

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 10 December 2008

Session 3

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

23rd Meeting 2008, Session 3

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

Karen Gillon (Clydesdale) (Lab)

*Liam McArthur (Orkney) (LD)

*Alasdair Morgan (South of Scotland) (SNP)

*Elaine Murray (Dumfries) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

*Rhoda Grant (Highlands and Islands) (Lab)

Jamie Hepburn (Central Scotland) (SNP)

Jim Hume (South of Scotland) (LD)

Nanette Milne (North East Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Geoff Aitkenhead (Scottish Water)

Jim Conlin (Scottish Water)

Paul Frankland (Scottish Borders Council)

Justin Jacobs (Association of British Insurers)

Jim Moodie (Fife Council)

Arthur Philp (Association of British Insurers)

Gordon Watson (Loch Lomond and the Trossachs National Park Authority)

CLERK TO THE COMMITTEE

Peter McGrath

SENIOR ASSISTANT CLERK

Roz Wheeler

LOCATION

Committee Room 6

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 10 December 2008

[THE CONVENER *opened the meeting at 10:00*]

Flood Risk Management (Scotland) Bill: Stage 1

The Convener (Roseanna Cunningham):

Good morning, everybody, and welcome to this meeting of the Rural Affairs and Environment Committee. I ask everybody in the room, including those in the public seats, to switch off their mobile phones and pagers. We have received apologies from Karen Gillon, who is on maternity leave. Rhoda Grant is her long-term substitute. No other apologies have been received.

Agenda item 1 is to take evidence on the Flood Risk Management (Scotland) Bill at stage 1. There are three panels of witnesses, the first of which consists of Scottish Water representatives. I welcome Geoff Aitkenhead, who is Scottish Water's asset management director, and Jim Conlin, who is Scottish Water's regulation manager.

We have received a written submission from Scottish Water, so there is no need for opening statements. We will go straight to members' questions. I will ask the opening question, if I may. Why does Scottish Water believe that a broader strategy is required in addition to the planning process that is set out in the bill? I think that Scottish Water said that in its written evidence.

Geoff Aitkenhead (Scottish Water): We believe that it would be helpful to have a long-term strategy for Scotland's water resources and water-related issues, including drainage issues. I will put things in context. Our investment needs require considerable forward planning. We are closing off our work on the business plan for 2010 to 2014, which we are still two years away from starting to implement, and we are starting conversations with the Scottish Government about quality and standards IV, which will run for an eight to 10-year period from 2014—the timescales have not yet been determined. To make decisions about objectives for Q and S IV through to 2024, we need an overarching, long-term strategy. I am talking about the sort of thing that has been done elsewhere. The Department for Environment, Food and Rural Affairs has promoted a long-term strategy for water resources in England and

Wales. We believe that having a similar strategic document in Scotland would be helpful.

Jim Conlin (Scottish Water): One reason why we made that proposal is that it would allow us to take account of new ways of doing things and things that we would want to change for sewerage and drainage systems in the future. In our submission, we specifically mentioned

"green roofs, grey water re-use ... and proactive disconnection of surface water from combined sewers."

Those things can help to deal with flood risks, but they also help with the management of Scotland's wider water resource. The issue is linking flooding with the drinking water supply, droughts and other things.

The Convener: How do you see such a strategy fitting in with how the bill is structured?

Jim Conlin: Such a strategy would help the bill. The bill provides a framework for partnership working and for people to consider how they are developing their strategies for dealing with flood risk management. Our long-term vision of what we are trying to do—

The Convener: I will stop you there. Are you saying that what you have described does not necessarily need to be included in the bill?

Jim Conlin: I do not think that it does. It is a separate strategy for water resources.

The Convener: Clarifying that is useful. If a broader strategy does not need to be included in the bill, you are looking for reassurance from ministers that it will be forthcoming as part of the process. Do members have any supplementary questions?

John Scott (Ayr) (Con): One or two things have been mentioned, but have the witnesses given an exhaustive list of the things that need to be considered? I am sure that if you are in constant contact with the Minister for Environment, you are making him aware of what you see as the objectives in the mid and distant future.

Jim Conlin: We have not given an exhaustive list; rather, we have given examples of things that need to change.

John Scott: Briefly, are there other things that you would like to see on that list? You have an opportunity to put those things on the record, and they would help to inform the committee.

Jim Conlin: The main issue for us is how we deal with surface water and excess surface water. We must invest now to remove surface water from combined sewer systems. The majority of large urban areas in Scotland have combined sewer systems—rain mixed with sewage. We must start actively to deal with that issue by seeing how we

can remove surface water from sewers and future-proof systems.

Peter Peacock (Highlands and Islands) (Lab): You say that a long-term strategy for water in Scotland is needed. Would that be a conceptual document? Would it be about philosophy and the direction in which we ought to move, or long-term public sector finance planning? What would the document be for?

Geoff Aitkenhead: It would deal with both of the issues that you raise. The long-term plan would be less detailed than the short-term plans, so it would inevitably be a conceptual document at the outset, but it would set a clear direction. We support the bill on the need for collaborative working between Scottish Water and local authorities, especially in relation to the roads and planning aspects of local authority work. In that context, the long-term plan would set a strategic direction for how we in Scotland will deal with surface water flows not tomorrow but in 20 years' time.

Peter Peacock: Would it look at the quantum of cash that would be needed in 15 or 20 years? I accept that it could not be precise on that issue.

Geoff Aitkenhead: It might be possible to include broad indications of funding requirements, but we would have to be cautious about that.

Alasdair Morgan (South of Scotland) (SNP): My question relates to Mr Aitkenhead's comments on the business case for Q and S IV, which covers the period 2014 to 2022. According to Glasgow City Council, in 2014 you will estimate to within 5 per cent the cost of the capital works that you will carry out in the Q and S IV period. However, the council makes the point that local plans will not be concluded until 2016—two years into that period. If particular works are required or expected of you under local plans, how will you build them into a programme that you costed two years previously?

Geoff Aitkenhead: One of the challenges that we face when pursuing the collaborative approach is to align the funding streams of participants in flood risk management and flood alleviation measures. The committee will be aware that Scottish Water's funding is set out in four-year price review periods; clear objectives are set for each of those periods. The level of detail in a four-year plan is quite granular, whereas in a 10 to 25-year plan there is less detail but a positive direction of travel is set out. It will be important for us to understand how funding can be aligned to deliver objectives that may take longer than one of our regulatory periods to achieve.

We have had discussions with the Water Industry Commission for Scotland, the body that sets our funding for each price review period, about how we will manage projects such as the Glasgow strategic drainage scheme, which needs

to be implemented over multiple regulatory periods. We do not yet have an answer to that question, but we have an open dialogue with the commission. We need to develop an understanding of how future provision can be made. There needs to be recognition that projects will have to be seen through over multiple regulatory periods. I am not sure that we have clarity yet on how the funding that the local authority will bring to the Glasgow strategic drainage scheme will be aligned with the funding that Scottish Water will bring to it.

Alasdair Morgan: The implication of what you are saying is that you will not implement anything that Glasgow City Council comes up with in its local plan and is not in your programme until after 2022, because you are already committed up to that point. Is that a fair assessment?

Geoff Aitkenhead: It is important for Scottish Water to get to a position that allows it to carry out investigations and feasibility work in the period prior to the period of execution of our investment plan.

I will use Glasgow as an example. We are making provision in the 2010 to 2014 period for the study work that requires to be done on the long-term strategy for the treatment of waste water in Glasgow and on what sewerage and drainage upgrades are required in Glasgow. That will enable us to be clear about what we call the executable plan for Glasgow, on what needs to be done and what it will cost. When we have that degree of clarity, we can plan with much greater certainty for future regulatory periods. It is important that we have funding in the immediate period to do the modelling and the studies on the drainage systems, so that we understand exactly what is needed.

Alasdair Morgan: Is the Q and S period from 2014 to 2022 longer than previous periods?

Geoff Aitkenhead: No. Objectives for Q and S III were set for eight years from 2006 to 2014, and they are then delivered in two price review periods.

Alasdair Morgan: And the same will apply in Q and S IV.

Geoff Aitkenhead: For Q and S IV, we are being asked to prepare our thinking for a 10-year period from 2014. We are not yet clear whether the price review periods will remain at four-year intervals, but we anticipate an eight to 10-year period for Q and S IV, which would be broken into two price review chunks.

Liam McArthur (Orkney) (LD): You talked about the difficulties of alignment and referred specifically to the WIC's role. You may be aware that Scottish Environment LINK and others have

raised concerns about the statutory remit of the WIC. Its submission states:

"The role of the WIC appears to clash with the duties of SW to contribute to sustainable development."

It explains that

"Decisions based purely on economic advantage in the short term, without recognising the social and environmental implications of that decision, are likely to be detrimental in the long term."

Does the remit of the WIC need to be reviewed or reformed to meet the requirements of the bill? Do you see any conflict now between what you deliver and the statutory remit of the WIC?

