

# **RURAL AFFAIRS AND ENVIRONMENT COMMITTEE**

Wednesday 19 March 2008

Session 3

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## RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

### 6<sup>th</sup> Meeting 2008, Session 3

#### CONVENER

\*Roseanna Cunningham (Perth) (SNP)

#### DEPUTY CONVENER

\*John Scott (Ayr) (Con)

#### COMMITTEE MEMBERS

Karen Gillon (Clydesdale) (Lab)

\*Jamie Hepburn (Central Scotland) (SNP)

Des McNulty (Clydebank and Milngavie) (Lab)

\*Peter Peacock (Highlands and Islands) (Lab)

\*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

\*Bill Wilson (West of Scotland) (SNP)

#### COMMITTEE SUBSTITUTES

Bill Kidd (Glasgow) (SNP)

Nanette Milne (North East Scotland) (Con)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

\*David Stewart (Highlands and Islands) (Lab)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Ian Ferguson (Norwich Union)

Bob Irvine (Scottish Government Climate Change and Water Industry Directorate)

Alan Leaman (Association of British Insurers)

Michael Russell (Minister for Environment)

Judith Tracey (Scottish Government Environmental Quality Directorate)

#### CLERK TO THE COMMITTEE

Andrew Mylne

#### SENIOR ASSISTANT CLERK

Mark Roberts

#### LOCATION

Committee Room 1



## Scottish Parliament

### Rural Affairs and Environment Committee

Wednesday 19 March 2008

[THE CONVENER opened the meeting at 10:00]

### Flooding and Flood Management Inquiry

**The Convener (Roseanna Cunningham):** I remind everybody to switch off or put into flight mode their mobile phones and pagers. Apologies have been received from Karen Gillon, for whom Dave Stewart is substituting, and from Des McNulty, who unfortunately has had a bereavement in his family, so we are one down.

Agenda item 1 is continuation of oral evidence for our flooding and flood management inquiry. The first panel comprises witnesses from the insurance industry. I welcome Alan Leaman, who is the director of corporate affairs for the Association of British Insurers, and Ian Ferguson, who is the director of commercial underwriting and strategy at Norwich Union, which has an enormous headquarters in my constituency, although strictly speaking that is probably not an interest to declare. *[Interruption.]* I thank my deputy convener for reminding me that Dave Stewart probably has to declare any interests.

**David Stewart (Highlands and Islands) (Lab):** I have been to the committee before, and I declared my interests then.

**The Convener:** Okay.

The witnesses will not make opening statements; their written submissions have been circulated to all members. Members have a variety of questions. Both witnesses need not answer every question; you can designate one or other of you to answer as appropriate.

How is the insurance industry planning for climate change? How does that affect how you view flood insurance?

**Alan Leaman (Association of British Insurers):** You are right to put the issue in the context of our concern about climate change and its impact over time on weather conditions, the likelihood of flooding and other risks that the insurance industry helps people to protect themselves against. We welcome the fact that the Scottish Government has a climate change consultation, to which we will respond, in addition to a flooding consultation.

Our headline point is that just as important as discussing how to mitigate the effects of climate change and reduce carbon emissions is debating and having a strategy on adapting to existing carbon levels and the climate change that is on track. We will push for an adaptation strategy as well as a mitigation strategy from the Government. In general, the insurance industry is having to get used to expecting greater risks as well as building on its historical data on flooding and climate risks.

**John Scott (Ayr) (Con):** Is your enthusiasm for insuring against flood risks, particularly in England and Wales, increasing or diminishing? What are the reasons for that?

**Alan Leaman:** It is worth saying that the United Kingdom is almost unique in the developed world in providing flood insurance as a standard part of household and business property insurance. The insurance industry is right to be proud of that. However, if it is to continue in the future—we are starting to talk about the position 20 or 30 years ahead—a good partnership must be maintained between the authorities that are responsible for managing the risk and those who underwrite it.

**Ian Ferguson (Norwich Union):** The key aspect of climate change is the change in rainfall patterns. We are observing greater intensity of rainfall. For the insurance industry, the issue is understanding the risk. Just as we must understand the fire risks in new construction techniques, for example, we are trying to understand the prospective risk of flooding and of the changing climate.

**The Convener:** I will probe a little the willingness of insurance companies in the UK to insure against flooding. In theory, such insurance is available, but at times the premiums that are demanded are so high that they are almost an offer that must be refused. In some places, only one insurance company provides affordable insurance cover for flooding. There is a difference between providing insurance cover and providing affordable insurance cover. How do you respond to that?

**Alan Leaman:** You are right to say that there have always been and will continue to be a small number of properties that are uninsurable. The clue is often in their address, which may be Mill Lane or Pond Avenue. The owners of those properties know—and knew when they bought them—that the properties are flooded frequently. Effectively, they self-insure.

The statement of principles that the insurance industry produced obliges insurance companies to continue to offer cover to existing policy holders. That explains why only one insurer may be in the market. Many customers have benefited from the

willingness of their existing insurer to continue to provide them with cover.

**The Convener:** However, they cannot move insurer, because no one else is prepared to provide them with insurance.

**Alan Leaman:** In some cases, there is no wider market in which they can shop around.

**The Convener:** So even when theoretically insurance is provided, the market may be restricted, at best.

**Alan Leaman:** Yes—there are some hard cases.

**Ian Ferguson:** Norwich Union is still looking at average premiums that are measured in the low hundreds of pounds. There are occasional cases in the industry of people being charged a significantly higher rate. We try to keep price increases manageable, based on what people paid before. When a property is in a high-hazard location, we work with people to enable them to install flood-resistant defences on their property, which changes the view of the risk. If a customer does that, it is more feasible for them to go to another insurer, because their risk is much lower, despite their address.

**John Scott:** It is well documented that the cost of last year's floods in England was about £3 billion. What has the cost been in England over the past 10 years? How does it compare with the cost in Scotland? Do you have projected future costs? The question is fairly loose—I am not seeking absolute accuracy.

**Alan Leaman:** We can provide the committee with detailed figures for the level of claims in the past 10 years. The 2007 English and Welsh experience was quite exceptional and involved a major cost, and it has caused the industry to re-examine flooding, in consultation with Government. I put on the table our perception and experience, which is that, for good historical and institutional reasons, flood management in Scotland has been considerably in advance of that in England and Wales. I expect that the figures that we produce will show that the level of claim costs per property is considerably lower in Scotland than in England and Wales. Ian Ferguson may have some relevant figures. *[Interruption.]*

**The Convener:** Just before you come in, Ian, I should say that someone has their mobile phone switched on.

**Ian Ferguson:** I do not have industry figures to back up Alan Leaman's point, but we do take account of projected risk. As Alan Leaman said, perception of risk in Scotland is altered by our knowledge of the different approach that is taken to infrastructure here. We also have better

information on flood defences in Scotland than in England and Wales.

**John Scott:** Is that recognised in your statement of principles? Do you intend in the future to recognise Scotland differently in the statement?

**Alan Leaman:** We are reviewing and, I hope, renewing the statement of principles for the UK, which is timely, because of the consultation and the forthcoming bill. I anticipate that that will enable us to include, either in a statement of principles for the UK or, separately, in a statement of principles for Scotland, specific references to the management of flood risk in Scotland. The principle is that the better the risk management and the better the provision of data on risk, the more enthusiastic insurance companies are to provide insurance at affordable rates.

**Jamie Hepburn (Central Scotland) (SNP):** We have been informed that the insurance industry prefers to use a one-in-75-year flood model to assess flood risk. How does that work in Scotland, where the maps that are readily available from the Scottish Environment Protection Agency use a one-in-200-year standard? At our previous meeting, SEPA told us that it has maps that assess other types of flooding beyond the one-in-200-year model. Can you access those maps? Norwich Union's evidence suggests that SEPA is

"good at communicating with insurers".

However, the Association of British Insurers believes that flood risk mapping should be "freely and widely available", which suggests to me that those maps are not widely available now. Those two statements are perhaps contradictory. Will you comment on that?

**Ian Ferguson:** From the Norwich Union perspective, in Scotland we take the one-in-200-year data that we get from SEPA, apply our mapping and claims experience, and then create our own one-in-75-year view of Scotland. A similar process happens for the rest of the UK. SEPA has, helpfully, given us information on flood defences, so we can infer the reduction in risk within that framework. We work with a one-in-75-year level.

**Jamie Hepburn:** Does that suggest that, although SEPA gives you information, it does not let you see those other maps? Your submission states that you create your own digital flood maps.

**Ian Ferguson:** That is correct.

**Jamie Hepburn:** You say that SEPA assisted with that, but has it let you see those other maps?

**Ian Ferguson:** I am not entirely sure which other maps you are referring to. SEPA shares with

us the information that it has at the one-in-200-year flood level.

**Jamie Hepburn:** We were told about the other maps at our previous meeting. According to SEPA, there are one-in-100-year, one-in-200-year and one-in-1,000-year flood risk maps. Have you seen those?

**Ian Ferguson:** I would need to check that. We certainly get the one-in-200 year maps, which are useful. We then add our information and claims experience to them. I would need to get back to you on whether we get the other two types of maps.

**The Convener:** Are you done, Jamie?

**Jamie Hepburn:** I have a question about using SEPA as the central body, but I do not know whether it is appropriate to ask it now.

**The Convener:** No. We might deal with that a bit later.

**Peter Peacock (Highlands and Islands) (Lab):** In your helpful written submissions, you stress the need for a long-term view on developing infrastructure to manage flood risk. You talk about a 25-year flood strategy. Who should be responsible for producing that? Should the work be done by an agency or is it the Government's clear responsibility?

**Alan Leaman:** The logical organisations to do that work are SEPA in Scotland and the Environment Agency in England and Wales. Those bodies are best placed to have that co-ordinating role. We do not underestimate the difficulties of the task, but having that perspective would be an enormous help, not just to the insurance industry but to general public policy. Such a strategy would get away from the cycle of spending rounds and relatively short-term decision making.

**Peter Peacock:** I was coming to that. Your written submissions state that you want the 25-year policy strategy to have with it an investment strategy and "sufficient funding". As you have just alluded to, successive Governments—not just here, but in other parts of Europe—have tended to focus on a three-year funding horizon for the specifics of their programmes and expenditure. Are you saying that that is not robust enough for flooding policy, and notwithstanding that the financial position is tightened up every three years, a longer-term position must be set out, in the interests of your planning and local authority planning?

