to encourage good practice and good behaviours.

Emma Harper: I would like to ask Sarah Cowie a supplementary question on byelaws. For example, there could be a byelaw to ensure that people put their dog on a leash for six weeks during lambing season to reduce livestock being attacked by dogs that are off leash and out of control. That might be an example of a byelaw that could be implemented in one national park versus another. Might that be beneficial?

Sarah Cowie: Potentially, yes. Public access is not my area of expertise, but anything that can provide deterrence and punishment for people who break the law is useful. We might have a concern about the capacity of the national parks and the ranger service to do that, but if that is bolstered and the policy is implemented effectively, it could provide benefits.

The Convener: That brings us to the end of this morning's evidence session on the Natural Environment (Scotland) Bill. Thank you very much for your contributions. My apologies that it all became a bit rushed at the end.

11:07

Meeting suspended.

11:13

On resuming—

Dog Theft (Scotland) Bill: Stage 1

The Convener: The next item on the agenda is our final evidence session on the Dog Theft (Scotland) Bill. I welcome Maurice Golden, who is the member in charge of the bill; he is supported by parliamentary officials. We have around 90 minutes for the session.

I will kick off with a nice straightforward question. Mr Golden, you have based a lot of the bill's provisions on the UK Pet Abduction Act 2024, but, given that it was introduced only last summer, no substantive research has yet been carried out on the act's effectiveness. Can you advise the committee why you decided to introduce your bill at this stage rather than wait until there was evidence on the success, or otherwise, of the 2024 act?

Maurice Golden (North East Scotland) (Con): Yes, I am happy to do so. The key question for committee members and, indeed, parliamentarians is whether a dog is part of the family. If you agree that it is part of the family, that is the reason for the bill that is in front of us, and that is why the policy memorandum alludes to a dog being a sentient, cared for, loved and affectionate animal and pet.

11:15

As members will be aware, I started the process to introduce a member's bill in the Parliament in 2021, at which stage there was no UK pet abduction bill, so I started first. Thereafter, I met Zac Goldsmith, who was the minister in charge of the Animal Welfare (Kept Animals) Bill in the UK. Unfortunately, in my view, that bill did not go ahead. Subsequently, in the run-up to the 2024 election, the UK Government backed Anna Firth's private member's bill, the Pet Abduction Bill, which became an act.

The timelines are distinctly different, and both my rationale and my consultation process have been on a different trajectory from those for the legislation in England and Wales. Nonetheless, once the UK Government had, essentially, superseded Scotland, it made sense to use the rationale of the 2024 act in the drafting of the bill here to provide consistency across the United Kingdom.

The Convener: There is a plethora of dog legislation. We have had some from our committee member, Emma Harper. In addition, Christine Grahame has a bill going through Parliament and an act in place. Those measures are or were members' bills. Should we look to the Government to introduce a consolidation bill and to consider all those individual pieces of legislation and get a more holistic view of how dog behaviour or theft can be addressed in one act?

Maurice Golden: I would welcome both the UK and Scottish Governments considering an animal welfare bill that encapsulates many of the measures—Scotland actually leads the way on many of the issues. A number of issues could be addressed, but today we are looking at one specific example.

The Convener: The next question is from Emma Roddick, who joins us online.

As we cannot connect to Emma, we will move on and come back to her if we can get her online.

Tim Eagle: Maurice, in your letter to the committee, you say that a statutory offence would be used more than the common law offence of theft is used at the moment. You give breach of the peace as an example of that. What benefits do you see in having a statutory offence rather than a common-law offence?

Maurice Golden: A statutory offence is an effective way of modernising the existing law. There is no specific existing crime of dog theft so, when someone steals a dog, they could be prosecuted under the common law offence of theft. The law therefore treats the theft of a dog in exactly the same way as it treats the theft of any other household item. That is really the crux of the matter. In my view, and in the view of many stakeholders, the law ignores the fact that a dog is often a much-loved member of the family whose loss is mourned by the owner, regardless of the dog's monetary value.