Geoff Aitkenhead: I will ask Jim Conlin to comment on that matter, because he is much more familiar with the detail of Scottish Environment LINK's point. A general point is that the role of the WIC is to ensure that Scottish Water is funded to deliver ministerial objectives. Whatever objectives are set for Scottish Water by Scottish ministers, the WIC has to determine the lowest reasonable cost for us to deliver them and, through that determination, set customer prices. Therefore, the WIC cannot decide Scottish Water's objectives; they will always be determined by Scottish ministers.

Jim Conlin: To be slightly more specific, a duty is placed on us by the Scottish Government to take account of sustainable development and we have a sustainable development strategy that works towards that duty. As Geoff Aitkenhead said, it is our responsibility to put forward plans that take account of our duty for sustainable development and it is for the WIC to consider how those plans should be funded. We do not see a conflict in that arrangement. The Water Services Regulation Authority—Ofwat—which is the WIC's opposite number in England and Wales, has a duty to take account of sustainable development. In Scotland the duty was placed on Scottish Water rather than on the WIC.

The Convener: Does Scottish Environment LINK misunderstand the way in which the system currently works?

Jim Conlin: I think that Scottish Environment LINK would like the WIC also to have a duty on sustainable development. I think that that is the point that it is making in its submission.

Liam McArthur: I will use an example from another sector. It is suggested that the problems in which the Beaulay to Denny power line has become mired are a result of directions set by regulators that were delivered against the lowest cost, which meant that options such as undergrounding cables were not feasible. The concern on sustainable flood risk management is that there will continue to be a tendency to err on the side of hard

engineering solutions, which may in the first instance appear to be cheaper but which, over the longer term, may not necessarily be in the public interest. Are you saying that that could not happen in the water sector?

Jim Conlin: We are considering the most sustainable solutions that it would be possible for us to introduce. Scottish Water is the only water authority in the United Kingdom that currently has sustainable urban drainage systems as part of its design manual. We are at the forefront of developing such systems, and we view them as linking in directly with the sustainable flood management requirements in the bill. We want to find the most sustainable solutions—not just to build bigger pipes and pumping stations. We believe that that fits with our duty to consider sustainable development as a whole.

10:15

Liam McArthur: But if, as you say, the work that you are undertaking on that within your remit is absolutely fine, why are we sitting here considering a bill to tighten it up further?

Jim Conlin: The bill promotes sustainable flood management, which we have not done in the past. I was saying that, as part of our contribution to the issue, we have been working on sustainable urban drainage systems anyway, within our own requirements. We have been moving forward on sustainable ways of dealing with drainage, which link in with the bill's approach to sustainable flood management. The previous approach to flood defences was not a sustainable flood management approach.

Peter Peacock: Does Scottish Water ever find itself under pressure from the WIC to set a price that is less than it would like, notwithstanding the compatible duties between the two bodies? Alternatively, is the relationship entirely harmonious, in that Scottish Water always strikes an agreement in which exactly the right price is set for it to achieve what it wants? Does it find itself under cost pressure because of the WIC?

Geoff Aitkenhead: There are cost pressures, because we are asked in each regulatory period to deliver efficiencies at a defined level, both in the operating cost of Scottish Water and in the cost of delivering the capital programme. However, that is not played out at an individual project level, or even at a sub-programme level. The settlement is in the round, so we are allocated a certain sum of money to deliver the capital programme. In the current regulatory period, the estimated outturn cost is £2.5 billion over four years. Within that, the challenge is for Scottish Water to deliver all the regulatory outputs that ministers ask of us. There is—quite rightly—cost pressure for us to deliver

that capital programme in the most efficient way for our customers, and it is for us to determine at each individual project level the lowest whole-life cost to deliver the output.

Peter Peacock: Is it conceivable that seeking to meet those efficiency objectives might impinge on the sustainable nature of the delivery of the projects that you are working on in aggregate, or is that unlikely to happen?

Geoff Aitkenhead: It is for Scottish Water to be innovative in finding the right solution, while always keeping the sustainability agenda at the forefront of our thinking when we are examining our specifications and standards and our standard solutions. We need to keep searching for better ways of doing things, so that we achieve the required efficiencies but also deliver the required outputs and the objectives.

Peter Peacock: With regard to finance, you say in your submission that Scottish Water assumes that the extra costs that may well arise from the provisions of the bill and the direction of travel will be met "through customer charges". Have you any indication of what the impact might be on customer charges, or has that not yet been assessed?

Geoff Aitkenhead: It is too early to say. At the moment, we are looking at the early stages of the bill's implementation, which revolve around the modelling of the capacity of sewerage and drainage infrastructure. We will then move on to understand the capital investment that is necessary to put in place new flood management systems. Only when we reach that point can we assess the significant spend that we suspect might be required, and how that will affect customer pricing.

Peter Peacock: You also mention in your submission that a potential alternative to customer charges would be capital contributions from local authorities, if funding was channelled through those authorities. Would you prefer there to be a clear division between those two matters, and to deal with your costs through customer charges? Alternatively, are you hinting in your submission that you would like the local authorities to pick up the cost, whether or not that is through Government capital consents? Is it a mix of the two?

Geoff Aitkenhead: We have an open mind. As I said, we support the concept of working in collaboration with other parties to deliver the right answer for customers and the people of Scotland. Our suggestion was an attempt to address that question of alignment to funding. We are simply suggesting that the Scottish Water element is not large in a lot of the flood alleviation or prevention schemes that we have seen around Scotland in

recent years. For example, Scottish Water's component of the Water of Leith scheme was quite small. We are simply suggesting that the entire funding should sit with one body to deliver the whole project, which would make project management a lot easier and would align the funding.

Peter Peacock: Is this an issue that cannot be left for much longer? We have to come to a clear resolution in advance that it is going to be funded either by customer charges or by local authority capital, so that we never find ourselves in a position where we assume that we are going one way but someone else assumes that we are going another, and no one is responsible. Do we need absolute clarity?

Geoff Aitkenhead: We do.

Peter Peacock: I am not sure about the context of the bill, but do we need clarity as the bill goes through?

Geoff Aitkenhead: Yes, and we should bear in mind that there are time thresholds for regulatory periods. Scottish Water is now closing off the regulatory business plan for 2010 to 2014 so, four years from now, we will be closing off the business plan for 2014 to 2018. We have made provision in the 2010 to 2014 period for the studies that are required for work with the local authorities on the bill requirements. Therefore, for Q and S IV from 2014 onwards, we will need absolute clarity by 2011-12.

Bill Wilson (West of Scotland) (SNP): I have a short question. Previous witnesses have emphasised the importance of how the costs are calculated when working in sustainable development. Specifically, they have asked whether the costs are simply the costs of construction, or whether they take into account possible environmental and social advantages and disadvantages. Do you include social responsibility indices as part of your cost calculation, or is it a strictly financial calculation?

Jim Conlin: As we say in our submission, we think that the way to deal with that in a flooding context is through surface water management plans for the area in question. Such plans bring together all the partners and can be used to deal with a number of issues in addition to flooding, such as development, planning and habitats in green urban areas. All those issues can be co-ordinated and we can get extra advantages out of what we do to deal with sustainable flood management. Glasgow City Council, for example, is considering having green corridors through the city, and we are looking at working with the council to integrate its drainage system and our sewerage system in the green corridor. In that way, surface water could be dealt with sustainably, and it would add to the city's environment.

The Convener: Bill, do you want to ask a follow-up question? I am not entirely clear that that is an answer to the question that you asked.

Bill Wilson: I am not sure that it was. It was an interesting answer.

The Convener: It was an answer to a different question.

Bill Wilson: My question is more specific. Let us say that you have two options. Option A is a hard engineering option and option B is a slightly more complex sustainable engineering programme. There are two ways of estimating the cost difference between the two. One is simply to look at the finances and say, "It costs X to do this and Y to do that." The other way is to say that there are additional costs that could be calculated—there are sustainable responsibility indices, for example—and to include a cost estimate for environmental and social benefits and disbenefits. When you are estimating the costs of various options, are you looking at the strictly financial cost of putting that in place, or does your cost estimate include the social and environmental benefits and disbenefits?

Geoff Aitkenhead: No, we focus on the financial costs of constructing the solution, which would be the immediate capital cost, and the operating costs throughout the life of the asset.

Bill Wilson: Does that not mean that you will probably be slightly biased against more sustainable developments because they might cost more, even if their overall social benefits might be far greater than the financial cost of the development?

Geoff Aitkenhead: I think that that is right. However, I should point out that there are two stages. There is a need for cost benefit analysis at the point of defining the objectives for Scottish Water. We work with the drinking water quality regulator for Scotland and the Scottish Environment Protection Agency to debate priorities and needs but, in the end, they decide what advice to give ministers on the objectives that should be set for Scottish Water. That is the point at which the cost benefit analysis should be done, taking on board the factors to which Bill Wilson refers. Once the objective is set and the outputs that Scottish Water must deliver are clear, it is entirely right and proper for us to focus on achieving best value in delivering those outputs.