10:15

**Alan Leaman:** That is one of the conclusions that we have come to. The issue has been

bedevilled by a short-term horizon. In the context of climate change, which is undeniably a long-term issue, and infrastructure projects, which inevitably take a long time from being thought of and designed to being implemented and effective, we need to plan for rising sea levels, for example, so that we can anticipate the situation in 25 years. Taking a short-term approach does not help. I hope that there will be sufficient agreement across political parties and the private and public sectors so that we can lift the issue out of the normal cycle, if possible.

**Peter Peacock:** If we accept that point of view for the moment, does the industry have a feel for the levels of investment that the Government will need to think about during that period? Do you have any idea of the required expenditure?

**Alan Leaman:** We have done a few projects on that. I do not want to make claims about where we are, but, for instance, the association examined the east coast of England to determine the expenditure that would be needed to deal with rising sea levels. We were looking at a figure of something like £8 billion to £10 billion of additional expenditure phased over 20 years. Such a horizon is manageable; it is not too frightening.

**Peter Peacock:** What do you or Norwich Union think Scotland's expenditure rate should be for capital investment? Do you have a view on that?

**Ian Ferguson:** No, I do not have a figure for that.

**Peter Peacock:** I will take that point one stage further. Your written and oral evidence is that, in many respects, Scotland is already ahead of the rest of the UK in flood prevention, risk management and planning, because of institutional arrangements and where we have been in the past. You also indicate that you have struck a deal at the UK level to stay in insurance, based on the approach to flooding policy, which would presumably include the investment strategy. Is there any sense in which you are saying that, unless there is a 25-year strategy and the volumes of cash are serious enough to address the problems, there is a risk that the insurance companies will withdraw from the insurance market? Is that part of the deal?

**Alan Leaman:** It is part of a big discussion that must be had. Insurance companies are really interested in understanding the level and nature of the risk against which they are being asked to protect people, so we will have views about what can be done to lower the risk and the level of expenditure that might be required. However, those inevitably will be second-hand views; we are not the experts responsible for taking the decisions. Insurance companies need to know more about the level of risk so that they can plan

for it. That is partly about making the level manageable, and partly about the time horizon that they are looking at. We are in the early stages of our discussions about how the statement of principles might look, so I would not like to say what would or would not be a clincher. At the moment, we are putting on the table the things that we think people need to respond to, and the things that would be positive for insurers and customers.

**Peter Peacock:** Part of the equation is therefore some sort of guarantee to you that, over a 25-year period, policy will sharpen up and investment will be made to ensure that you can continue to play your part, if only as one partner, in the management of the total position. You are talking about a factor, but it is not the decisive factor.

**Alan Leaman:** That describes the situation very well.

**John Scott:** Your paper clearly talks about a 25-year flood strategy; Peter Peacock has discussed that with you. Have you discussed it with the Scottish Government? If so, what response have you received?

**Alan Leaman:** I do not think that we have. It is early days yet, so I would not expect to have had such discussions.

**John Scott:** It might be worth doing so, given that the Government is still drafting the legislation. I imagine that we need to contemplate the timescale. It would be helpful if you considered such discussions—assuming that the Government would welcome them.

**Alan Leaman:** Thank you for that.

**The Convener:** We might also come to a view on that as part of our inquiry.

**David Stewart:** The committee has heard evidence that developments that are at risk of flooding are sometimes granted planning permission. What are your views on the relationship between the provision of flood insurance and development on flood plains?

**Ian Ferguson:** My answer is similar to the one that Alan Leaman gave earlier. If there has to be building on flood plains, we should be very careful about the design, construction and architecture of the buildings that are placed there. It is feasible to do several things to buildings, particularly new ones, to ensure proper drainage and that the building has defences. Even where you place electrical sockets can make a big difference to the eventual cost if there is a flood. However, it would be better not to construct buildings where there is a higher flood risk.

**David Stewart:** Has the industry as a whole made any representations to Government, or

indeed local government, about the planning process that allows such situations to happen?

**Alan Leaman:** Yes, we bang that drum quite loudly. We might take up particular causes in some instances. However, we would like there to be checks and balances in the system to enable those issues to be raised while planning permission is being considered. There should be a very good reason for decisions that go against the advice of those who are concerned with flooding issues.

**The Convener:** Does that relate to what you referred to earlier as your desire to see an adaptation strategy, so that climate changes can be adapted to?

**Alan Leaman:** Yes.

**Ian Ferguson:** The key point is that as we try to adapt to climate change and therefore increased risk, we should not add to that risk by building in places that clearly will be exposed, because we will have to fix that problem in years to come.

**John Scott:** I visited Tewkesbury last month and was astounded by the amount of building on what has been a flood plain since medieval times, at the confluence of the Avon and the Severn. Obviously, people have been happy with the level of flooding that has occurred there from time to time, but the one thing that has changed is the unexpected advent of what appears to be global warming. The volume of flooding will now be much greater. How do you view insurance in such areas?

**Alan Leaman:** With some scepticism. We are trying to urge the responsible authorities to accept that there should be minimum new building in areas that are at high risk of flooding and that new building should not increase the risk of flooding for existing properties. One of the effects of such new building is to create additional problems for people who would not face flood risks otherwise. It is important that developers are conscious of that—they tell us that they are, but we want to push them on it. The Environment Agency has a big role to play in flagging up those issues. It is now a statutory consultee on planning developments. It is a huge issue for the insurance industry. It is worth reminding people that the statement of principles—the commitment that the insurance industry has given—does not apply to new properties. The question whether insurance will be available must be tested each time a new property is built.

**David Stewart:** What is the industry's attitude to natural flood management and its effectiveness? Do you discuss best practice with colleagues across the world?



**Ian Ferguson:** First, I have a point to add on the previous question. Where historically there has been building on flood plains, it is important that the drainage systems, some of which are age old, are maintained. Not maintaining them exacerbated the problems around Tewkesbury.

On David Stewart's questions, Norwich Union is part of the Aviva Group, so we examine practices in, for example, North America and Canada and try to bring them here. Clearly, the climate and infrastructure there are different from here, but we can bring things from those areas, such as statistical risk assessment, and employ them in the UK.

**Alan Leaman:** It is a bit of a myth that the insurance industry just focuses on concrete walls and other flood defences. We are just as interested in what can be done in softer ways to reduce flood risk. We are also interested in what can be done to reduce the impact of flooding and the associated costs.

**Bill Wilson (West of Scotland) (SNP):** On natural flood management, I recall the committee hearing concerns from people that developing sustainable urban drainage systems or other water-holding areas near houses would affect their insurance. What is your attitude to drainage developments near housing?

**Alan Leaman:** We noticed those concerns and did a quick check with our member companies to assess whether the concerns were valid. We wrote to Scottish Water to say that we could find no evidence that insurance companies take anything other than a positive attitude to SUDS. Certainly, insurance companies do not consider them risky.

**Bill Wilson:** Would you consider preparing, say, a small leaflet that you could send to people who phoned you with concerns? Obviously, we want to reassure people that SUDS can safely go ahead, as they are mutually beneficial to the developers of flood management plans and insurance companies.

**Alan Leaman:** We are happy to consider doing something like that to get the message out.

**Ian Ferguson:** Just to emphasise Alan Leaman's point, we do not record on Norwich Union maps where SUDS are and they are not taken account of in our overall rating areas. However, if there was a flood from a specific SUDS, we would re-examine the area.

**The Convener:** This next question is asking you to speculate, but I will understand if you do not want to do so. Can you think of anything that might have given Scottish Water the mistaken impression that its views were correct on SUDS and insurance?

**Alan Leaman:** One of your previous witnesses raised the issue and asserted that insurance companies take a view that is different from the one that they actually take.

**Ian Ferguson:** We investigated that issue and I am aware of nothing that would have led Scottish Water to believe what it said was the case.

**Jamie Hepburn:** Bill Wilson asked what I wanted to ask on SUDS, and Mr Ferguson said that SUDS do not have a negative impact. However, should not their positive impact be taken account of, as has been suggested? Do not they reduce the possibility of flooding? Should not the insurance industry be open to that?

**Ian Ferguson:** That comes back to your earlier question about shared information. We are certainly open to what you suggest.

**Jamie Hepburn:** So is the issue that you are not aware of where all the SUDS are?

**Ian Ferguson:** Yes.

**Jamie Hepburn:** I see. Paragraph 12 of Norwich Union's written submission suggests that there should be a set

"maximum number of households and businesses at high risk of flooding from all sources".

Do you have a set number in mind? What does "high risk" mean, as opposed to low risk? What are the numbers at present? I presume that if the numbers at present do not match the number that you think there should be, there will be consequences. Are you suggesting that certain properties should be abandoned? If so, would the insurance industry have a role to play in that?

10:30

**Ian Ferguson:** We are thinking more of indicative numbers. It is part of the longer-term strategy to try to create targets to reduce exposure within Scotland as a whole. If the overall risk in Scotland is X, it would be reasonable over 20-odd years to try to reduce that risk through the use of hard and soft defences, or indeed through individual customers taking defensive action on their own property. I do not have a view on what the target should be, but we should try to set ourselves a target that, over time, gives us evidence about whether the overall exposure is reducing.

**John Scott:** How can we develop resilient reinstatement? What is best practice on resilient reinstatement? There was a suggestion in the submission from Norwich Union that sometimes resilient reinstatement could increase the risk of fire. Will you expand on that?

**Ian Ferguson:** That is linked to our view that there are a number of things that individual

customers can do either before or after a flood and, therefore, a claim. We have piloted a house in which we have tried to identify the type of changes that could be made, such as siting the sockets half way up the wall rather than at skirting board level. A number of things can be done. Following a claim, we, along with the ABI, give customers advice. We think that we could do more to encourage customers to improve their own risk, and we are considering that.

**John Scott:** This should be a given, but, for the record, are resilient techniques being built into new-build properties in at-risk areas such as flood plains? Should they be?

**Ian Ferguson:** They certainly should be. That would change the overall view of the risk in such an area. The industry would take a different view of a development that had resilient measures built in, such as garages being put on the ground floor, than it would take of a development in which people clearly had all their possessions at ground-floor level. Such designs should be encouraged.

**John Scott:** Will you say a bit more about the prospect of abandonment? Do you have any projections for the level of abandonment that might be necessary in Scotland, given the sea-level rise and the increased incidence of river flooding?

**Alan Leaman:** To be honest, we have not considered that, so we do not feel particularly well qualified to enter into that debate. The authorities will have to take a view on that specific issue. Clearly, once a house has fallen into the sea, it is not going to get insured. However, until that point, we want to be as positive as we possibly can.