Mr Eagle points to precedents in this Parliament, such as the Criminal Justice and Licensing (Scotland) Act 2010, regarding breach of the peace, and the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021. The statutory offences in relation to breach of the peace and the protection of workers are being used far more widely than the common-law offences were used. That is ultimately up to prosecutors, but we see that that is the preferred method of prosecuting. However, a critical point is that the bill would continue to allow the common-law offence to be used as well. Those precedents show that my bill has more to offer and that it is in keeping with the Parliament's views across a number of sessions.

Tim Eagle: Thank you.

The Convener: We will try again to bring in Emma Roddick. Can you hear us now, Emma?

Emma Roddick (Highlands and Islands) (SNP): Yes, I can hear you fine.

Maurice, you suggest that the creation of a stand-alone offence would result in

"improved data and ... an improved evidence base."

We have had evidence from Police Scotland and the Crown Office arguing that the offence would either make no difference to data collection or that it could make it more difficult. Have you considered other ways to improve data collection besides legislation? What is your response to the evidence that we have had?

Maurice Golden: I am not introducing the bill to improve data collection, but I think that it will be improved as a result of the bill. Other than the bill, I have no means at my disposal to introduce measures to improve data collection. There is a lack of clarity on the number of incidents of dog theft, with official police figures and projections by campaign groups being significantly different. I was pleased to see Police Scotland acknowledge that point in its evidence to the committee on 26 March.

A new offence will mean a new way of recording data. I would hope that details such as the breed or type of dog would be included in that to assist the police, particularly in identifying organised criminal gangs and identifying where particular breeds are being targeted. However, that is ultimately an operational matter.

The evidence from Police Scotland really hit home. On the number of thefts that are being reported, chief inspector Michael Booker said that he did

"not believe that that is a true reflection of the picture in Scotland."—[*Official Report, Rural Affairs and Islands Committee,* 26 March 2025; c 2.]

My bill can facilitate improved data collection, but that is not the reason behind it.

The Convener: I have a supplementary question on that. Police Scotland said that, even if there were to be a stand-alone statutory offence of dog theft, the crime would still be recorded as robbery or theft by housebreaking and that it would not necessarily be recorded as dog theft. Is that something that we need to consider in an amendment for stage 2?

Maurice Golden: Perhaps. The benefit of the bill is that it would facilitate the police having a better understanding of this horrendous crime. Whether that is with data or how the police detect the crime in operational terms, it is something that we need to look at.

The Convener: Thank you.

Elena Whitham: I am interested in the question of relationship breakdown. Will you advise the committee why the exception to the offence regarding relationship breakdown in section 1(2) of the bill has been included?

Maurice Golden: I welcome the scrutiny of that particular issue from both the member and the committee, and I have heard the evidence. It is right that we consider the issue carefully to ensure that there are no loopholes. It goes without saying that anyone who uses possession of a dog as a means of coercive control in an abusive relationship deserves the full force of the law.

However, there are two separate issues. The first is coercive control within an abusive relationship, and the second is a situation in which a couple who own a dog together separate in the normal course of life. The former is, and will remain, potentially criminal behaviour. The latter is obviously a sad situation and may include the involvement of the civil courts, but it is not in any way criminal. Therefore, there is an existing law in place that already criminalises coercive control within a relationship or after it breaks down. My bill does not change that.

I recognise that the issue has been raised at stage 1. Should the committee have any concerns, I would be happy to carefully consider its recommendations in the area, should the bill proceed to stage 2.

Elena Whitham: In the evidence that we heard from the Dogs Trust, Police Scotland and the Scottish Society for the Prevention of Cruelty to Animals, they felt that the bill needed to be strengthened regarding domestic abuse. We also heard from the Crown Office that it felt that the existing domestic abuse legislation, as you have narrated, would be enough to deal with that situation.

I understand that, in relation to the United Kingdom Government, there is a proposal called Ruby's law, which was brought forward because of a gap in the legislation in relation to the Pet Abduction Act 2024 and the family law concerning domestic abuse. Ruby's law seeks to remedy that gap. I do not know whether you have had any regard to those proposals. Incidentally, in that case, it was a cat and not a dog, but it is the same issue of an abuser perpetuating domestic abuse against a victim using a pet.