Bill Wilson: I ask Liam McArthur whether—

The Convener: Excuse me, Bill, but it is my decision who speaks, not yours. John Scott has indicated that he wants to ask a supplementary question on the issue and then we need to move on a bit.

John Scott: I want to return to surface water management plans, if that is all right, convener.

Scottish Water's written submission talks a great deal about the importance of developing integrated surface water management plans with local authorities. Do you want to add to what you have said in your written submission, as you obviously feel strongly on the issue?

Jim Conlin: We feel that surface water management plans are the key to making the collaboration between all the authorities work. The plans can set out clearly who is responsible for what and can deal with how systems will be managed and operated. They can clearly align and highlight other benefits—that is the point that I wrongly made in answer to the first question. One issue with other benefits is that they tend to be the responsibilities of other authorities. We need a way in which all the authorities can come together and plan. We can deal with the sewerage infrastructure but, within the plans, we can take cognisance of issues such as councils' requirements for green areas for amenity. We can work together so that we get, for want of a better expression, a bigger bang for our buck.

Geoff Aitkenhead: It is worth mentioning the carbon reduction challenge that we will all face in coming decades. To continue pumping and treating surface water as we do at present is not sustainable, so we must consider ways of managing surface water differently.

The Convener: Elaine Murray is interested in local authority responsibility, or otherwise.

Elaine Murray (Dumfries) (Lab): My question leads on from the need for integrated plans, which we have been talking about. Have you seen the letter from the Minister for Environment that proposes amendments at stage 2?

Jim Conlin: Yes.

Geoff Aitkenhead: Yes, we have.

Elaine Murray: The Government suggests certain ways in which it could clarify who is responsible for doing what. The letter states that the Government is considering imposing

"an explicit duty on local authorities to prepare information on flood risk management infrastructure in their areas",

but that

"would not overlap with the information Scottish Water are required to prepare under the Sewerage (Scotland) Act 1968".

Should you or local authorities be responsible for the assessment of drainage infrastructure? Who should be responsible for sustainable urban drainage systems?

Geoff Aitkenhead: Scottish Water should provide the information on the capability of our assets. We hold records of all our sewerage assets on geographic information systems, which

we can and do share with other utilities and local authorities. We also have the capability to produce models of the hydraulic capacity of those systems. We therefore know about the flooding thresholds for those systems—the point at which they reach capacity. In the context of the bill, it is important that we share that information with local authorities and that we understand the totality of the flood risk management plan, the action plans at the area level and our part in improving the situation.

Elaine Murray: You have spoken about the need for integrated plans to address surface water management issues. What is your opinion of the proposed amendments in the ministerial letter? Are they adequate, or do you want amendments that relate more specifically to integrated plans?

Jim Conlin: We would like surface water management plans to be mentioned in the bill. That is our input.

The Convener: So you want them to be mentioned in the bill.

Rhoda Grant has questions about information release.

10:30

Rhoda Grant (Highlands and Islands) (Lab): The bill gives SEPA and other lead authorities powers to get information from others in order to carry out their duties. Evidence from Perth and Kinross Council shows that the level of information sharing at the moment might not be as good as it could be. The council noted that Scottish Water says that certain information is protected under data protection legislation. What information would you be able to share under the current data protection regime? Would the bill enable you to share relevant data?

Geoff Aitkenhead: The information that is deemed to be sensitive by United Kingdom Government security advisers to Scottish Water relates to drinking water provision and the exact locations and nature of the sources of drinking water. In the context of the bill, that leads us into the management of reservoirs and dams rather than the sewerage and drainage system, which we have been discussing this morning. The information on the sewer network that Scottish Water holds is not security sensitive and is shared with other utilities and local authorities.

Rhoda Grant: Why would it be a problem to share drinking water information with other authorities? We are talking about sharing it with people who have a duty to implement flood management procedures, such as Perth and Kinross Council, not making it public.

Geoff Aitkenhead: It depends on the nature of the information that we are talking about. In some

cases, the issue comes down to what the Data Protection Act 1998 has to say about customer details that we hold. In other cases, it relates to the security and emergency measures directions from UK security advisers, which guide us on what we can and cannot divulge about drinking water systems.

The Convener: I take it that the concern is about people contaminating drinking water, which might become a problem if the places where the supplies emanate from were too widely known.

Geoff Aitkenhead: That is correct.

Rhoda Grant: Does the bill do enough to ensure that the relevant information can be shared, or will that be a problem?

Geoff Aitkenhead: The information that relates to flooding is adequately covered by the bill.

Rhoda Grant: But the bill covers reservoirs as well. Could information on reservoirs be shared under the bill?

Geoff Aitkenhead: That information can be shared with local authorities. The bill focuses on issues such as inundation mapping and the impacts of dam break. Across Scotland, we own just under 400 dams, just under 300 of which are in active use as water supply sources. We have only partial inundation mapping for those dams, but we share that information with all category 1 responders, in line with the Scottish emergency response procedures.

The Convener: Perth and Kinross Council says that it is often told that information that it requests from Scottish Water is protected under data protection legislation. From what you are saying this morning, however, it seems that that should not happen often. Clearly, certain people's understanding about what can and cannot be released is different from yours. I accept the security point but, leaving it aside, are there other data protection issues that it would make sense to resolve?

Jim Conlin: I do not think so. We are not sure exactly what the problem with Perth and Kinross Council is. The only other issue that I can think of involves the provision of customer addresses in relation to sewer flooding. However, we can deal with that by issuing postcode information rather than house addresses. I am not sure what—

The Convener: I will ask our clerks to ask Perth and Kinross Council for examples of refusals and for information on their frequency. We will have to do that extremely quickly. The minute I get that information, I will ask the clerks to get back to you for a response. I would appreciate it if you responded quite quickly. We do not have a great deal of time.

Geoff Aitkenhead: Absolutely.

The Convener: If there is an issue, it would be good to resolve it at this stage.

Thank you for answering our questions. If there is anything further that you would like to raise with us, please do so in writing as quickly as possible.

With us on our next panel, which will focus on the planning authorities, are: Paul Frankland, the civil engineering design manager from Scottish Borders Council; Jim Moodie, the lead officer of the harbours, flood and coast division of Fife Council's transportation services; and Gordon Watson, the director of planning for the Loch Lomond and the Trossachs National Park Authority.

We have received written evidence from the witnesses, so we will not have opening statements from them. We hope to finish this evidence-taking session by 11.40 at the latest, which gives us an hour.

Rhoda Grant: How do you think that flood risk management plans will interact with local development plans? Which will take precedence?

Gordon Watson (Loch Lomond and the Trossachs National Park Authority): Overall, they will interact in a beneficial way. Generally, we want local development plans across Scotland to be more proactive than previously, and to include sustainable economic development action plans and so on. We hope that that will apply equally to flood management. At the moment, people perhaps identify development opportunities and consider flood mitigation as opposed to flood management, but we hope that the new approach will enable local development plans to take on board physical flood management projects.

The Convener: Does anyone else have a view? I should note that, if one of you says something that you all agree with, you do not all have to repeat the point. If you agree, you need only say so; that way, we will not end up with three identical answers to every question.

Rhoda Grant asked whether you feel that flood risk management plans or local development plans should take precedence, but I do not think that you answered that.

Paul Frankland (Scottish Borders Council): We feel that they should be on an equal footing, and that there should be a bit of give and take. In some cases, the development of a site will be so important that it will have to inform the flood risk management plan, and it should be allowed to go ahead, with resilience measures and so on being put in place. The flood risk management plan will usually inform the development plan, but in some instances the opposite will happen.

The Convener: For instance?

Paul Frankland: When the development of a site on a flood plain is believed to be of paramount importance to the economic development of a small town. We believe that discussions would be held around that.

The Convener: Right. Who would hold the jackets?

Paul Frankland: I do not know.

The Convener: Someone would have to hold the jackets during that discussion.

Paul Frankland: Perhaps it would be the councillors.

The Convener: You do not have a view on how the issue would be resolved, unless SEPA stepped in.

Paul Frankland: No.

The Convener: Do you have any view on how it could be resolved, Jim?

Jim Moodie (Fife Council): No.

John Scott: You listened to the Scottish Water representatives. Do you have any views on the development of surface water management plans, for example, which might help to resolve such issues?

Jim Moodie: Surface water management plans will contribute to future flood risk management, but we must bear in mind the fact that Scottish Water has inherited certain liabilities from previous water and drainage arrangements. Often when we enter into discussions with Scottish Water, our legal advisers advise us that we are transgressing the bounds of responsibility, because Scottish Water already has inherited liabilities for dealing with surface water within older towns and communities that have combined systems. In new developments, sustainable urban drainage and best management practice contribute to flood risk management, because we control the forward flow of water jointly.

Rhoda Grant: Is the bill sufficient to ensure that that happens? Do other powers need to be put into the bill to ensure that it happens?