**John Scott:** You appreciate our dilemma. We are trying to create legislation that we hope will stand for a generation. The bigger the timescale, the harder things are to predict. That is why we are asking you, the experts, these questions.

**Jamie Hepburn:** Paragraph 22 in Norwich Union's submission suggests that consideration should be given to the introduction of grants for the installation of flood resilient measures. I presume that you are suggesting that there should be some form of Government grant scheme. If so, have you assessed the cost of such a scheme? During our inquiry, we have heard that a measure that is taken in one place may protect an individual property or business but cause flooding downstream. Has any assessment been made of the possible impact elsewhere of such measures?

**Ian Ferguson:** We suggest the use of grants as part of an integrated approach, when people who are currently exposed want to upgrade their property—especially if they are in areas where there has been new build—and there are a number of things that can be done to a house for reasonable expenditure. All the agencies that are

involved should encourage that—grants are just one idea. We have not quantified it specifically.

**Jamie Hepburn:** So you have not assessed either the fiscal impact of such measures or their environmental impact elsewhere.

**Ian Ferguson:** No, we have not. The idea was just a suggestion to encourage people to lower the risk to their properties.

**Alan Leaman:** Over the next few years, there will be growing interest—among property owners and more widely—in the agenda that we have outlined. It is early days, but at the ABI we get a call almost every day from a company telling us that it has a new product on the market in which home owners would be interested and that the ABI should be anxious to promote. There is a great deal of innovative thinking, and new ideas and products are coming into the marketplace. I suspect that, over time, the costs will become much more manageable for many more people, so that they can make their properties not only resilient, if they are flooded, but able to resist flooding. *[Interruption.]*

**The Convener:** I point out, yet again, that someone has their mobile phone on. Mobile phones interfere badly with the sound system and make it difficult for the system to work properly. Please ensure that all phones are turned off. The sound operator has indicated that the problem is coming from the far end of the room. My comments are addressed to everyone, including members of the public. If you are in this room, your mobile phone or BlackBerry should be switched off completely or set on flight mode, which means that it does not receive a signal.

When we were in Elgin, we heard evidence from individuals who had been victims of flooding there. They said that they found it almost impossible to get clear information on how they could mitigate the flooding problems that they face. Are the association's member companies in a position to send people out to householders to give them advice? The association gives advice on issues such as modern locking systems and security systems. If advice on measures to mitigate flooding is requested, is the association in a position to identify problems for householders and to suggest measures that could make a big difference to the insurance cover that can be offered to them?

**Ian Ferguson:** At the moment, the answer is that we could do much more.

**The Convener:** So the answer is probably no at the moment, but you are aware that you need to think about the issue.

**Ian Ferguson:** We definitely need to do more. There is an ABI leaflet that provides people with

access to contacts that can offer reduced-cost repair methods.

**The Convener:** But that comes at a later stage; I am asking about prevention. A person who is seeking insurance may also want to do the best that they can to reduce risk. After they have installed security lights and put in good, modern locks, they may realise that they need to do something about flooding, too. At that stage, can you advise them on robust changes that could be made to their household and which would be reflected in the premiums that you charge them?

**Ian Ferguson:** We are not yet in that position. It is worth saying that small and large businesses are also exposed to flooding and that we perform individual surveys for them. The position is better for businesses than it is for individual households. We will consider how we can improve the situation for households.

**The Convener:** That would interest the committee. We have heard from several witnesses, including the police, that householders must start taking more responsibility for prevention, but that is easier said than done if the information is simply not available to them. That seems to be the present situation.

**Alan Leaman:** There is a question whether insurance companies could provide such a service cost effectively.

**The Convener:** Equally, the issue is whether the proposed changes would be cost effective for the householder.

**Alan Leaman:** Yes.

**Peter Peacock:** I want to follow up the implications of Roseanna Cunningham's point. Correct me if I am wrong, but I presume that, from the industry's point of view, advance warning of flooding is important, as it allows individuals and communities to take measures such as lifting valuables above the ground, moving them upstairs or wherever. In that context, we have heard evidence that the radar cover for Scotland is not as good as it could be and that new radar technology is available that can analyse much more closely the impact of rainfall events. How do you assess the need for investment in that kind of warning, rather than in the long-term flood mitigation measures that we touched on earlier?

**Ian Ferguson:** I do not have knowledge of the radar technology and its stages of development. However, I know that more warning can reduce significantly the cost of people's claims and the emotional trauma that they go through. Simple measures can be taken, such as closing off air bricks. Products are available that cost less than £20 but which can make a big difference, if people have enough warning and know what they need to

do. We support the idea that the maximum amount of information should be made available, given the available technology.

**Alan Leaman:** Increasingly, insurance companies do not just provide a 24-hour service to give people notice of such events but they take proactive measures. When they know that a flood incident is coming, they get in touch with policy holders to alert them to the fact that they are likely to be flooded and to say that they should therefore take action.

**Peter Peacock:** You see a potential role for insurance companies. You could text your customers or use automated telephone messages—based, I presume, on SEPA or Met Office advice—to tell them that there could be a flooding incident and that they should take the necessary steps, which the convener discussed earlier. Is that part of your business?

**Ian Ferguson:** If we can access credible information cost effectively, it is clearly in our interest to consider how we can do that.

**Alan Leaman:** We can have as sophisticated a warning system as we like, but people still have to receive and acknowledge the warning. We are interested in helping the public to be aware of the significance of the issues.

**Bill Wilson:** I want to go back to premiums, which the convener mentioned. I assume that you calculate premiums using the level of flooding risk and the likely damage. I would like to mention Professor Crichton's evidence. For simplicity, I will quote a few lines. He said:

"It is ironic that Victoria Quay still uses the Middlesex University tables to consider flood damage costs, given that those tables are based on a very small sample of English data and that the tables from the University of Dundee ... are the biggest database in the world of flood damage costs and cover not just tangibles but consequential losses."—[*Official Report, Rural Affairs and Environment Committee*, 23 January 2008; c 419.]

That raised a question in my mind about how you calculate the flooding costs. Do you use the Dundee tables, the Middlesex tables or a completely different set of data?

10:45

**Ian Ferguson:** I can speak only for Norwich Union. We use our own claims data from previous floods, because we have many claims that include damage and consequential loss. I am not aware of the differences between the two sets of tables, but I am happy to have a look.

**Alan Leaman:** A lot of work is done on the non-insured costs of flooding. Insurance companies know only about insurance costs but, for public policy reasons, people are interested in additional

costs—costs on people who did not have insurance and more intangible costs, which are sizeable.

**John Scott:** If we get the system wrong, you will have to pick up the tab. How do you view the concept of putting a single body in charge of overall flooding planning? How do you view a whole river catchment approach to flood mitigation? Your views on those matters are germane, because although we will pick up the cost of such measures, you might pick up costs if we get that wrong.

**Alan Leaman:** We give a positive green light to both those proposals, which are in the flood risk consultation paper. Like England and Wales, Scotland needs better co-ordination of the many organisations that are responsible for aspects of flood risk management. It makes sense for people to think about catchment areas rather than political boundaries.

**Ian Ferguson:** I support that entirely. An integrated approach is required pre and post flooding.

**Peter Peacock:** Paragraph 20 of Mr Ferguson's submission says that local government boundaries require in a sense to be subordinate to catchment zone boundaries, which allow the whole incident to be managed. What statutory framework would be required to achieve that? You have talked about national priorities and a national strategy, which I presume would feed down to local catchments. You imply slightly that bodies—I presume that you mean not just local authorities, but Scottish Water, SEPA, the Forestry Commission and others—should be under statutory duties to co-operate to manage flooding. Do you have a specific view on that?

**Ian Ferguson:** I do not have a specific view on the statutory structure that would be required. Flooding can be exacerbated if one area takes defence action that is not integrated with neighbouring territory, for example, so a whole river catchment approach and an integrated Scotland-wide approach are needed, to set priorities throughout the country.

**Peter Peacock:** I do not know whether Mr Leaman has a view on that. One interested group comprises not public bodies, but private landowners, who might have protected fields, forests, leisure areas or whatever by creating flooding barriers that channel water downstream—that protects their land, but shifts the problem. Are you implying that the statutory arrangements should contain a planning power—a land-use power—to remove such structures and to allow floods to recapture flood plains, which would mitigate problems downstream?

**Ian Ferguson:** No—I have no specific opinion on that. In taking the view of the bigger picture that is required and acknowledging that flooding can be caused and exacerbated in that way and that it has a national effect, we would need to explore such issues.

**Jamie Hepburn:** John Scott mentioned the concept of a central body. My question is to Mr Leaman, for the ABI's perspective. Norwich Union's submission suggests, and both witnesses have said, that a central body should be established. Paragraph 8 of Norwich Union's submission says that SEPA should fulfil that role, whereas the ABI's submission leaves that more open. Does the ABI agree with Norwich Union that SEPA should fulfil the role?

**Alan Leaman:** We go along with that suggestion. Neither the ABI nor Norwich Union is dogmatic about that, but we can think of nothing better. Every organisation has its imperfections—

**Jamie Hepburn:** I think that that is called damning with faint praise.

**Alan Leaman:** Sorry—I did not mean to do that.

**The Convener:** Are you saying that SEPA is the obvious candidate?

**Alan Leaman:** Yes—exactly. If the opportunity were taken at the same time to improve performance, that would be welcome.

**The Convener:** We take on board that message.

**John Scott:** Will Alan Leaman expand on his point?

**Alan Leaman:** We have discussed the provision of data, the analysis of risk levels and that huge agenda. We are still at a relatively early stage of that and much more can be done in the public interest, as well as in insurance companies' interest.

**The Convener:** I thank both witnesses for their helpful and useful evidence.

10:51

*Meeting suspended.*

11:00

*On resuming—*

**The Convener:** We are still considering agenda item 1. I welcome Mike Russell, the Minister for Environment, and his officials: Bob Irvine, deputy director of the water industry directorate, and Judith Tracey, flooding policy manager.

I invite the minister to make an opening statement, as long as he keeps it to five minutes

and no more. We will then have questions from members.

**Michael Russell (Minister for Environment):**

Thank you, convener. You have introduced my officials, Judith Tracey and Bob Irvine, who are deeply involved in the development of the proposed flooding bill. I am grateful for this opportunity to give evidence to the committee. I make it clear at the outset that the development of the flooding bill, which involves a wide range of people, is very much a collaborative exercise and I view this committee as an important part of that collaboration.