Maurice Golden: That is why I am certainly willing to look at this issue and the bill as a whole post stage 1. My approach was to present the Parliament with a simple framework in the bill to make sure that the evidence was as strong as possible to proceed and then aim to improve the bill going forward, perhaps in the manner that the member has described.

It is important to note that the minister indicated to the committee that she is content with the provision. That is part of my rationale for setting it

out as it is, because I do not want to make the perfect the enemy of the good. There is time to get perfection in stages 2 and 3—if we get there, of course.

Elena Whitham: The issue of domestic abuse when a perpetrator seeks to use a pet to control somebody and prevent them from leaving is probably beyond the scope of what your bill sets out to do. However, we need to think about the unintended consequences of not recognising where pets can sit in relation to domestic abuse. I am glad to hear that you are open to continuing that discussion.

Maurice Golden: We undoubtedly need to think about that. It also chimes with the reason behind the bill. Because a dog is an integral part of the family, some nefarious individuals can unfortunately use that connection and affection in pretty concerning ways. That is why I would certainly be willing to look at ways to improve the bill.

Elena Whitham: Thank you.

The Convener: For the record—putting domestic abuse to one side—will you advise why the exception to the offence regarding relationship breakdown in section 1(2) of the bill has been included? Why is that exception in the bill?

Maurice Golden: Ultimately, as I have highlighted, it is to keep the bill as simple as possible. As we have heard, there is a debate around theft versus abduction, and the same rationale essentially applies here. There is a rationale for abduction, but the difficulty with using that term is that I might then need to justify the will of the dog, and members might have concerns about that, which might mean that they would not support the bill at stage 1.

11:30

Essentially, the aim is to get a framework bill in front of Parliament that all members—who, as we all know, have a variety of views—can support. From that point, we can look at the areas that the committee, and ultimately the Parliament, think could be improved.

Emma Harper: Good morning, and welcome. It is still morning.

Maurice Golden: Just.

Emma Harper: My question is about deterrence. You say that the bill would act as a deterrent, although Police Scotland and the Crown Office and Procurator Fiscal Service have disagreed with that, and the bill does not require the Scottish Government to publicise the new offence. Can you expand your thinking about how the bill should act as a deterrent to dog theft?

Maurice Golden: I very much hope that it will but, arguably, we will know only after the legislation is operational. I believe that the levels of punishment that the bill sets out are appropriate to fit the crime. When those begin to be imposed, there will undoubtedly be publicity in the media, in particular if prison sentences are handed down, and that will contribute to ensuring that the new offence acts as a deterrent.

Moreover, there is an argument that the penalties that are laid out in the bill, and its profile, will potentially cause criminal groups that might consider stealing and then selling dogs as part of a wider criminal enterprise to at least think twice before doing so.

Ultimately, passing the bill would send a message that Parliament takes dog theft seriously. That message, along with the publicity that will follow, and campaigning and messaging by charities such as the Dogs Trust and others, will result in a greater focus on the issue. Furthermore, the reporting requirements imposed in the bill will mean that there is at least an annual focus on the issue and on the level of prosecutions, which I hope will add to the deterrent effect.

Evelyn Tweed: Good morning, Mr Golden, and thank you for being with us today. You state that the bill will lead to a decrease in dog theft, thereby improving dog welfare. What evidence do you have that there will be more prosecutions under a stand-alone offence than under common-law theft?

Maurice Golden: I point members to at least part of the question on common law versus stand-alone legislation that we covered earlier. With regard to animal welfare, there is strong evidence, including from the SSPCA to the committee, that dogs suffer trauma when they are stolen. It therefore follows that creating a stand-alone offence whereby the dog is not simply treated as an item will have a positive effect on animal welfare. If the number of prosecutions and convictions increases, and if there is an increase in reporting and recording, that will, overall, lead to the crime being taken more seriously. Therefore, I believe that the bill will have a long-term deterrent effect, leading to fewer instances of dog theft and having a positive impact on animal welfare.