Paul Frankland: I assume that you are talking about surface water management plans. I foresaw that those plans would play an inherent part in local flood risk management plans. Scottish Water is obviously keen to include them. I would think that the bill allows for that.

Rhoda Grant: We have heard evidence of an apparent gap in the bill, because there is no duty on local authorities to implement the management plans. We have also heard that there is a duty on local authorities to carry out everything that is

within their remit, and that including a specific duty in the bill would interfere with the way that they carry out their other works. If they had a duty to implement the management plans, doing so might be given a higher priority than their carrying out their education function, for instance. Is that right? How will local authorities react to the management plans and how will they carry out their functions? Will they have an action plan for delivery?

Paul Frankland: The duties that the bill places on us are quite big—a lot bigger than the duties under the Flood Prevention (Scotland) Act 1961. Given that our constituents are concerned about flooding, we will be looking to implement stuff in the local flood management plans as quickly as possible. We do not believe that a duty needs to be placed on us, for the very reason that you suggest: putting such a duty in the bill would place flooding issues on a higher level than education and other services that the council also has a general duty to provide. We are content that the bill is sufficient as it stands.

Elaine Murray: Should a duty be placed on other authorities, such as SEPA or the Scottish ministers, to ensure that the plans can be implemented?

Paul Frankland: I was under the impression that the general duty at the start of the bill places such a duty on SEPA, the Scottish ministers and Scottish Water. We all have a duty to reduce flood risk.

Elaine Murray: Does that duty include the duty to fund local authorities and other responsible authorities adequately to undertake such work?

Paul Frankland: It suggests that the Scottish ministers would have to ensure that funding was available to allow the work to be continued.

10:45

Peter Peacock: We have heard evidence about section 16, which places a duty on SEPA to consider “natural features”. There have been arguments that the bill should define natural flooding processes, as well as natural features. It has also been argued that, if SEPA’s assessment is at a national level, that is too high a level for the purposes of informing the local delivery arrangements and plans that will be required. Do you have a view on both or either of those points? Should the bill refer to natural processes as well as natural features? What is the right level at which natural features and/or processes should be examined and mapped in detail?

Gordon Watson: I agree with the point about processes, if you are referring to river meanders, the reconnection of rivers with natural flood plains and so on. That would mean reintroducing a

process. Perhaps the introduction of the term “process” would be helpful, as it provides a broader definition of natural flood management.

The resolution at which SEPA examines things is a difficult issue. The higher the resolution at which matters are considered, the more onerous the task of identifying natural features. Inevitably, there will be localised opportunities to introduce natural flood management, which might be at a higher resolution than SEPA’s initial overview. I do not quite know the answer to that question, I am afraid.

Paul Frankland: I have no concern about the word changing from “features” to “processes”.

Peter Peacock: Or adding the word “processes”.

Paul Frankland: I have no concern about adding the word “processes” either. When SEPA prepares its district plans, people from local authorities and Scottish Water will be present, too: we will all hear the discussions. District plans will inform local plans. The natural processes will be considered down at the local level. We in local authorities will look for areas where we can do the things that SEPA identifies. The link will come through between the district and local plans. Our council is keen on natural flood management techniques, and will seek to incorporate them where possible.

Peter Peacock: Under the bill, will you actually be under a duty in that regard?

Paul Frankland: Yes. Under the general duties, we will have a duty to promote sustainable flood management, part of which will mean examining all possible toolkits to reduce flood risk, including natural processes.

Peter Peacock: There have been arguments that a presumption in favour of implementing natural flood management techniques should be in the bill. The Government is resisting that, but what is your opinion, from a local authority point of view, about a presumption in favour of at least considering natural flooding processes?

Jim Moodie: In my opinion, there should not be a presumption for natural flooding control. Any strategy worth its salt will include elements of both hard engineering and soft engineering, or what you are calling natural processes, so they are part of the overall process.

Peter Peacock: There is possibly a desire for a shift in that regard. I am not saying that you should not consider hard engineering but, before you consider it as part of a package, you could consider whether natural flood management techniques could assist by taking the peaks off floods and so on. There is a suggestion that you ought to pursue natural flood management first,

and then think about hard engineering, but you are opposed to being required to think about natural flood management first.

Jim Moodie: It should be included, but there should not be a presumption that it is the only way to address the problem.

Peter Peacock: I am trying to make the distinction—it is a different point—that the presumption would be that you would be required to consider natural flood management first. You might rule it out, but you would be required at least to consider it.

Jim Moodie: Yes.

Peter Peacock: You would not be unhappy about that.

Jim Moodie: No, I would not be unhappy about that.

Peter Peacock: But you would be unhappy if you were required to use natural flood management techniques irrespective of the evidence.

Jim Moodie: Yes.

The Convener: What do the other two witnesses think about that?

Gordon Watson: There are always dangers in being overprescriptive in primary legislation. Different planning areas have different characteristics, which inform different solutions. I assume that further documentation that flows from the bill will provide an imperative to consider natural solutions in preparing plans and to justify instances when they are not taken up.

From a national park point of view, we would very much like natural flood management opportunities to be taken up, but I am—naturally—cautious about prescribing that in primary legislation. Further down the line, there might be perfectly good reasons why a natural flood solution is not appropriate in a given situation.

The Convener: I think that you have misunderstood the point. The suggestion is not that we mandate the use of natural flood management regardless of whether that is the better system, but that we ensure that all planning authorities consider natural flood management as part of the process of deciding the best way forward.

Gordon Watson: I think that we all take it as read that natural flood management must be considered. I have no problem with stating that explicitly in the bill, if there is a desire for that.

Paul Frankland: As a general duty is placed on all responsible authorities to consider sustainable flood management, and as section 16 specifically

mentions “natural features” and might be amended to include “natural processes”, I think that natural flood management is given quite a high priority in the bill as it stands.

John Scott: I have a question specifically on paragraph 1 of schedule 2, which states:

“The local authority must give notice of a proposed flood protection scheme ... to every person known to the local authority ... whose interest in any other land may be affected by any of the proposed operations”.

City of Edinburgh Council's submission states:

“Paragraph 1 (d) (ii) needs to be clarified, as it would appear that everyone on the flood plain downstream of the operations should be notified.”

Do other local authorities share that view? If the paragraph needs to be clarified—I appreciate that none of the witnesses is from City of Edinburgh Council—what alterations should be made to it?

Jim Moodie: I have dealt with flood prevention schemes in Fife where we have had to notify all landowners and others who would be affected. Luckily, we had no further urban development downstream. In my opinion, if there is urban development downstream from where a flood prevention scheme is to be constructed, the individuals should be advised of the proposals.

John Scott: I suppose that I am trying to find out why City of Edinburgh Council has a difficulty with the provision. Perhaps you can help me in that regard. It seems perfectly reasonable that everyone downstream of a proposed flood protection scheme should expect to be notified. Why should City of Edinburgh Council have difficulty with that suggestion?

Jim Moodie: I think that people should be notified, because a flood protection scheme is liable to result in more water being passed forward than was the case, when the water might have gone on to a functional flood plain.

The Convener: Would you automatically notify people downstream in any case? Is that what you would do even now?

Jim Moodie: Yes, I would.

John Scott: So why should City of Edinburgh Council take exception to the idea? Perhaps the council does not take exception to it, but its submission suggests that the provision should be clarified.

The Convener: We cannot ask these witnesses why City of Edinburgh Council has taken that view. We can ask them only for their own view.

Paul Frankland: My view is no different from the view that Jim Moodie has expressed.

The Convener: Mr Watson?

Gordon Watson: As a park authority, we would only be a consultee on such schemes.

The Convener: Jim Moodie's position is that he would notify people downstream as a matter of course anyway, but he cannot speak for City of Edinburgh Council on why that council should have a difficulty with the provision.

Jim Moodie: At a meeting with the bill team in Stirling on Wednesday, it was explained to us that, unlike under the 1961 act, the local authority will no longer need to provide packages of drawings and scheme details to the affected parties. Under the bill, the local authority will be required simply to issue a letter. Perhaps City of Edinburgh Council's point is about the amount of information that must be issued.

The Convener: I cannot imagine that City of Edinburgh Council is arguing that more information should be included. For most councils, any provision that resulted in their being required to provide less information would be regarded as a move forward. City of Edinburgh Council's submission is still a bit of a puzzle. We might need to chase that up as a matter of information.

Liam McArthur and Elaine Murray have questions on funding.

Liam McArthur: Mr Frankland touched on the issue of funding in response to an earlier question. Scottish Borders Council's written submission was not alone in raising concern about the lack of a central mechanism for allocating funding for flood risk management schemes, particularly given the costs of some of those schemes. He also mentioned the potential risk of legal challenge in that regard. The park authority appears to have different concerns about the absence of a central funding pot. Can you develop some of your concerns about funding?