It is obvious to us all—in the room and elsewhere, I hope—that Scotland must adapt to the challenges of climate change. As the committee knows, climate change predictions suggest that the frequency of extreme flooding events in Scotland will increase. Climate change is one of the most serious threats that we face. Scotland needs to adapt to those changes to minimise their impact on society, the environment and the economy.

I think that the committee recognises that the current legislation governing flood risk management is prescriptive and outdated and does not interact well with the promotion of sustainable flood management. Flooding policy in the past has concentrated on funding hard engineering solutions such as embankments and flood walls. However, there is increasing recognition of the need for more sustainable flood management involving a more diverse and—I stress this—integrated catchment-based approach that draws on the opportunities provided by rural land use planning and land management practices to slow down run-off, enhance flood storage and contribute to more traditional defences.

The consultation document “The Future of Flood Risk Management in Scotland”, was launched in February and the consultation period will last until 23 April. I will hold a series of town hall meetings throughout Scotland to give the public further opportunities to express their views and I encourage as many people as possible to attend. Committee members would be very welcome at any of those events. I am particularly interested in hearing the views not just of professionals, engineers, local authorities and councillors, but of those who have suffered the trauma of flooding and who know the distress and loss that it causes.

The bill will establish a framework within which flood management practitioners will work co-operatively to enable a sustainable approach to flood risk management in Scotland. The bill will not specify the flood risk management measures required to develop sustainable flood management, but it will be flexible enough to allow local authorities and others to develop a holistic approach at catchment level.

To achieve that, we need an easily understood hierarchy of plans to develop flood risk management, a more efficient system for developing and implementing flood alleviation, the necessary flexibility for a sustainable, modern approach to flood risk management and the improvement of flood resilience across Scotland.

In addition to modernising our framework, we have an obligation to transpose the European Directive on the Assessment and Management of Flood Risks (2007/60/EC) by December 2009. The directive’s aim is to manage the adverse consequences of flooding on human health, the environment, economic activity and cultural heritage—I always forget about cultural heritage, although it is important. The bill will facilitate a clear definition of roles to decide who does what about flooding, and how.

There are many challenges to face and I know that the committee has addressed those when taking evidence. For example, the mapping of pluvial flooding is a real difficulty. It will be challenging, but we need research to allow us to develop that mapping. Work to commission such research is under way through the flooding bill advisory group and its sub-groups.

There are other problems: the management of urban drainage, the reduction of sewer flooding, the development of catchment focus plans, the establishment of partnership working, the co-ordination of funding at catchment level and the need for better information on flood risks. Those are all part of the holistic approach—we are not separating them out—to develop a package of measures. We must also identify the most effective means of co-ordinating the reduction of flooding from surface water run-off and sewers.

We are confident that local authorities are the right people to take the lead and to identify local priorities. They will work with a range of organisations, including SEPA and Scottish Water, to deliver flood risk management plans that are fit for the 21<sup>st</sup> century. We want to move away from the one-dimensional response that previous legislation forced on us and towards a new, imaginative approach with a portfolio of responses, including flood response and awareness.

I am conscious of time, particularly given that the convener is making what can only be described as threatening motions towards me. I will finish by highlighting the positive nature of the rural development contracts, which can bring additional resources to bear on the issue. I look forward to seeing the results of the committee’s inquiry, which will strongly inform what we are doing. I stress at the end of my remarks, as I did at the beginning, that this is a co-operative effort. The committee is doing important work in taking

evidence and I have read with great interest the *Official Report* of its evidence-taking sessions. I hope that, in its report, the committee will be able to assist us in getting the right bill for Scotland in the 21<sup>st</sup> century.

**The Convener:** Thank you. The last sentence of your remarks was useful, because Peter Peacock has some questions about legislation.

**Peter Peacock:** From all the evidence that we have taken, it is clear that managing risks—thinking about catchment zones and so on—is a serious, complex business. It is also a long-term activity. This morning we heard evidence from the insurance industry about the need for a 25-year strategy on flooding. I agree that there needs to be a clear role for local authorities, but what role should the Government play? Should it take a national, strategic view of the priorities that need to be addressed, because events have national impacts? How might the Government's role be manifested institutionally? Do you envisage one agency advising the Government, so that the Government can take a national strategic view of the issue?

**Michael Russell:** Everyone who took part in the flood summit that we held last year—I know that some members were present—found it encouraging. At the summit, there was a strong view that the Government has a strategic role to play, but that that role is to have an overview and to create the context for more localised collaborative action. The meeting put the final nail in the coffin of any proposal to have one agency, like the Environment Agency in England, with overall national responsibility for the issue. It had been suggested that SEPA would assume that role. In the transposition of the flooding directive, SEPA will have responsibility for flood mapping, which it already undertakes, and advisory responsibilities. The Government must keep aware of what SEPA is doing and ensure that its advisory capabilities and flood mapping are working well. However, the real responsibility for identifying priorities must lie at local authority level, because strong local knowledge exists only there.

I will give members an example. At Newmilns in the Irvine valley, where we will hold one of our town hall meetings, there is a very deep cut in the middle of the town, where the road goes past, in which there is a burn. I have driven and been driven past the place since I was a child. The cut is so deep that it never occurred to me that the burn could flood. One day last July there was a torrential downpour—what is called an extreme event. The water level rose quickly, culverts became blocked, and water overflowed on to the road, causing considerable damage to property—fortunately, nothing more. Local knowledge must be applied to provide solutions to that problem.

We would not in 100 years have identified the location as an area of risk. Pluvial flooding is one of the issues that gives us most concern, because unexpected things can happen.

The Government will create the context by legislating and will provide resources through the local authority settlement. SEPA has a strong role to play, as does Scottish Water, in relation to urban drainage. A number of bodies have a strategic role, and local authorities must work both within their areas and together in catchment zones. Catchment zones are important. Flooding in Selkirk, for example, is a catchment issue that involves only Scottish Borders Council. In other areas, such as parts of the Highlands—as Peter Peacock knows—several local authorities may have to work together.

**Peter Peacock:** I am interested in what you have said. I accept completely that local knowledge about the impacts of flooding and potential local solutions are part of the answer to the overall challenges that we face. However, I am surprised that you have not set out a clear role for the Government or for an agency, because we have heard evidence that there are huge challenges in Moray, the city of Glasgow and particular towns across the country. I presume that, if we take a 25-year view, there must be a sense of national priority. For example, we could decide that we must tackle Glasgow's problems in the next decade and that the nation will help with that in some way. However, I have not got any sense of that from what you have said.

**Michael Russell:** That is happening. For example, I draw your attention to the Glasgow strategic drainage partnership. I was with it last week and received an outline of its work. Government is a partner in the drainage partnership with a range of people. It is carrying out a major civic improvement project over a period of time. The partnership does not even know the length of time or the total cost that will be involved. The Government will play a role in major infrastructure projects of that nature, but we must acknowledge the primacy of local authorities in such matters, because they can best deliver the solutions. Of course Government retains an overview and will have knowledge, as will SEPA. However, the flood risk mapping, provided that it is done properly—it will be done to a high standard under the European directive—will be the major resource for local authorities to use. I am not trying to downplay Government's role; I am saying that it has a role, but that it is more limited than in the past, partly because the funding responsibility is being devolved to local authorities.

**Peter Peacock:** I was coming to funding. We have heard expressed by the insurance industry and, in previous evidence sessions, local

authorities and others, the view that we must think about the issues on a long-term basis. You just mentioned the city of Glasgow, which may need to think about what it is going to do in the coming decade. Funding models inside Government work with a three-year horizon, so whatever I ask you, I expect you to tell me that you cannot depart from the spending review period. I completely accept that. Having been a finance minister and having told committees that in the past, I would not ask you to do otherwise. However, although the detailed funding horizons are agreed for a three-year period, if we are talking seriously about big national infrastructure projects and big changes in planning processes to manage events, we must have certainty beyond that period. Notwithstanding that the fine detail will be set for three-year periods, there must be continuity of funding.

We heard from the insurance industry about the need for a rise in the spending profile to meet the demands of a changing climate. Do you accept that there is a need for a longer planning horizon than just the three years of the spending review and, if so, how might that be achieved? Do you accept that we need a rise in the spending profile if we are to accommodate climate change factors in the longer term?

**Michael Russell:** I accept without reservation the first part, that we need a longer horizon. In many of the conversations that I have had with individual local authorities, I have acknowledged that point. It is important to point out that, under the present legislation, schemes take a long time to implement. If work starts on a scheme today, it is unlikely that it will be brought forward within two and a half years. I hope that we can accelerate the process a bit. I think that the process for the White Cart Water scheme started in 2000.

**Bob Irvine (Scottish Government Climate Change and Water Industry Directorate):** Yes, it was probably just about then.

**Michael Russell:** I make that point because I launched the first major part of the scheme last year, so it took seven years to get to that stage. I hope that we can speed up the process, but schemes take time. In the present spending review period, we have pretty well scoped the schemes that can arise, but a second, third and fourth spending review period will be required. In speaking to local authorities, I have acknowledged that the schemes that are being worked up now will have to go into the next spending review period, because they will not be ready before then.

On the need for a rise in the spending profile, I would be saying things well above my pay grade if I acknowledged that there was a commitment to more resources. However, I have said publicly that I find it inconceivable that resources for flooding will reduce in a second or third spending review

period, in real and absolute terms. Of course, demand will increase, although from where we sit today, we are pretty clear about the major schemes that are required in Scotland, because enough work has been done in recent years to tell us that. We can scope what the major schemes will be, although we do not as yet know their detailed costs. As I said, the scheme in Glasgow does not have detailed costs. The Selkirk scheme does not even have an indicative cost, just vague assumptions. Of course we will go beyond the three-year period. It will take us time, in financing and in capability, to do all the work that we think will be required.

11:15

**Peter Peacock:** I have one last point on this issue. You talked about catchment zones. Some areas, such as in the Borders, are fairly straightforward in that there is one statutory body in place; in other areas the situation is much more complex. In your opening statement you said that you wanted to create a framework that was about co-operation and flexibility. One of the points that has come through in the evidence that we have taken is that, ultimately, somebody has to be accountable and responsible for protecting communities. Where there are different local authority areas within a catchment zone, the local authority upstream would not have the primary interest because no damage would occur there—any damage would happen downstream. How will you create a framework that provides accountability and how will you make the agencies work together? What you have said about agencies being co-operative and talking to each other is all very well, but how do you make that happen? Do you intend to bind people by statute to make them work together? Who will be accountable at catchment zone level?