Rhoda Grant: The maximum penalties set out in your bill will be lower than those currently available under the common-law offence of theft. What impact do you think that that will have on any penalties that are imposed?

Maurice Golden: We probably need to distinguish between the theory and the practice on that. According to Kennel Club research, 98 per cent of dog abductions in 2021 resulted in no one being charged, and in 54 per cent of the cases

that were recorded during 2020, no suspect was identified.

As for prosecution, I have already highlighted that charge rates are less than 5 per cent, and only 1 per cent of dog abduction cases in the UK in 2019-20 resulted in prosecution. Only a tiny number reach the sentencing stage. I am not aware of anyone in the UK having been subject to the maximum penalties that the member has highlighted. Even if the bill were passed, the common-law offence would still exist, so the maximum penalties would remain the same. It is a matter for the Crown Office to determine how the offence is prosecuted.

I think that the penalties that are described in the bill are reasonable and proportionate, and I think that they would be used in the vast majority of cases, as we heard earlier. Ultimately, however, it is for the Crown Office to determine on what grounds any individual should be prosecuted, so the highest sanction would still be available.

Rhoda Grant: So, you think that it would have no impact.

Maurice Golden: I do not think that it would have any impact at all. As I have said, I would struggle to configure the circumstances in which a crime of this nature would result in life imprisonment. Nonetheless, the Crown Office could choose to use the common-law offence. It would not be a case of either/or. Both will exist together, so the penalties remain the same.

With the bill, you would have a bespoke law for a particular criminal offence. Where that has occurred previously, the evidence shows that prosecutors tend to favour the bespoke offence rather than the general one.

Rhoda Grant: The Law Society of Scotland has suggested that sentencing guidelines could be an alternative way of achieving the aims of the bill. Have you had discussions with the Scottish Sentencing Council on the possibility of its producing guidelines in relation to the offence of theft involving live animals, as an alternative to your bill?

Maurice Golden: Thanks for that question. I published the consultation document on my final proposal in October 2022, and, as part of that, I had meetings with, among others, the Law Society of Scotland, the Crown Office and Procurator Fiscal Service and the Faculty of Advocates. In my view, it would not be common practice for individual MSPs to seek specific discussions with the Scottish Sentencing Council prior to any member's bill—or perhaps on any topic. I would be open to engaging with the Scottish Sentencing Council, should the bill progress beyond stage 1, but I am cognisant of the importance of the council's independence, and I would seek to respect that in any engagement.

As a Parliament, and as individual members of the Scottish Parliament, we need to be cautious about setting a precedent around MSPs meeting the Sentencing Council, particularly in the run-up to an election, and using that as a campaigning tool. I certainly would not use it in that way, but you could quite easily see that happening. I certainly would not want politicians acting in an ultra vires manner with respect to the legislature and the judiciary.

Rhoda Grant: Is it something that you could do in tandem with the Scottish Government, which would take the politics out of it, to an extent?

Maurice Golden: Yes, I would be more than happy to do that. My concern here is less about the bill, but I could envisage a situation in which the Scottish Sentencing Council opened itself up to politicians, a politician issued a press release about a crime and then they asked to meet the Sentencing Council, almost using it as a political football. I am not saying that that would happen—I am sure that most members would respect the council—but that explains my caution.

I am certainly comfortable when it comes to the bill—it is more a matter for members now and in future sessions. I certainly would not want to change a precedent in parliamentary engagement with the judiciary.

The Convener: We will move on to section 2, with questions from Mark Ruskell.

Mark Ruskell: Theft of assistance dogs is incredibly rare, but the committee has had evidence from the Law Society of Scotland and the Crown Office that its impact can be taken into consideration in sentencing. What is your response to that evidence?

Maurice Golden: I looked at the existing aggravators, all of which would apply to the new offence of dog theft, and realised that there was a potential legal gap regarding assistance dogs. Someone who relies on an assistance dog for daily tasks is already in need of additional support to carry out those tasks. I considered that, if someone's dog were to be stolen and they faced the double whammy of not just losing a much-loved companion but being left unable to carry out vital tasks, it would be appropriate and proportionate to put in such a provision. I met representatives of the Guide Dogs for the Blind Association to discuss that point.