Paul Frankland: We raised the point that a major part of our general duty to reduce flood risk will be to install not just schemes but smaller works. Our concern is about what the legal position will be if the funding for that is not clear and transparent and we are unable to do as much as we would like. Our ultimate goal is for the funding arrangements to be as clear and transparent as they can be, so that we can all move forward.

Liam McArthur: We have heard much from Government ministers about the historic concordat and the de-ring fencing of certain pots of money. Are you saying that you do not support the de-ring fencing of flooding funds because of the implications for your ability to deliver sizeable schemes?

Paul Frankland: I am not sure what the best funding mechanism would be. As a local authority,

we just want to ensure that we know that money is coming through to cover the commitments in our local plans.

Liam McArthur: The park authority had a separate concern.

Gordon Watson: We agree with our sister national park that other funding streams could be brought to bear on natural flood management. For example, the Scottish rural development programme and rural development contracts could be used to provide support to land managers who undertake works on their land. There could be a process of offering incentives in addition to funding significant schemes that councils will be involved in. The national parks could play a role in supporting the heightened emphasis on natural flood management. We support the point that the Cairngorms National Park Authority made.

Liam McArthur: We will have an opportunity shortly to ask the Association of British Insurers about its submission, in which it suggested that the use of multiple funding streams was a riskier approach to the delivery of sustainable flood management. In your view, will that risk increase the cost of delivering various schemes or will it mean that some schemes will not be delivered at all?

Jim Moodie: In my opinion, it will mean that many schemes will not be delivered at all, because the funding will be allocated to what councils consider to be other priorities. We face that issue at the moment. I am an engineer for a council, not a planner. Our budgets are defined by accountants and asset management people who are not directly affected by flood prevention issues or functions. They might have higher priorities, such as education or social work.

John Scott: On the balance of probabilities—

The Convener: Hang on, John. Elaine Murray still has a question to ask.

Elaine Murray: I think that you heard the evidence of Scottish Water's representatives, who talked about the capital charging of local authorities. What is your view on that?

Jim Moodie: I am sorry, could you repeat that?

Elaine Murray: Scottish Water mentioned that funding could come from a system of capital charging local authorities. Do you have any concerns about that?

The Convener: We asked Scottish Water whether it would prefer to meet the cost of the proposals through customer charges or whether it would prefer to be given capital by local authorities. Do you have a view on that?

Paul Frankland: Yes. We would be slightly concerned if all the money were given to local

authorities, because we want Scottish Water to undertake the responsible authority role, to be a full part of the team and to take ownership and responsibility for works. Scottish Water would be better placed to do that if the money was given to it rather than to us.

The Convener: So you would rather not have the big cheque book.

Paul Frankland: No. It is true that in a large prevention scheme, Scottish Water's involvement might not be that significant, but there will be many small areas that want to tackle flooding issues. I worry slightly that giving the funding to us might weaken the co-operation that we want to achieve. We would prefer the funding to be dealt with through Scottish Water.

The Convener: So you think that, psychologically, it would change the balance of power.

Paul Frankland: Yes.

11:00

John Scott: I am concerned about your concerns about the lack of funding and the other priorities for which you feel elected members might use the money, notwithstanding the fact that some of it is meant to be used for flood prevention schemes. Can you expand on that? You are almost saying that you had rather the money was not given to local authorities because—

The Convener: They cannot be trusted.

John Scott: I would not have put it so indelicately, convener, but, in essence, is that what you are saying?

Jim Moodie: I am saying that elected members will allocate funding to the projects that are of the greatest priority to them, and that flood management may not be one of them.

Alasdair Morgan: But it may be.

Jim Moodie: But it may be, yes.

John Scott: You are also concerned about possible legal challenges if flood management schemes are not implemented; you are concerned that councils would be liable. I suppose that that would all be part of the consideration.

Jim Moodie: It was explained to us that there is no duty on a local authority to implement flood prevention schemes. The power is, basically, permissive, so there should be no legal comeback if a scheme is not built, but the public would expect all the relevant stakeholders to address the issue.

The Convener: Let me put it in the plainest possible terms. Do you consider that funding for

flood management should be explicitly excluded from the concordat and that it should be ring fenced?

Jim Moodie: I would agree with that entirely.

Paul Frankland: Our local administration is keen on flood prevention, so the moneys that it has allocated to flooding are reasonable.

The Convener: That is not what I asked.

Rhoda Grant: That was a diplomatic answer.

Paul Frankland: I am not sure which is the best way to go. I understand that, if the funding were ring fenced, it would be easier for people to see what was coming through.

Alasdair Morgan: Would your colleagues in other departments of the council say exactly the same thing about their particular budgets?

The Convener: There is a sucking of teeth from our witnesses, which sounds like welly boots.

Alasdair Morgan: If they do not want to answer, that is fine.

Peter Peacock: My question has partly been answered, but I want to pick up the point that Alasdair Morgan made. What distinguishes funding for flood management from other expenditure is the fact that it is ultimately about public health and safety. At least one of you has argued against there being an explicit duty to implement flood prevention schemes. As front-line delivery guys, you are both saying, "All we want is the cash." Is there not a contradiction in that? Is it not the case that unless the bill contains a duty to implement flood prevention schemes there will be no guarantee that you will get the cash—for the reasons you have described?

Paul Frankland: As I understand it, the bill would place a duty on us to promote flood prevention schemes. It is no longer discretionary, as it was under the 1961 act; I think that it has been cranked up and is now a true duty on us. That is one of the reasons why the 1961 act has been updated.

Peter Peacock: With respect, we have just heard that, at the briefing that you received last week, you were told that there is no duty on councils and that, therefore, there could not be a legal challenge. You are saying that there is a duty on you to promote—

Paul Frankland: Flood risk management.

Peter Peacock: But that once you have promoted it there is no duty on you to implement any schemes; you will draft schemes and I am sure that your councils will want to implement them, but there is no legal requirement to implement them at a certain point.

Paul Frankland: That is not what I understood from the presentation on Wednesday. It depends on your definition of the general duty to reduce flood risk.

The Convener: There is obviously an issue about what exactly the position is. We need to pursue that.

Elaine Murray: The bill will not be fully implemented until 2015. Fife Council has raised concerns about the interim arrangements and how flood prevention schemes will be funded until then. Do you have anything to say about that?

Jim Moodie: There seemed to be a gap in the bill; it looked as though the 1961 act was to be repealed and that there were to be no proposals for what is to happen in the interim in respect of watercourse assessments, watercourse maintenance and biennial flood prevention reports. We wondered whether the work that we do at the moment is supposed just to stop and then start again in eight or nine years' time, but I am advised by the bill team that it is considering introducing a new section to deal with the carrying out of water course assessments. My understanding of a water course assessment is that it should identify immediate flood risks and debris collection points that could cause flooding.

The Convener: Mr Frankland, are the interim arrangements a concern for your council?

Jim Moodie: They are a concern because there is nothing in the bill to say that councils have to do anything until the management plans are in place.

Paul Frankland: They are not a concern for us. We will carry on with the assessments that we do at present, although we will tweak them slightly in line with the bill.

The Convener: It is not an issue for you.

Gordon Watson: This is a technical point. We know from our work with local authorities that they are gearing up for the bill and that they will not suddenly stop doing the work that they do. Perhaps the point can be picked up in the final draft.

The Convener: We will need to pursue the interim arrangements with ministers.

Elaine Murray wants to ask about the reclamation of costs.

Elaine Murray: Flooding sometimes occurs because private landowners have not undertaken the work that they ought to do to keep water courses clear. It has been suggested that local authorities should be able to go in and do the work and reclaim the costs from the landowner, but there is no provision for that in the bill. How much detail should the bill contain on local authorities' ability to reclaim the costs of work that requires to

be done to prevent flooding from private land? Has that been an issue for flood risk management in the past?

Jim Moodie: The bill contains a mechanism to allow local authorities to recover costs when the repairs are due to damage or reinstatement of flood prevention works, but there is no mechanism to allow the authority to be reimbursed for work to clear from private land debris such as fallen trees or timber. There are instances of landowners walking away when they find that they cannot develop land because it is on a flood plain. Under the 1997 amendment to the 1961 act, the local authority has a duty to go in and clear out the water courses, which often costs thousands of pounds—it is not just a £500 job to remove some debris from a burn.

In our written submission, we express hope that the committee will get into the bill a mechanism that will give councils at least a chance of recouping some costs when they deal with private landowners.

Paul Frankland: We have not experienced a big problem with that. I support the idea, but the trouble is that we would have to show that there was negligence on the part of the landowner, and I worry that that might not be possible legally. I return to my comment that it would be useful if the bill contained a statement that landowners have a responsibility, so that when we speak to them we can explain that they should be doing something. We might never be able to get any money from them, but that would at least show them that they have a responsibility, as do property owners.

Gordon Watson: I suppose that, as in the planning system, that sort of action is the point of last resort. Perhaps there is scope for the bill to set the scene for the use of other mechanisms, such as discussion and persuasion. It is difficult in planning, never mind in flood risk management, to carry out work directly and then recoup the costs.