**Michael Russell:** As you know, my natural temperament is more to encourage people than to bind them.

**Peter Peacock:** Really?

**Michael Russell:** Absolutely. I am sure that you acknowledge that. However, the point that you make is legitimate for us to consider. We would benefit from hearing the committee's views on whether there should be a binding mechanism in catchment arrangements and who should take the lead on that. I would welcome further discussion of that. We do not have a closed mind on it. I can think of examples where that is a problem, particularly in the south of Scotland. I hope that local authorities will acknowledge—as I think that most do—the importance of the flooding issues that they now have to address. For a while, some local authorities just complained about flooding, but even those that have not done anything yet

acknowledge that something needs to be done. It is interesting that the figures show that a large number of local authorities have made no provision. I hope that the working partnerships that they develop to make such provision will be based on honest, sincere and hopeful co-operation. If there is a need for an enforcement mechanism too, I will be happy to consider any suggestion from the committee on that.

**John Scott:** The evidence that we have taken suggests that a lead authority, such as SEPA, should be taking overall charge. I appreciate that the ministers make the ultimate decisions, but it has been suggested that SEPA should have a stronger advisory role than it has at the moment. There is a need to bind together not just local authorities, but forestry and landowning interests. Will you give all those powers to local authorities and, notwithstanding the different financial constraints and priorities that each authority has, ask them to work together on the basis of good will?

**Michael Russell:** I am open to the suggestion of binding people in statute to work together, if there is a requirement to do so and a mechanism that can help that to happen. However, I would not want people to think that the legislation was so prescriptive that there was no flexibility in it. One of the problems of the Flood Prevention (Scotland) Act 1961 is that it is far too prescriptive. We have to bear that in mind.

I think that you heard my summing up at the flooding summit when I said that, in a time of climate change, one of the difficulties of legislating on issues that are related to climate change is that we do not yet know exactly how things will go and how bad they will get. I heard some of your questions this morning about the one-in-50, one-in-75, one-in-100 and one-in-200-year planning horizons that are being used. A couple of weeks ago, I visited a flooding prevention scheme that was built in the late 1960s and was working on a one-in-50-year basis. That scheme will now require to be renewed, because a one-in-50-year planning basis is not accurate. There is already an expectation that that scheme will be overwhelmed at a future date.

We must have flexibility in the bill. If there is a framework, that is fine, but we would want to avoid creating a single overweening agenda, or flooding tsar organisation, because local democracy is important.

**Jamie Hepburn:** Will the bill contain any provisions on the management of reservoirs and the part that they can play in causing or alleviating flooding?

**Michael Russell:** That is an important point. The bill will cover reservoir safety. People woke up

to that issue during the floods in England last year, when the Ulley dam was threatened with overtop. Extensive preparations were made to try to stop that happening. It woke people up to the fact that we need to address reservoir safety in a time of climate change. The legislation on reservoirs is as old-fashioned as—or even more old-fashioned than—the legislation on flooding measures. We need to wake up to the fact that reservoir safety is closely associated with flooding and the potential for inundation. We plan to bring forward a series of measures on reservoir safety.

Reservoir safety raises some curious issues. One is the production of inundation maps, which exist south of the border. That has become a controversial issue because of the national security implications of such maps. The suggestion has been made that the maps should be available only to certain categories of emergency responders and that they should not be publicly available. We also have to address such issues as we develop the legislation and we will do that.

We need inundation maps of our major reservoirs and to be absolutely confident that every reservoir is being adequately maintained. The issue requires further attention because, although the present system identifies the undertaker of any reservoir and the engineers as those who are responsible for reservoirs, it is fair to say that the system does not work as well as it could do. I will hand over to Judith Tracey, who is more of a reservoir expert than I am.

**Judith Tracey (Scottish Government Environmental Quality Directorate):** The problem with reservoir legislation in Scotland is the variety of enforcement authorities—the 32 local authorities enforce reservoir safety. Those that do a good job tend to have the most reservoirs. Many local authorities have only a few reservoirs that fall under the remit of the Reservoirs Act 1975, so they tend not to pay as much attention as they probably should to issues of reservoir safety. Since the transfer to a single enforcement authority in England and Wales, information on the safety of dams has improved greatly. We think that reservoir safety in Scotland would improve if we were also to have a single enforcement authority.

**The Convener:** Minister, you have heard the questioning throughout our inquiry process on the extent to which householders can be responsible for specific measures—indeed, agencies such as the police have argued that householders should be made responsible. The suggestion was made that information on flood risk should be given to potential home buyers, or even to existing householders. I am not immediately conscious that that is part of the single sellers survey. Have you



considered that suggestion, or do you plan to do so?

**Michael Russell:** We are conscious of the different nature of flood risk and that there are many different kinds of flood risk. The point is an important one. Clearly, people who live in a house that is regularly inundated would want to give information on that to potential purchasers. You have legal qualifications that I do not, but a legal question would arise if they did otherwise.

One example is extreme event flooding, which can affect almost anybody. I visited a new housing estate some weeks ago that has twice suffered inundation because of extreme events. The estate is situated on a hillside and no one expected that to happen, not even SEPA. There are difficulties involved in having accurate information.

We should remember that the present flood risk maps are indicative maps; they do not go down to individual property level. They cannot therefore give us an indication of the individual properties that are at flood risk. I am open to the idea that, if flood risk is not included in the single sellers survey, it should be. I am also open to the idea of providing as much information as possible. However, difficulties arise for people whose property may be on a flood risk map, but who never experience flooding.

We must also remember that, although the number of people who are expected to experience flooding, in terms of the number of properties at risk, is high, it is not overwhelming. I think that we are talking about 4.3 per cent of properties, which is a significant number, but by no means the majority of properties.

**Bill Wilson:** I have a slightly related question—I will quickly rephrase that lest my microphone is cut off—I have a related question for the minister. Will you consider insisting that, when houses in new developments in coastal areas are sold, the property's height above sea level is provided to potential buyers? Perhaps that would encourage developers to consider the risk of sea level rises before they build.

**Michael Russell:** In general, I agree that developers must consider the risk of sea level rises before they build. There is no question of that, but I am not sure how prescriptive I would be in terms of our expectation on the issue. You are a qualified scientist, which I am not, and you know the range of predictions that can be made. That said, it would be bad commercial sense and bad common sense for developers not to take that into account.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I want to concentrate on the role of planning in avoiding building on flood plains, in particular. Minister, you have just said

that you are not keen for SEPA to take the lead in managing flood risk, but many of our witnesses, including the two in our first panel today, have argued that SEPA is the appropriate body to have that role. Indeed, SEPA said in evidence to us:

“Controlling development through planning is perhaps the most powerful tool available to manage flood risks.”

Do you agree with SEPA's view on planning? How robust are SEPA's procedures for trying to prevent house building on flood plains?

**Michael Russell:** There is general acceptance that risk should be avoided where there is flooding incidence. That is just plain common sense. People either should not build in places where there is potential for flooding events, or schemes and houses should be designed in such a way that flood defence is available. Incidentally, flood resilience should also be available, which we can discuss further.

SEPA has a role as a statutory consultee, as you know perfectly well. It advises on matters and ensures that planning applications are robust, although that does not always work. I mentioned the scheme in Galashiels that I saw recently. It was subject to flood risk assessment, but it flooded twice. The flood risk assessment did not work there.

Of course SEPA has a role as a statutory consultee and it will continue to have that role. I am not trying to weaken the system, which is robust and I am glad that it is. The question about SEPA is whether it should be given an overarching responsibility for flood prevention in Scotland. I think that the answer is no; that was the virtually unanimous view of the organisations that attended the flooding summit and I am not sure that any other parties will argue that point. The overarching role held by the Environment Agency in England would not work here and we would not want it to work because it would not be suitable for our circumstances.

**Mike Rumbles:** Here is what I am trying to get at. On one hand, you say that SEPA has a robust system and on the other, you mention the Galashiels example, where flood risk assessment did not work. I know of other examples, which I am not allowed to mention, but they exist. You look to the convener for help, but—

**Michael Russell:** No, I looked at the convener because I enjoy looking at the convener.

**The Convener:** He is afraid of me.

**Mike Rumbles:** There are other examples, where you feel SEPA is not up to the task. Is that one of the reasons—

**Michael Russell:** Without referring to specific examples, I say to you that I believe that in any

system there will be exceptions that do not appear to work and which need to be tackled. SEPA's planning role is robust, it should be and is exercised responsibly and is, as far as I know, working reasonably well. SEPA and Scottish Natural Heritage continue to talk about how they can perform their planning roles better and I am sure that they would be happy to discuss that with you.

I do not believe that SEPA should be an overarching authority with responsibility for flooding, although I welcome that flood risk management issues are germane to the planning system—given our situation, they have to be. SEPA always has to satisfy itself that those matters have been addressed adequately. If mistakes are made by the developers and others—I do not think that they happen very often—they are learned from. People should learn from their mistakes, Mr Rumbles. The planning system has a role to play in flooding defence that should continue.

**Mike Rumbles:** I am trying to get at whether you think that SEPA's independence in such matters is effective. Have you ever felt the need to intervene with SEPA on these issues?

**Michael Russell:** SEPA's role is very effective. Like us all, it could do better—I am sure that that applies to members of this committee too—but SEPA is effective and I am satisfied with it.

**Mike Rumbles:** Have you ever had to intervene?

**Michael Russell:** As you know, my role is constrained by proper practice and procedure, but I make no apologies for being a minister who is interested in what happens around me. I think that the convener is indicating that I should contain my remarks and I do not wish to cut across the convener.

**Mike Rumbles:** No, I am asking you a question: have you intervened in the generality—

**Michael Russell:** I have never intervened in a planning process.

**Mike Rumbles:** I was not asking that. I was asking whether you had intervened—

**The Convener:** I think that you have got the answer that you are going to get, Mike.

**Mike Rumbles:** Has he intervened or not? I am not clear about his response.

**The Convener:** He has responded to the same question three times now.

11:30

**Mike Rumbles:** Well, I do not understand the minister's response. Could you say whether you have or have not intervened?

**Michael Russell:** I have never intervened in a planning process. That is my answer to the question.

**The Convener:** I will ask about SEPA's position in general. You have told us that the overwhelming feeling at the flooding summit was that there should not be an overarching body, but the evidence that we have heard has been by no means unanimous. The view of a considerable number of witnesses has been that a central overarching authority should be established, and most of them think that SEPA should be given that role, almost by default. You have heard what the insurers said this morning. What information are you receiving about such a role?