I accept that the potential crime is extremely rare, but it is important to do the right thing in the bill. There is a distinguishing factor between dogs and assistance dogs.

Mark Ruskell: For sure. We have had evidence to suggest that, in order to prove an aggravation, it has to be demonstrated that the accused knew that the dog was an assistance dog—in other words, a link must be made between knowing that a dog was an assistance dog and then going on to steal it. What are your thoughts on that? Your intention is, I think, that the aggravation should apply regardless of whether somebody knew that the dog was an assistance dog.

Maurice Golden: Yes. We need to be careful that we are not comparing apples and pears, with regard to the role that we have as legislators and the role that the Crown Office has in interpreting and applying the law. Both things can be true at the same time in my policy intention and what is in the bill.

The key thing with an aggravated offence, when it comes to sentencing, is that the court must take the aggravator into account, and it is up to the prosecution to prove it. The feedback that the member has highlighted could be applied to any form of aggravator. We have established precedent with regard to aggravators, and, in this case, I think that, in respect of assistance dogs, it is a proportionate approach. It might not need to be deployed very often—never, I hope. Still, I think that those provisions are exactly what I am attempting to get Parliament to approve.

Mark Ruskell: I can certainly see how that element—that is, how the individual knew the person in question or recognised that the dog was an assistance dog—would be a central part of the consideration of such a case.

The Convener: I will jump the next question, as I think that we have a broadcasting issue, and move to a question from Tim Eagle.

Tim Eagle: The Delegated Powers and Law Reform Committee has recommended that the affirmative procedure should apply to the power allowing Scottish ministers to add to the category of “assistance dog”. Currently, the negative procedure would apply. Can you explain your thinking as to why the negative procedure would be proportionate and appropriate in this case?

11:45

Maurice Golden: I am happy to consider the matter further. I have seen the information in the letter from the DPLR Committee, but the negative procedure certainly seems more proportionate to me.

Ezgi Denli (Scottish Parliament): The key point is that flexibility is essential to accommodate specific cases in the future, given that assistance dogs support individuals with numerous different medical conditions in numerous different ways. It is considered that the negative procedure will offer sufficient flexibility while still providing adequate parliamentary scrutiny and avoiding inappropriate use of parliamentary time. However, as Maurice Golden has highlighted, we are happy to consider that issue further.

The Convener: We will try to go back to Emma Roddick. I do not know whether it is just the camera that is frozen.

Emma, can you hear us? Can you come in and ask your question?

Emma Roddick: I can hear you. I am not sure whether you can hear me.

The Convener: Yes, we can hear you.

Emma Roddick: That is great.

What are your views on the possibility of expanding the use of aggravators to include the theft of other working dogs? That point was raised in a few of our evidence sessions.

Maurice Golden: Yes, I saw that. I have already highlighted to Mark Ruskell the rationale with regard to assistance dogs, and the same rationale could not be applied to working dogs. I would be interested to consider any recommendations that the committee has in that respect.

I think that there is a distinction to be made here. However, I would also point out that the theft of a working dog would still be an offence under the bill. The sheriff might well take the view that, because the dog was a working dog, a higher penalty should be handed down for the offence. My bill allows for that, but I am not convinced that there should be a formal aggravator in such cases. The owner of the working dog would not, by definition, require the dog to assist them with daily tasks, whereas the owner of an assistance dog would.

The Convener: We will move on to section 3, which is on victim impact statements.

We are aware that amendments are likely to be lodged to the Victims, Witnesses, and Justice Reform (Scotland) Bill at stage 3 to extend the right for victim impact statements to be provided in all solemn cases. However, the cabinet secretary has also suggested that she will look at whether that goes far enough and might extend that ability to provide impact statements. In the light of evidence that we have heard from the Crown Office and Procurator Fiscal Service, would this section in your bill create an anon—an anomaly, if I can say it properly. You know exactly what I mean.

Maurice Golden: I know what you mean.