The Convener: Let us move on to drainage.

Alasdair Morgan: Officials who were before us last month said that they are thinking of giving Scottish Water a duty to assess infrastructure drainage, yet the Minister for Environment's letter on possible amendments suggests that at least part of the duty will be placed on local authorities, so it seems that there is some uncertainty. Where should responsibility for the assessment of infrastructure drainage lie—with Scottish Water, with local authorities, or with both?

Paul Frankland: It would be shared. If Scottish Borders Council was preparing a local flood risk management plan, Scottish Water would be sitting round the table too. We would bring all our information, it would bring all the plans and information that it has, including information on its

sewer network, and, ultimately, as lead authority, we would have to pull it all together.

Alasdair Morgan: So the assessment would be your responsibility, but Scottish Water would have to provide you with information?

Paul Frankland: Yes.

The Convener: You will have heard the exchanges about Perth and Kinross Council's concern that it does not always receive information from Scottish Water, which has quoted data protection issues. Have you come across similar issues in Fife or the Borders?

Paul Frankland: No.

Jim Moodie: In Fife we have.

The Convener: Does it happen often or only infrequently?

Jim Moodie: Fairly infrequently. I can clarify one point that Scottish Water made about the source of water supplies. Councils already deal with the Reservoirs Act 1975, so they know where the reservoirs and water supplies are.

The Convener: I think we all know where the reservoirs are.

Alasdair Morgan: What kind of information would Scottish Water not give you? Can you give us an example?

Paul Frankland: I wonder whether it is the inundation maps that show which properties and areas would be at serious risk if a reservoir were breached.

The Convener: Perth and Kinross Council did not elaborate. We will follow that point up. I was just curious to know whether the two local authorities that you represent have come across similar issues. There has obviously been a similar issue in Fife from time to time.

Jim Moodie: We have issues with when Scottish Water terms a drainage system a water course. A water course does not fall under Scottish Water's responsibility; it is referred to the local council as a natural water course.

The Convener: What would the data protection issues be for Scottish Water?

Jim Moodie: I do not think that it is a data protection issue; it is just a lack of provision of information.

The Convener: You are saying that information from Scottish Water is not always forthcoming.

Jim Moodie: Yes.

John Scott: I have a question about SUDS. You represent other councils, but North Lanarkshire Council raised the issue of who will maintain

SUDS that are not adopted by Scottish Water. Similarly, the Society of Chief Officers of Transportation in Scotland stated in its submission that clarification about the adoption and maintenance of SUDS is required in the bill. Does the bill adequately address the adoption and maintenance of SUDS so that it is clear who has responsibility for them in all circumstances? There appear to be some question marks about that.

Jim Moodie: In my opinion, the bill does not clarify who is responsible for SUDS. Scottish Water has introduced a second edition of the "Sewers for Scotland" documentation and design manual. It restricts SUDS to only a couple of things, such as detention basins and attenuation ponds, and excludes all the other facilities, such as swales and filtration trenches.

Since 1997, best management practice on SUDS has been used in various areas in Scotland to allow development so that we can reduce flood risk, but there is still a question mark over who will adopt all the SUDS features in places other than where a council has already put in place a system in which a factor looks after, for example, an attenuation pond or a detention basin. Many are not covered by a maintenance agreement.

John Scott: So in your view there is an omission?

Jim Moodie: It is not an omission; it is a sidestep by Scottish Water to avoid taking on responsibility for SUDS.

John Scott: What should be done to address that? Are you saying that Scottish Water should be made to address it and presumably, in fairness, be given the funding to do so?

Jim Moodie: Yes.

The Convener: Mr Frankland?

Paul Frankland: I do not deal with the SUDS side of things, so I do not have anything to add.

Gordon Watson: I concur that it is an issue from a planning point of view. We require schemes with such elements to them more and more, and if only parts are being adopted, particularly considering that we are encouraging more swales and so on, the system will—

11:15

The Convener: Can you tell us what a swale is?

Gordon Watson: A swale is part of the attenuation within a scheme. A SUDS scheme might include wetland swales where water is slowed down and held—

The Convener: That still does not tell us what a swale is.

Paul Frankland: It is a nice-looking ditch.

John Scott: It is also a breed of sheep.

The Convener: Let us not get into sheep. I just want to know that it is a ditch and not something more exotic.

Jim Moodie: It is a depression in which grass is allowed to grow. As the water percolates through the grass, it takes out the heavy metals and—

The Convener: So it is a camouflaged ditch.

Jim Moodie: No. It is just a slight depression.

The Convener: So it is something that people crossing a field break their ankles in if they do not know it is there.

John Scott: Well, thank you for that.

The Convener: We have our explanation. We will move on with Elaine Murray, who obviously wants to talk about cross-border issues.

Elaine Murray: This question is more for the representative from Scottish Borders Council than the other witness. In its submission, the Macaulay Land Use Research Institute has suggested that in the implementation of the Water Environment and Water Services (Scotland) Act 2003 certain river basin management planning issues have arisen as a result of the different ways in which data are collected across the border, the different regulatory frameworks and so on. Do you agree with that view, Mr Frankland? If so, do you think that similar implementation problems will arise with cross-border flood management planning? Have you had any preliminary discussions about joint responsibilities with authorities on the other side of the border?

Paul Frankland: The Scottish Borders area is covered by what is called the Tweed catchment plan, which has been put together by an organisation called the Tweed Forum. The forum, which pulls together representatives from both sides of the border, has tried to tackle issues such as controlled activities regulations licences on one side of the river and t'other. There are slight difficulties, but we are trying to resolve them and ensure that both sides understand that flexibility is needed in the area adjacent to that particular boundary.

Elaine Murray: Could some of the WEWS act implementation work that you have done be translated into this area, to solve some of the problems?

Paul Frankland: I think so. We and the Tweed Forum have been trying to manage those issues and ensure that things work smoothly.

John Scott: This might also be an issue for us, but do you know whether sufficient funding for

schemes is likely to be available on the other side of the border? After all, it would be a shame if you could fund a scheme and authorities south of the border could not.

Paul Frankland: Given that not too many schemes are right next to larger schemes, I hope that the issue will not crop up. I do not know anything about funding south of the border.

The Convener: Bill Wilson has some questions on coastal flooding.

Bill Wilson: In previous evidence, Scottish Environment LINK suggested that much more consideration must be given to how we work with coastal processes to protect people and reduce flood risk. Given global warming and a predicted sea level rise of between 50cm and 5m, do you think that the bill needs to be more specific about coastal provision? With regard to developments near the coast, is there any particular height above sea level above which you would generally allow development or below which you would generally be disinclined to allow development?

The Convener: I think that Fife Council has the longest coast.

Jim Moodie: Scottish Government guidance notes suggest that a coastal flood risk assessment be carried out for any development built below a 5m contour line around the coast but, because of the variable exposure on its coastline, Fife has stipulated that, for any development below 6m, developers must produce coastal flood risk management plans.

Even before climate change and the possibility of a rise in sea level, Fife's policy was that sea walls should allow for a 350mm rise in sea level. As a result, we already have mechanisms for triggering requests for coastal flood risk reports to allow certain developments to proceed.

Bill Wilson: Do the other witnesses wish to comment?

Paul Frankland: As I do not have that much to do with coastal matters, I will let Jim Moodie respond to that question.

John Scott: Will the bill meet the potential threat of coastal inundation?

Jim Moodie: Yes. The bill includes provisions for coastal flooding but not for coastal erosion, which is covered by the Coast Protection Act 1949. They are separate issues.

John Scott: And where the two overlap, if erosion causes flooding—

Jim Moodie: That is called coastal defence.

John Scott: Is there further legislation that deals with that?

Jim Moodie: No. In the past, under the 1949 act, we received only 45 per cent grant funding. Under the Flood Prevention (Scotland) Act 1961, we were allowed 50 per cent funding. Whether you got the maximum funding would be determined by which act you followed and the scheme that you used to tackle the issue.

John Scott: Are you content that the bill is adequate to provide protection?

Jim Moodie: I accept that the bill is adequate to deal with coastal flooding.

Liam McArthur: This may not be so much of an issue in Fife, but there is some concern about the lack of detail about tidal flows in and around parts of Orkney, which has a very real bearing on coastal flood risk. Is the nature of the Fife coastline such that the level of detail that you have on tidal flow and therefore risk is adequate, or does there need to be a requirement on SEPA to delve a bit deeper to provide a more accurate analysis of what will happen in specific locations?

Jim Moodie: It is my understanding that under the Marine and Coastal Access Bill, requirements will be placed on SEPA and other organisations to come up with data regarding coastal processes. That would affect the amount of information that is available to local authorities and developers. The marine bill will provide a sort of one-stop licence shop for someone who wants to develop something. I believe that SEPA is also carrying out an exercise to provide a coastal flood warning information system.