**Michael Russell:** I am happy to listen to a recommendation about that and to read about it in the committee's report. One key issue is what such an authority would do. If we enhanced SEPA's role in flood management, what would that mean? At one end of the continuum is the model in England, where the Environment Agency has full responsibility. I do not think that adopting that model would be wise, as it would diminish local authorities' role. SEPA legitimately takes on other roles. For example, it is second to none for flood information and flood warning. The services that it has developed and is developing are crucial. The online information service, with which the committee will be familiar, is a very important part of our overall package. The warning service that SEPA is developing will also be important.

The committee might want to recommend that SEPA adopt other roles. It has taken detailed evidence and might want to list a range of tasks that an overarching authority should do and to say why that authority should be SEPA. However, I would resist having a body like the Environment Agency that was responsible for doing everything, because Scotland has a better and more robust system of local democracy, on which we should work.

**The Convener:** So your view is that SEPA should not be given a role in countermanding any decision.

**Michael Russell:** That is an interesting point, and I am willing to discuss the question whether SEPA should have oversight of plans. However, I do not want SEPA to draw up and implement all the plans, which is what the Environment Agency does. That would massively increase SEPA's role and responsibilities and would not be as effective as involving local authorities. Mr Scott asked about having a structure that would be like a court of

appeal in some instances. I would want any such system to react promptly, because one problem at the moment is the long time that these things take. However, I am willing to consider a recommendation on that and to discuss it with the committee.

**John Scott:** I am sorry to return to the question, but if, for example, a catchment area plan were not progressing because one local authority had different priorities from another—to put it at its mildest—who would make that work? Who would say, “This is how it’s going to be”? Would that role be for ministers or SEPA? We think that someone might need to take on that responsibility.

**Michael Russell:** I am open to the committee’s views. I will not react at this stage or say what the position should be. I can see such a role for ministers and for another agency, which could be SEPA. I am very interested in the committee’s views.

**The Convener:** Does John Scott want to ask about the Scotland rural development programme? If so, he should remember to declare his interest.

**John Scott:** In discussing the rural development programme, I declare an interest as a farmer, although my land is not liable to be flooded.

It has been said that compensation for natural flood defences and sustainable flood defences should be provided from the rural development programme. The previous programme paid farmers £25 per hectare, and the programme for 2007 to 2013 pays them £39 per hectare, for flood-plain management. What are your views on whether such funding is sufficient to tempt farmers to take it up?

Although a huge pot of money is available under the SRDP, it will be divided by seven. There are also existing legacy schemes and other priorities, such as funding for nitrate vulnerable zone mitigation. My concern is that, if the SRDP is to be used for all that as well, there will be no money for other schemes. Can you comment on that?

**Michael Russell:** I will ask Judith Tracey to respond in detail, but I have one point about funding under the SRDP, in relation to which we are almost at the stage of initial, pre-application processes. There are always questions about whether set rates will be adequate. However, the rates are set with the best of intentions and I hope that they will be adequate in each circumstance. I hear questions about that from time to time. For example, at the Scottish forestry forum last week there was a question about whether the rates for the forestry element were adequate to tempt people.

There must be both a carrot and a stick. The temptation—the carrot—is the sums of money; the stick is to ask people what else they are going to do, and how they are going to do it. I hope that all the sums involved are adequate, but to an extent we must gauge that as schemes go along. Even in the short time in which I have been a minister, I have heard people say that resources for forestry planting are inadequate, but when we put out a scheme with £3 million attached to it, it is oversubscribed—clearly, there is a motivation. Judith Tracey will give you the detail on the SRDP issue.

**Judith Tracey:** Under the proposals for flood risk management planning, we hope that we can bring in a number of different funding sources. Because the money is now with local authorities, if they wish to compensate farmers for using their land, they can do that through their own funding for flood risk management. However, if there is an option for the farmer to get funding under the SRDP, that would be discussed between the local authority and the farmer. The idea is to enable as many funding sources as possible to be utilised, rather than just to rely on one single source.

**John Scott:** Is that funding likely to reflect the relative importance of the amelioration concerned, or will it be a standard rate across Scotland? If it is subject to negotiation between individual landowners and local authorities, we are likely to get different negotiations and different outcomes, rather than one standard rate. If there was one key scheme, would that attract more funding?

**Judith Tracey:** We have not yet considered having a standard rate. Currently, when local authorities compensate a landowner for the use of their land, they do so by negotiation with the landowner. We thought that that process would continue, but we will look into it.

**John Scott:** Is that money in addition to the SRDP element?

**Judith Tracey:** Yes.

**Michael Russell:** One of the weaknesses of the current legislation is its inflexibility in dealing with private landowners. Flooding situations vary in their seriousness, but in certain instances there is concern about, for example, a landowner’s refusal to tackle land draining into culverts that were adequate half a century ago but which are not adequate now. We are consulting on the issue of exactly how local authorities should step forward on that matter and what powers they might have in working with reluctant landowners and others.

**John Scott:** Given that some schemes are already under way, will there be a retrospective effect on both upstream and downstream landowners? I am thinking specifically of the Moray schemes, which are well advanced.

**Michael Russell:** The existing regulations are what they are; we do not intend to introduce legislation that has a retrospective effect.

The Moray schemes are a good example of the delays that can enter into the process, although, for example, the Mossat Burn scheme has been approved, so we are making progress. It was approved without the need for an inquiry because the final objections were eventually withdrawn. Negotiation goes a long way, therefore, even in the present schemes. However, the length of time that schemes take to complete is unacceptable. The way in which planning interacts with a scheme can slow it down even further.

**Bill Wilson:** Some organisations have expressed concerns about the loss of set-aside and the effect that that might have on the environment. It seems to me that the sustainable flood management and rural development programmes provide us with an opportunity to allay some of those fears and offset any set-aside that has been lost.

**Michael Russell:** I do not think that a direct comparison can be made, but there are opportunities. Where sustainable flood schemes have been developed that make intelligent use of the landscape and the countryside, one realises how effective they can be.

It is a legitimate criticism to say that the way in which we have experimented has taken too long. I have been encouraging the Forestry Commission to get much more proactive so that it can get on and take part in those experiments, and it is now doing so. Two weeks ago, we announced the intention to get a number of schemes under way pretty quickly using forestry. It is much better if we can solve flooding problems, even if it is only in part, by diverting water before flooding takes place. That is, of course, the ideal situation.

**Peter Peacock:** You were being cautious—Delphic, even, although that is not a description that fits you—in your use of language about what powers you might have in relation to these matters. I think that you talked about powers to solve problems by working with landowners who may require to be worked with—that was the implication, in any case. In the final analysis, would you go so far as to say that someone has to take a view on whether a dyke or flood defence that was built 30 years ago is causing a problem in a community downstream? Would you consider using the flooding bill to give powers to local authorities or an appropriate agency to say that the defence has to go in order to create a flood plain?

**Michael Russell:** Yes, I think that I probably would. I am happy to discuss that issue. At the

end of the day, action has to be taken if there are things that are making the problem worse.

In my opening statement, I mentioned the effect that flooding has on people. When you meet people whose houses have been repeatedly flooded, you can see that there is a real cost in human terms. Therefore, if circumstances demand that radical action be taken, that is what should happen.

**Jamie Hepburn:** I want to turn our attention to drains—that sexiest of subjects. How will the need to improve urban drainage to offset flooding be taken into account in the preparation of Scottish Water's next investment programme?

**Michael Russell:** It is clearly a major issue for Scottish Water and for infrastructure development in Scotland as a whole. There is now an acceptance of the good practice that is required and which is being implemented. There is an interface with the planning system, which I am sure that Mr Rumbles recognises, because there has to be consistency in the development of strategic urban drainage projects. Such issues will be very germane and I am sure that the Cabinet Secretary for Finance and Sustainable Growth will be deeply involved in those discussions.

In some places, such as Glasgow, the scale of the problem is huge. For example, part of the Glasgow project affects the Commonwealth games site, which means that that part of the project will have to move ahead reasonably quickly. However, there is no doubt that the 19<sup>th</sup> century legacy must become a 21<sup>st</sup> century priority for investment in urban drainage.

**Jamie Hepburn:** I am glad that you mentioned Glasgow, which you mentioned earlier in connection with the metropolitan approach that has been employed there between the local authorities, SEPA and Scottish Water.

I will ask you a question that I have asked SEPA and Scottish Water—incidentally, I got different answers from each of them. Obviously, the approach is informal at the moment and, consequently, there are difficulties with managing various funding streams and so on. Should a statutory metropolitan body be set up?

**Michael Russell:** That is an interesting issue. There would not be a need for many such bodies. Glasgow has a particular legacy that needs to be addressed. In parts of Glasgow, there is considerable surface pollution from former industrial work—chrome pollution, for example. Those problems are much more severe in Glasgow than anywhere else.

I was impressed with the level of co-operation between SEPA, Scottish Water, the Scottish Government and a range of other people. If a case

were made that the problems could not be tackled in any other way, I would be persuaded. However, I do not think that that case is being made at the moment.

I do not want to be Delphic or even Sibylline; I just want to be clear.

11:45

**David Stewart:** You will be well aware of the national shortage of hydrologists and flood management experts. Has the Government got any plans to try to change the situation by, for example, providing more funds for universities to develop courses, as is being done in relation to dental courses in Aberdeen?

**Michael Russell:** Mr Peacock talked about the timescale, and I agree that we have the time to train people. Again, I would be sympathetic if I thought that there was a real bottleneck. I have heard some evidence that problems are being caused but I have also been told that a big market opportunity is being created—in other words, if you were starting out in life now and were looking for a sustainable career that would produce endless challenges and long-term employment, you might want to go and train yourself for that task. If any of us are thinking of career changes—voluntary or enforced—becoming a hydrologist might be an option.

**David Stewart:** You have obviously looked at the Boundary Commission's work on the Highlands and Islands region.

**Michael Russell:** I should probably have said that I should have become a hydrologist in 2003 rather than doing anything else.

**The Convener:** Building regulations currently apply across the whole of Scotland. Have you given any thought to varying the standards in areas that are more—or, indeed, less—susceptible to flooding?

**Michael Russell:** We are happy to respond to that concern. We need to ensure that flood resilience is built into buildings in areas in which there is a substantial risk of flooding.