The Convener: Would it create an issue whereby a person would be allowed to provide an impact statement in relation to dog theft, but the same thing would not happen in any other case that was not a solemn case?

Maurice Golden: With regard to victim statements, the bill enables owners and families to tell the court of the trauma that the theft of the dog has caused them, including the potential trauma experienced by the dog. A victim statement is, within the scope of this bill, incredibly important in highlighting to the court the gravitas of such a crime. The bill is a measure for improving the legal system, and it is for others to decide whether that approach should be considered for other offences. I would certainly welcome the Scottish Government looking into that.

Although a case of dog theft might be considered in a low-level court, the impact on the victim is not low level. Having a victim statement is, therefore, incredibly useful. Ultimately, it is for the Scottish Government or other members to look at other crimes and where such provision should be brought in.

The Convener: We move to sections 4 and 5, with questions from Emma Harper.

Emma Harper: My questions are about annual reporting and review. The minister stated that it might be unnecessary to place an annual reporting requirement on the Scottish Government for something that is considered to involve a low level of crime, and on which it can already obtain statistics from the Crown Office. Indeed, it seems like that can be done pretty easily. What do you think about that? Does reporting need to be carried out every two or three years? Does such a requirement need to be in primary legislation? Could it be considered further in regulations?

Maurice Golden: The reporting requirement is a key part of the bill, and—arguably—of any bill. By requiring ministers to report on an annual basis, I am ensuring that the data on the number of dog thefts is collated and published, and then scrutinised by Parliament. Just yesterday, we saw the benefit of a reporting requirement, as the "Climate Change Plan Monitoring Report 2025" resulted in a statement being given to Parliament.

The reporting requirement in this bill would not require a statement—it would simply require a report. Given the wider movement in Parliament on post-legislative scrutiny, reporting and reviewing requirements are a key part of all legislation, and good practice, too.

On the point about regulations, that is certainly not something that I can do, which is why it is important for me to put that requirement in the bill itself.

Emma Harper: You are saying that all the items that the bill proposes to obtain in order to report on specific issues need to be in primary legislation. What if the required information were to change? That would require primary legislation to be changed again.

Maurice Golden: The bill does not limit what can be published. If there are changes to how the Government wants to report, that is not an issue at all.

I am thinking back to my thesis on crime and criminality in the early 19th century and the way in which we report and record crime. Although the punishments are different, the recording aspects are pretty much set in stone and, I would suggest, are unlikely to change. Those aspects are very high level and include the numbers of cases, charges and convictions; the different procedures used; the length of service; the level of fine; and whether an aggravator applied. Those aspects are key metrics for the bill, but, ultimately, if there are other aspects on which the Government wishes to report, it can do so.

Neil, do you want to come in on that?

Neil Stewart (Scottish Parliament): Just to say that section 4(3) includes a provision to allow the report to cover any

"other information as the Scottish Ministers consider appropriate."

Elena Whitham: Finally, Mr Golden, could you advise the committee of how you arrived at the figures in the financial memorandum accompanying the bill?

Maurice Golden: As members are aware, estimating the costs for any bill is likely to be challenging, but I do not think that this bill will require the taxpayer to put in a significant amount of money.

The explanatory notes to the UK Pet Abduction Bill state:

"The Department does not consider that the Bill has any implications for public finances beyond minimal expenditure in relation to the making of regulations under the Bill".

That said, as this bill is a stand-alone piece of legislation, the focus on dog theft and the consequential increase in prosecutions and convictions will have costs attached to them. I am happy to bring in Neil Stewart to explain the methodology around that.

Neil Stewart: Absolutely. We looked at the existing statistics from Police Scotland's reporting and from the evidence that we received from stakeholders on potential underreporting and the like, and then took the additional number of cases and projected what it would look like if there were an increase in investigations by the police and an

increase in prosecutions. That was the broad methodology for the financial memorandum.

Elena Whitham: That was helpful, because I was going to ask you about underreporting. You have answered that question, so thank you.

The Convener: That concludes our questions for this morning—I think that you got off lightly, Mr Golden. I thank you and the officials very much for your time.

11:55

Meeting continued in private until 12:24.

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