Bill Wilson: When we took evidence before the bill was published, the committee visited various sites. At one point we were shown a coastal housing development that was not 1m above sea level. Fife may have a different attitude from other councils. Some councils are allowing developments on the coast at well below 1m above sea level. In the light of that, should we consider global warming and sea level rises in flood planning—at least in the maps—or are you saying that that is not necessary?

Jim Moodie: It may be necessary if you are talking about a global or corporate response throughout Scotland to put something in the bill. I was speaking from a Fife perspective.

Bill Wilson: I did not mean a global response. If I understand it correctly, Fife's approach is not to build below 5m above sea level unless there are unusual circumstances, but that does not appear to be the practice of all councils, which suggests that the measures that you are talking about may be interpreted differently by different councils. If that is the case, there might be value in recognising in the flooding bill—and therefore in the flooding maps—the likely effects of sea level rises on developments.

Jim Moodie: I agree, but it would appear that the council that you are talking about is not complying with Scottish planning policy 7 on flooding, or with the national planning policy guideline on flooding, which states the 5m contour level. That requirement is already in the policy documents.

The Convener: Thank you. That is helpful. Bill Wilson wanted to ask about reservoirs.

Bill Wilson: The bill transfers responsibility for reservoirs from local authorities to SEPA and sets out transitional arrangements. Are you comfortable with the arrangements as set out in the bill?

Jim Moodie: Fife Council has no problem with the transfer of reservoir information to SEPA. As far as I am aware, there is no transitional arrangement in place at the moment to suggest how that information is to be transferred between one authority and the other.

At the meeting that I attended in Stirling on Monday, I was advised that transferring the information might take two or three years, but that should be relatively simple for my council, because everything on the public registers and databases on reservoirs will just be transferred to SEPA.

Bill Wilson: If the task would be fairly straightforward for your council, but other local authorities need two to three years, what are they missing?

Jim Moodie: I am sorry—it was the bill team who advised local authorities that it might be two to three years before the whole transfer takes place, because a transition will have to occur.

The Convener: I do not understand why passing over information should take so long. It is obvious that you assume that we know about a bit in the middle that we do not know about.

Paul Frankland: Perhaps I can help. I took notes at the meeting. The suggestion was that the work would take 18 months because the flood and water act down south will drastically change reservoir regulations, so the intention is to wait for that to be implemented before transferring responsibility for reservoirs from local authorities to SEPA.

The Convener: So the delay in transferring responsibility will be the result of waiting for legislation at Westminster?

Paul Frankland: Yes—I hope that I got the name of the legislation right. The title “flood and water act” was used. If that is an act, I presume that it is going round down south. Given that, it was felt that waiting was better.

The Convener: I presume that information can still be passed over in anticipation of implementation of that act.

Jim Moodie: I presume so.

The Convener: That would minimise the time that is taken. Has that process begun?

Jim Moodie: It has not begun, because I am not aware that the relevant legislation has been enacted yet.

The Convener: So everybody just sits about and waits.

Paul Frankland: No—local authorities continue to be responsible for reservoirs until the bill comes into force.

The Convener: I appreciate that, but responsibility and information are two different things.

Bill Wilson: Do local authorities think that they can pass over the information very quickly? When the bill changes who is responsible and you have to transfer responsibility, will you be able immediately to pass over the information and any expertise that is required? You imply that no lead-in time is required for the transfer.

Paul Frankland: No—some time is always required for a transfer. Under the Reservoirs Act 1975, the undertakers perform more complicated tasks with reservoirs and local authorities just ensure that they are doing their job. Our role is more to do with administration, which is what SEPA will do when it takes over that role. We will pass across all the information that we have.

The Convener: That can be done easily?

Paul Frankland: Yes—I think that that can be done fairly easily, although not instantly.

Bill Wilson: I presume that some people have the expertise to take an overview of the undertakers and that that expertise will remain with local authorities. Is that expertise easily transferred?

Jim Moodie: The enforcement authority is required to ensure that any measures that are identified in the interests of health and safety and public safety are taken. The 1975 act provided for panel engineers of different degrees and qualifications under the Institution of Civil Engineers, who do all the supervisory inspections and 10-year inspections. As Paul Frankland said, local authorities perform an administrative function rather than an engineering function.

Bill Wilson: Those engineers are contracted temporarily, so they are available?

Jim Moodie: They are consultant engineers from private companies.

The Convener: Has Bill Wilson covered all his reservoir issues?

Bill Wilson: I think so.

The Convener: That is the end of the panel's session, for which I have no doubt you are grateful. I leave it to you to return to your elected members and explain some of the positions. I thank you for coming along. You are of course welcome to stay to listen to the evidence from insurers.

While the witnesses on the third panel, who represent the Association of British Insurers, take their seats, I advise the committee that we will ask the Scottish Parliament information centre to examine the differentiation between coastal erosion and coastal inundation and some of the bits and pieces of the legislation that is involved. I will also ask SPICe to chase up the Westminster legislation that has suddenly appeared on the horizon, so that we can understand the issues in relation to reservoirs a bit more clearly.

11:30

Rhoda Grant: It would be useful to pick up on expertise on that legislation.

The Convener: Yes. It is the first time that we have heard of it.

From the Association of British Insurers, we welcome Justin Jacobs, who is the assistant director of property, liability and motor, and Arthur Philp, who is the policy adviser on floods. We have received your written evidence so we will not have opening statements but will move straight to questions. I advise committee members and the witnesses that we have allocated about 35 minutes to this session. If we finish earlier, you will get an early lunch.

Liam McArthur: The witnesses may have seen the evidence from the session that the committee held with Government officials last month. I asked them about concerns that you had raised in your written evidence. You were concerned about the alignment of the different funding streams and planning horizons, and you suggested that flood risk could be better managed if funds for flood risk management were separately identified and then ring fenced. We heard echoes of those views from the council witnesses on the previous panel. Will you elaborate on the nature of the risk? How would an increased risk play out in terms of costs to individuals, businesses, communities and councils?

Justin Jacobs (Association of British Insurers): First of all, thank you for asking us here to give evidence.

For us, two different funding issues arise: the first relates to willingness and the second to ability. As the committee heard in evidence earlier this morning, the fact that money is no longer ring fenced means that, depending on the particular pressures on them, some councils may be willing to spend even more on flood measures than they would have spent before, especially if there has been a recent flood and flooding is an issue that grabs the electorate's attention. However, other councils may feel that flood measures are less of a priority, especially if there has not been a recent flood.

What distinguishes flood expenditure from health or education expenditure is that the up-front cost is real but the payback period has a very long time horizon. People may therefore feel that the expenditure is less worth while and can be put off. Education and health expenditure, on the other hand, is real and immediate, and people feel that it is more worth while and that the payback is quicker.

The second funding issue is the ability to invest the necessary amounts, and that issue can be further split into two bits. The first is that a project might be of such national importance that it would not be reasonable or appropriate to expect one affected local authority to fund it. In the committee's inquiry into flooding and flood management earlier in the year, the possibility was raised of having a national pot for significant projects.

The second bit is that different funding mechanisms may not be sufficiently aligned. You heard this morning from Scottish Water that its funding cycle is very different from a local authority funding cycle. If efforts at joint planning were made, Scottish Water might say, "We agree with you but we don't have the money just now. We'll have to wait for the next business cycle." That might be four or six years away, which would prevent any sort of co-ordinated and managed programme that the Government had in mind.

Liam McArthur: Among the witnesses on the previous panel, there seemed to be some debate over whether councils would be susceptible to a legal challenge. You have described a higher risk in the approach that is being adopted and, in the insurance business, higher risk inevitably entails higher cost. How does that affect the way in which the ABI's members approach specific projects, and how does it affect the cost that they will pass on?

Justin Jacobs: We want to ensure that the industry can offer affordable flood insurance to all our customers who want it. The key to that is the information on flood risk that, primarily, we receive from the Scottish Environment Protection Agency. That information allows us to understand the flood

risk and therefore calculate the premiums to cover the risk.

I will try to put the figures in context. If there is a one-in-100-year risk—that is one of the measures that SEPA uses—and if the average flood claim is £30,000, an insurer would have to charge a premium of £300 a year for flood insurance. However, average premiums for home insurance are only around that level—and they also cover theft, fire and many other risks. The challenge is to ensure that we can continue to offer such affordable insurance. The sooner flood projects happen and flood risk is managed, the easier it will be for us to offer more affordable insurance.

Liam McArthur: In your view, is the bigger challenge ring fencing or specifically dedicating funds, or getting better alignment of the horizons in the overarching strategy?

Justin Jacobs: It is a bit of both. We need to ensure that the money that would have been put aside for flood prevention measures is still spent on those. Ring fencing may be necessary—we listened to the earlier debate on the issue with interest. If the legal duty is sufficiently clear, it may not be necessary to ring fence the money, because the legal obligation on authorities to put in place flood prevention measures is so strong that they do that anyway.

The bill does not address the challenge of ensuring that different funding sources are aligned. To deal with the fact that individual funding cycles are slightly out of sync, we need a longer-term strategy that allows us to plan funding 10 years in advance.