There is an issue about whether insurers should be restoring buildings that are at risk of flooding to flood-resilient status. I am afraid that I did not hear all the earlier discussion with the insurers, so I do not know whether you raised that issue with them. Insurers have a role to play, however, because, after a flood, nothing should be restored unless it is restored to full flood-resilience status, which means that it can be protected the next time there is a flood.

I am open to the issue of changing building standards. They are already high, but they can go higher.

**John Scott:** Given the increasing risk of flooding due to global warming, might you consider providing grant aid to make properties resistant to flooding before they have been flooded? I am thinking about a scheme that would be similar to fuel poverty schemes.

**Michael Russell:** That has been suggested to us, but such a scheme would have considerable financial implications. One should recognise the role of the insurance companies in protecting their investment. I can not rule the suggestion in or out, because of the financial implications. However, it would be worth while for the committee to make recommendations on the issue.

**The Convener:** We move on to general issues of flood warning.

**Peter Peacock:** We have heard evidence from a number of bodies—the Convention of Scottish Local Authorities, individual local authorities, SEPA and the Met Office—about radar, and the minister and I have corresponded on the matter. The evidence seems to be that Scotland's radar coverage could be better and that, because technology is advancing, the accuracy of radar warnings will improve. In that sense, we are deficient in relation to current technical standards. We have also been told that the more advance warning people can be given of a flooding event, the less damage will be done to individuals and communities. What is the Government's role in working with the Met Office, SEPA and others to secure better radar coverage?

**Michael Russell:** I am entirely in favour of better coverage—no one would resist better coverage. However, there is an issue about who should pay for that and who has the expertise to manage it. It has been a Met Office function, which means that it is a reserved matter. SEPA is working closely with the Met Office, and I hope that the question will be dealt with and that the Met Office will see the sense of investing further in the area.

SEPA has a strong, continuing role to play in providing flood warnings and flood information. It has established one of the best systems in the world, but it can be improved. I presume that you have been to see the work that is being done with rain gauges and river levels. SEPA has proved beyond a shadow of a doubt that what is happening in Scotland shows that we are well into global warming in terms of rising river levels. SEPA provides real-time information, but the system can get better. As you know, there are issues around who should take responsibility for

flood warnings, but I am sure that the system that will be put together will be very effective.

I am not standing in the way of better radar coverage; I thoroughly encourage it, although there is an issue around who has the responsibility for installing it. I am by no means qualified to judge what type of radar should be installed, but it should be the best possible system to give us the best possible predictions—that is particularly important with pluvial flooding. Extreme weather events mean that floods are cropping up in places where we never expected to see them, and it would be wise to be forewarned about those.

**Peter Peacock:** I am grateful for that insight into your position. Is there potentially a role for Government, in partnership with SEPA—although the Government funds SEPA anyway—and the Met Office, if it was decided that it would be valuable to advance what the Met Office could do?

**Michael Russell:** That would not be my preferred option. The Met Office provides weather radar in other parts of these islands, and it should aspire to complete its weather radar coverage of Scotland. I hope that it can be persuaded to do so.

**Peter Peacock:** It is doing so elsewhere in partnership with local organisations.

**Michael Russell:** I would never completely close the door on partnership, but I have indicated my preferred option.

**David Stewart:** You will be aware that we heard some fascinating evidence from the Met Office in autumn last year. The Met Office made the interesting suggestion that, in Scotland, it should combine with SEPA to provide weather and flood forecasting capacity. Obviously, the Met Office has a fantastic amount of expertise in that area. What do you think about that suggestion for an emergency response service?

**Michael Russell:** I am by no means against new developments if they can be shown to provide effective solutions. SEPA already has a good partnership with the Met Office, and SEPA advises me as that progresses. The public should be satisfied with that and keen to see it continue to develop. I am not going to rule out any way in which those bodies can work together. If they were to come up with a new or better solution, I would be very sympathetic.

I am trying to get the best possible out of each area that we are talking about: the best possible warning and information system, flood defences, flood resilience, sustainable flood management and natural solutions. My ambition is for us to move on from the Flood Prevention (Scotland) Act 1961 and a whole set of arrangements that are no longer satisfactory, take advantage of the improvements that we have seen—the

improvements in the information that SEPA gives us have been very important—and continue to strive for excellence in serving the people of Scotland. They are looking to the committee, the minister and the Government to come forward with solutions that will work, so I would not rule out any proposed solutions.

**David Stewart:** Would the Government look for a lead on that from the Met Office?

**Michael Russell:** I hope that SEPA would say whether such a suggestion were a good thing, but I have not seen such an offering on the table. Of course, I would encourage that. We are not precious about these things. We want to ensure that the people of Scotland get the best information and service.

**David Stewart:** So you generally have an open mind about the suggestion.

**Michael Russell:** Absolutely.

**David Stewart:** Okay. I will ask my final question; I know that time is against us.

You mentioned pluvial flooding. As I understand it, no agency is responsible for managing that. Do you think that we need to develop another structure to deal with it?

**Michael Russell:** No. Essentially it is the least predictable of the issues that we face. It can happen almost anywhere at any time. People tell apocryphal stories about how they were standing in sunshine while a flood happened half a mile away. I do not have any ideas for new institutions or organisations. All our current structures are emerging, developing and improving, and they will have to take account of pluvial flooding, which is a serious issue. For example, drainage is directly related to pluvial flooding, as is building resilience.

**Bob Irvine:** I add only that SEPA and Scottish Water are fully apprised of the challenge of better understanding the factors that affect pluvial flooding. Some of the technological developments that we have mentioned can provide a far more localised understanding and prediction of events, and we very much support and encourage the agencies in their efforts to improve that understanding and to share it with everyone affected.

**The Convener:** In our evidence-taking sessions, we have noticed a distinct difference between SEPA's approach to these issues and the rather ambivalent position taken by Scottish Water, which seems to stand back from them; indeed, it has said, more or less, that it is not central to the flooding question. It is very keen to have better pluvial flood mapping and warnings, but it does not see itself as part and parcel of that activity. Has consideration been given to the question whether

Scottish Water will need to change its role if we are to make big inroads into this problem?

**Michael Russell:** Yes. Scottish Water will need to bring a change of perspective to the table. I am sure that any reflections that you might make in that respect will assist my consideration of the matter.

**The Convener:** As you will be aware, the committee is also interested in the post-flood experience. We are curious as to why you have decided to leave out of the consultation—and, I presume, the proposed bill—any reference to emergency response arrangements or arrangements under the Civil Contingencies Act 2004. Have you carried out any exercises that have led you to conclude that civil contingency planning is absolutely adequate? The evidence that we have received suggests otherwise.

**Michael Russell:** The civil contingencies response in Scotland is not incident specific. In other words, it does not delineate between flooding and other events; it is very flexible and can respond to any event.

When last year's floods struck England, I felt it important to check the resilience of the Scottish arrangements and mounted a limited exercise in which I asked the strategic co-ordinating groups in each of Scotland's eight police force areas to reflect on the English experience, particularly in relation to possible threats to infrastructure. I received detailed assurances that plans were in place. Of course, responsibility for civil contingency planning lies with the Cabinet Secretary for Justice, but legislating specifically for civil contingencies in the event of flooding would run directly counter to the way in which such matters are dealt with in Scotland.

**John Scott:** When we took evidence in Moray, some witnesses expressed doubt about the efficiency of flood warning schemes. How might you improve such schemes and who should be responsible for them? We have touched on pluvial flooding and Scottish Water's role. Do you agree that, with SEPA, Scottish Water could use its local knowledge to provide better warnings of major river flooding?

**Michael Russell:** There are two parts to flood warning, the first of which relates to information. That is the role of SEPA, which needs information to know whether such an event is about to happen. However, although that is a national role, it is strongly dependent on local information which, as you know, is provided in a number of ways, including river measurement.

The problem lies in delivery and dissemination of warnings. As the committee has no doubt heard, it is very often a case of pass-the-parcel between the various organisations. I am happy to

consider the issue in the bill. On the other hand, the civil contingency issue that the convener raised is essentially a post-flood matter.

We still have to get the flood warning system right. When I came into this job, I was surprised by the number of people who said that flood warning is not their responsibility—it is certainly a difficult issue. However, it has been raised in the consultation process and I am happy to discuss how it might be best delivered and which organisation should be charged with that responsibility. Scottish Water is a possibility, except that its normal practices of work do not necessarily involve it in flood warning. There are other possibilities. The police are reluctant to be involved, although some people would argue strongly that it should be a core role for them.

12:00

**John Scott:** We certainly share your concerns about the pass-the-parcel attitude that we discovered—much to our surprise. You need to think about the best system to address that for inclusion in the forthcoming bill.

**Michael Russell:** The subject is in our minds. We are investing £7 million in the flood warning system. That money is coming on stream from April, I think.

**Bob Irvine:** Yes—it is from the coming spending review.

**Michael Russell:** We want to ensure that, when the flood warning system is up and running and working effectively, it has an end point in terms of delivery.

**John Scott:** I dare say that there is best practice elsewhere in the world that you could examine. Perhaps you have already done that.

**Michael Russell:** There is a surprising divergence of models. It is a concern.

**John Scott:** Have you seen any particular model that teases you to prefer it?

**Michael Russell:** I have not, but I would not be telling the truth if I were to say that I have studied them exhaustively. You are spurring me to do so.

**John Scott:** Have your officials studied them?

**Bob Irvine:** Judith Tracey is perhaps closer to the detail on this. The investment that the Government is making in the flood warning dissemination system through SEPA is heavily influenced by experience elsewhere. It is a heavily technological, computer-based system for disseminating warnings. It is being developed now and the specification is being revised so that it will—we hope—be as near the state of the art as possible. It is based on a system that has been

used for a couple of years south of the border, but takes it to the next technological level.

**Judith Tracey:** I cannot add much to that, except to say that the idea behind the new system is that people will be able to sign up for flood warnings and receive them by whatever means of delivery—telephone call, text message or fax—is most convenient to them.

**John Scott:** As politicians, we know that people say that they did not receive a leaflet when leaflets went through their doors. Similarly, people will say that they have not been warned when, in fact, they have been. Would it be unreasonable—it might be considered to be an invasion of privacy—to consider an opt-out system?

**Michael Russell:** We should consider all systems. However, I return to the earlier point about individual responsibility. If somebody lives in an area that they know to be subject to flood risk and it is raining incredibly heavily, there is some obligation on them to work out what will happen next. We must be proportionate.

**The Convener:** We heard from the fire and rescue service that it does not have responsibility for rescue from moving water but does have responsibility for flood rescue, which often involves rescue from moving water, as we saw quite markedly in England last year. I suspect that I know what the response to this question will be. Do you have any view on whether the fire and rescue service could be charged with rescue from moving water as a result of that confusion?

**Michael Russell:** No, I do not. That is an issue for the Civil Contingencies Act 2004 and any changes that may take place in civil contingencies. People may find that strange, but it is not an issue for the proposed flooding bill because of the way that civil contingencies are organised.

**The Convener:** Our flooding inquiry encompasses it, of course.

**Michael Russell:** Absolutely. You are more than entitled to inquire into such things. I am sorry that I cannot express an opinion on them.

**The Convener:** That is fine. We may have to direct some of our questions on civil contingencies to a different minister.

Rather remarkably and unexpectedly, we appear to have exhausted the supply of members who indicated their wish to ask questions. I had not anticipated that happening. Do any members have anything else they want to raise?

**John Scott:** In supplementary evidence to the committee, Professor Crichton suggested the idea, with particular reference to the Forth, of flood barriers being used in—to me at any rate—a novel way. Flood barriers would be raised at low tide,

which would act as a catchment area to mitigate flooding. If you are aware of that concept, do you have any views on it, and on Professor Crichton's remarks?

**Michael Russell:** I would be presuming too much on a range of technical knowledge—which David Crichton has but I do not—to say that I am qualified to comment on many of the ideas he offers. His contribution has been useful and he has some imaginative ideas, not all of which will be possible. He has expressed views on a Forth crossing, but it was not possible to see how that could be fitted in. I listen closely to a range of people who contact me from time to time, including David Crichton. He has submitted evidence for the flooding bill and was invited to the flooding summit. I am interested to hear his views and the views of many others. There are a lot of people out there who are well experienced and who know the issues.

There are a lot of people out there who are very practical, and who can see solutions in their communities. People in various communities in Scotland have written to me in the past month with fairly detailed points about flooding in their communities. As I said, people who suffer flooding often have ideas about why it happened and suggestions about how it could be prevented. I am trying to listen to everybody.

**John Scott:** We have had a note from the Scottish Parliament information centre that considers Japanese policy and suggests that at-risk river catchments could be categorised into different types. Have you given any consideration to that?

**Michael Russell:** The Japanese have considerable experience—almost more than anyone in the world. I heard a curious fact from David Crichton—so I am sure that it is true—that the Japanese spent large sums of money on flood defences, even during the war years, because it was one of the main reasons why they were able to have populations in places where they could otherwise not have had them. I am always looking at good practice elsewhere. If people bring an idea to our attention, we will consider how it works.

**Peter Peacock:** You answered questions earlier about natural approaches to managing flooding. The non-governmental organisations in particular have been pushing that because of the benefits for habitats and so on—it is a double win in that sense. Do you see the NGOs as stakeholders in discussions about flooding in the long term? In relation to the natural flooding arrangements that can be put in place or enhanced, do you have any sense that there should be a hierarchy in law that requires whoever is planning flood management at catchment-zone level to think positively about natural approaches as the first base to mitigate



flooding? I have a strong sense from evidence that if you get engineers to manage flooding, you get engineering solutions. I do not mean to be trite about that, but should there be a requirement to consider natural flood management?

**Michael Russell:** The NGOs are stakeholders, and their contribution is important and valued. There are a variety of stakeholders, including, in many circumstances, private landowners. The NGOs have contributed a lot of positive thinking to the issue and continue to do so. I am happy for them to be deeply involved. There is, in any case, a legal requirement for sustainable flood management—I pay tribute to the previous Administration, which made it so. In that respect, there is already a hierarchy. Peter Peacock is probably right. I will use the example of Hawick, although I do not want to comment on the specific scheme because I do not know it well enough. The proposed scheme for Hawick has been described by some residents as looking like the Berlin wall. That is an engineering solution. There are some problems, but there may be other solutions that could apply. Most if not all—I suspect all, shortly—authorities will start off by asking themselves, “What are the natural solutions to this problem?” and “Are there solutions that mean we can do this in a way that is more environmentally friendly?” Peter Peacock is right about the win-win. If we create, within catchment areas, enhanced habitats and ecosystems that are beneficial and provide sustainable flood management, we will be spending our money effectively.

**The Convener:** I thank the minister and his officials for coming along. You should be aware that we will discuss our draft report on 16 April, and that we anticipate publishing our report in early May.

**Michael Russell:** That was what I was going to ask if, as at a job interview, you had asked whether I had any questions. However, as you have answered it, thank you very much and thank you for the opportunity to come here today.

**The Convener:** I invite the committee to consider, in line with normal practice, the draft report on flooding and flood management in private at future meetings, when necessary.

**Members indicated agreement.**

## Rural Housing Inquiry

12:10

**The Convener:** Agenda item 2 is the rural housing inquiry. Members have two papers before them. RAE/S3/08/6/7 updates us on the progress on the rural housing inquiry and RAE/S3/08/6/8 is a note on the rural housing service conference, which the committee will remember it generously allowed me to attend as a reporter, in lieu of anyone else being prepared to go to Dunkeld.

We will deal with the rural housing inquiry update first. I understand that many members have indicated that the visits it was suggested might be the most appropriate for them to go on are the ones that they have chosen. Are there any gaps? A few members are still to respond. John Scott has not seen the e-mail. Can the clerk remind me which visit it was suggested he could do? It was most likely the Arran visit on 20 May.

We have chosen three areas: East Lothian, Arran and Kinloch Rannoch. That was done with two things in mind. First, we wanted to get the spread of the sorts of rural areas that have major housing problems for different reasons. East Lothian's problem, paradoxically, is caused by its proximity to Edinburgh and the stresses that that creates. Arran is an island community, with a lot of issues that will relate to all islands. Kinloch Rannoch was the most remote area that we could visit that would suit committee members and would not take two days out of our diaries. That was a difficult decision, but we chose Kinloch Rannoch because it dealt with a couple of issues that we have to address. It would be helpful if any member who has not responded could do so.

Do members have any comments on the list of proposed witnesses to be invited to the initial evidence sessions in April and May? If members have any queries, it would be useful to get two or three names so that we can get the ball rolling. Are members happy with the initial suggestions in paragraph 15?

**Peter Peacock:** Are we thinking about inviting the Highland Housing Alliance—it is mentioned in your report on the conference and we heard about it in Aviemore—to give oral evidence? It seems to have a particularly interesting model.

**The Convener:** The decision on witnesses that we make today is not final. We are just ensuring that we have people in place for the first meetings. We will make our decisions as we go. Are members happy with the suggestions for the first oral sessions?

**Members indicated agreement.**

**The Convener:** That is all that is necessary on that paper.

We will now consider the rural housing service annual conference paper. It is a detailed paper on the conference, including some of the workshops. I took part in a workshop on planning and housing. I have not written up the note from that workshop, but I will do so. Although it did not turn out to be as much of a discussion as I had hoped, a considerable number of issues were raised. In connection with the flooding inquiry, there is an issue about the extent to which the affordability of housing becomes a question when you consider the many other measures that have to be put in place. When we come to the affordable housing inquiry, we will need to reflect on that.

12:15

Many issues were raised including the long-term sustainability of a house and its energy efficiency, both of which add to the cost of a house. In a sense, the discussion formed a substantive part of what we are doing. The workshop was led by an expert from the University of Stirling. He is one of the folk who has been suggested for an early evidence-taking session. We will therefore hear directly from him on a number of the issues that were raised in the workshop.

From the papers, members can see the structure of the conference. Usefully, from our perspective, it was not structured in exactly the same way as we structured our session in Aviemore. I was concerned that we would get a replica of what we did there, but a different thematic route was chosen, which helped. Of course, the downside with conferences is always that one can go only to certain workshops and not to all of them. On the day, one can never get an overview of the entire scope of a conference.

The Carnegie UK Trust representative's contribution was interesting. The trust appears to want to extend its reach and to be more visible in a variety of areas. The presentation included some interesting stuff in which it is involved south of the border, about which I have heard in other places.

## Subordinate Legislation

### **Water Environment (Diffuse Pollution) (Scotland) Regulations 2008 (SSI 2008/54)**

### **Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 2008 (SSI 2008/58)**

### **Agricultural Processing, Marketing and Co-operation Grants (Scotland) Regulations 2008 (SSI 2008/64)**

### **Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment Regulations 2008 (SSI 2008/65)**

### **Leader Grants (Scotland) Regulations 2008 (SSI 2008/66)**

12:17

**The Convener:** Under agenda item 3, we have five Scottish statutory instruments to consider. I understand that Peter Peacock has some concerns on SSI 2008/58.

**Peter Peacock:** Yes. I ask colleagues to turn to paragraph 11A(3)(c) on page 2 of the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 2008. It appears that the authorised person who will inspect claims may have the right to access "any computer" in the ownership of the crofter. From 11A(3)(f), it appears that they also will have the power to "seize" the computer. The powers are serious; people are anxious about them. We should ask the Government whether, in seeking evidence on the grant scheme, the authorised person will be able to seize someone's computer and have access to the entirety of what is stored on it. We should get that clarification before we sign off the SSI. That would be helpful.

**The Convener:** Time remains to us in our consideration of SSI 2008/58. We will try to get the information that Peter Peacock has requested. We can set aside the instrument for today.

**Peter Peacock:** Thank you, convener.

**John Scott:** I have a comment on the Water Environment (Diffuse Pollution) (Scotland) Regulations 2008 (SSI 2008/54). The Subordinate Legislation Committee said that it

"found the Government's response to be of only partial assistance in explaining how these Regulations contribute towards compliance with the Water Framework Directive."

Given those concerns, should we seek further clarification from the Government on the instrument? I am happy to go with the flow, but it seems appropriate for us to raise the matter.

**The Convener:** The Subordinate Legislation Committee raised its concerns with the Government, but notes that it was only “partially satisfied” with the response. We have time in which to seek further clarification from the Subordinate Legislation Committee or the Government on the matter.

**John Scott:** If we are to value the work of the Subordinate Legislation Committee—obviously, we must, given its important role—it is only reasonable that we should seek such clarification. I am happy to accept the view of other members, however.

**The Convener:** In those circumstances, do we agree not to make any recommendations on SSIs 2008/64, 2008/65 and 2008/66?

**Members** *indicated agreement.*

**The Convener:** On SSI 2008/54 and SSI 2008/58, do we agree to continue consideration of the instruments at a future meeting once we have received information from the relevant sources?

**Members** *indicated agreement.*

12:21

*Meeting continued in private until 12:36.*



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