Liam McArthur: You heard in the previous exchanges that there is some confusion about the presumption in favour of natural defences for which the committee pressed in its inquiry into flooding and flood management. In your view, would such a presumption present a lower or a higher risk? Would it make a great deal of difference?

Justin Jacobs: I understand that it would make no difference, as the committee's view is merely that authorities should consider natural defences, before adopting the best solution. That is a sensible approach. We do not favour one form of flood defence over another. The key issues for us are residual risk and the risk of flood defences failing. As long as those issues are addressed, from a narrow risk perspective it makes no difference to us what form of defence is used.

Funding and resourcing are a key challenge for the Government, SEPA and local authorities. The measures that we are talking about are challenging, so the right expertise, skills and resources are required to implement them.

Alasdair Morgan: Do you have any evidence that the removal of ring fencing will reduce the amount that is spent on flood prevention? Is there not a danger that ring fencing will set an upper limit on spending and lead local authorities to spend only what has been allocated to them, instead of going beyond that? Is the real problem not the allocation of funding by central Government? You have spoken about the pressures that exist and the fact that there is a long lead time before benefits are seen, but does that not apply to the allocation of funding by central Government in the first place?

Justin Jacobs: Yes. The issue is how we ensure that the right amount is allocated. Ring fencing is one way of doing that; the other is to ensure that legal responsibilities are sufficiently tight, as I mentioned. We are cognisant of the fact that flood risk is not brilliantly well understood by the public at large and we think that everyone—including the insurance industry—needs to do more to explain it. At the moment, people do not see it as a real risk unless they have experienced a flood recently, so there is not the same demand for expenditure on flood prevention as there is in areas such as health and education. That is why we are worried that its priority will slip.

Alasdair Morgan: Presumably you adjust your premiums in areas where there is a flood risk. Is there not a mechanism for demand for flood prevention measures to express itself via the electorate?

Justin Jacobs: There is, but at the moment premiums are sufficiently low, thankfully, that insurers raising them by £20 or £30 would not change the equation tremendously.

Alasdair Morgan: I did not think that mine was low, but there you go.

Peter Peacock: In recent years, the effects of climate change have started to become apparent—there were big floods in England last year. Essentially, a deal has been done between the insurance industry and Government, the basis of which is that you will keep insuring if Government keeps investing. There will always be arguments about the quantity of investment.

What you have said so far has been illuminating. Would the potential for the deal that you have to maintain or strike over time with the Scottish Government be strengthened if the duty on local authorities to implement designed schemes was clarified? Would that clarification help to cement the deal or have no impact on it? Would it give you more reassurance?

Justin Jacobs: We are in the final stages of discussing a specific agreement on flood insurance with the Scottish Government. I hope that we will be able to finalise that agreement over the next week perhaps and send information about it to the committee.

A key aspect for us is having a long-term strategy and long-term thinking. I will put in context why we talk about the long term. We know that climate change will affect Scotland within a decade or two or three decades. Next year, the United Kingdom climate impacts programme will publish the latest research on how climate change will affect Scotland and the rest of the UK; we know that it will have a significant effect. Obviously, there are continuing urbanisation processes, which mean that there are more people in the cities. That presents different sorts of flood risks. There are also demographic changes; the existence of more single-people households has an impact on flood risks. We should consider all the things that are happening, look 20 to 30 years ahead, and ask how flood risks in Scotland will change. We need to consider all sorts of flooding—that has been touched on. We must consider not only traditional river flood risks, but coastal and surface water flooding, and how things will change over that period. We need to ask what the country, local authorities, Scottish Water and so on can afford to defend, and whether every person, asset, home and business can be defended. Can 99 per cent or whatever of people, assets, homes or businesses be defended? We should have a target or ambition over that time horizon, particularly if there are areas that cannot be defended. Everyone could then work together to help the people in those areas in an appropriate way.

If we have a long-term vision, funding issues will come into play and they can be resolved, because people will be able to plan over the timescale and ensure that everyone sequences plans. The Government has said to the Association of British Insurers and, I think, in evidence to the committee that the six-year plans that the bill mentions are intended to consider the much longer term and to include specific details for the six years. If that is the case, we are reassured that there will be long-term thinking, but it would be great to see such thinking enshrined in the bill.

Peter Peacock: Let us consider that longer-term concept and the practical reality. Would it help your perspective on the problem and your financial investment in dealing with the issue, which is huge, if, for example, SEPA was under a duty to have a longer-term horizon and had to begin to put investment towards that? It is probably technically difficult to bind ministers to particular financial decisions at any point in time, but it would be possible to bind SEPA to having a view on investment needs. One can argue about that. Would such an approach give you greater reassurance that the deal that you have struck can continue?

Justin Jacobs: I think that it would. The more we can ensure that there will be longer-term

thinking, the more reassured we will be that continuing to offer flood insurance is sustainable.

Peter Peacock: I have questions on two specific matters. First, you touched on surface water management. The Government has set out stage 2 amendments in a letter. I presume that you have seen them.

Justin Jacobs: Yes.

Peter Peacock: Do they meet your surface water management requirements? Are they heading in the right direction or do they cover exactly what you want?

Justin Jacobs: They are heading in the right direction. I return to a point that the committee discussed with Scottish Water. The key issue will be how different funding streams are aligned so that they can be synchronised and we do not end up with a period of inactivity because one funding stream is out of sync and is not available to release funds.

Peter Peacock: Okay.

Secondly, I want to return to the extent to which a local authority will be under a duty to implement the plans that have been created. Local authorities will be under a duty to help to create the plans, but if they did not implement them and flooding occurred, would they have an increased risk of being legally pursued and sued?

11:45

Justin Jacobs: It is not clear in the bill how the flood risk plans that SEPA produces will relate to the ones that local authorities produce and how it will be ensured that they complement rather than contradict one another. It is also not clear how the bill will ensure that local authorities implement the plans. Perhaps there is a role for SEPA or the Scottish Government in that, or perhaps local authorities should be compelled to publish a report on what they are doing so that the population at large can judge them on that. That is the situation that we would rather have, as we want to avoid talk about legal liabilities and pursuing people. That is a sign of failure and it is not what we want to create.

Peter Peacock: I completely agree with that but, given that the world is not always like that, will the bill result in an increased risk of councils being sued if they do not implement all aspects of the agreed plan and things go wrong?

Justin Jacobs: It is a statement of fact that the clearer a legal responsibility is, the clearer the potential liability is if the responsibility is not carried out.

The Convener: Liam McArthur has questions about coastal flood risk.

Liam McArthur: Colleagues will probably come in with more substantive questions. One concern for me in the Orkney context, which is probably reflected elsewhere, is that the information on tidal flows and, therefore, on the risk and impact of coastal flooding, is perhaps not as sophisticated or as detailed as it might be. Obviously, insurers need to factor in that information in assessing risk and setting premiums. Have you expressed that concern to the Government or SEPA? Should the information be tightened up?

Justin Jacobs: The general point is that the more uncertainty and potential risk there is, inevitably, the higher the premium will be. It is difficult to know the risk, so we have to set prices on that basis. We are reasonably confident that the provisions on starting to map out the risk in more detail will help to clarify the situation. The issue for us will then be how we can access that information in a way that will allow us to reflect it in premiums.

Liam McArthur: In my local experience, the ABI has been more comfortable than SEPA has with assessments of risks to development in particular areas. Do you have access to information and intelligence on flood risk to which SEPA does not have access? If so, could you helpfully share that information with SEPA?

Justin Jacobs: We do not have access to better flood risk information. Individual insurers have their flood claims data, which may provide them with additional experience on which to base their rates. We have said to SEPA and other bodies in the UK that we are happy to discuss whether we could usefully share data with them to inform their understanding of flood risk. There may be the usual practical or legal hurdles to that, but we want to have those discussions and would enter them in a positive frame of mind.

Liam McArthur: That is very helpful.

John Scott: On dissemination of information to your customers, your written submission raises concerns about SEPA passing on flood risk warnings. Will you discuss that and say what you think could be done to improve that?

Justin Jacobs: Generally, we welcome flood warning measures because they help people to prepare and to take last-minute measures to protect themselves and their homes. Some insurers are beginning to be proactive on that. If they know that a major flood is coming and their customers will be affected, they make outbound calls to warn them. The companies play a role in providing advice about personal safety and how to protect valuables. However, I do not think that we have any concerns about SEPA doing that.

Arthur Philp (Association of British Insurers): No—we do not.

The Convener: Do you ask your members to ensure that they provide practical information to customers who live in areas where there have been flooding issues, or is that left to the individual companies?

Justin Jacobs: It is more the latter. It is not our role to tell members to do that. However, it is in insurers' interests to ensure that customers who are at risk know what to do if that risk becomes a reality. When I got my home insurance recently, I received a leaflet telling me that the area has a high incidence of theft and setting out some measures that I could take. Similarly, if I was in a flood risk area, I might get a leaflet with five basic points to think about.

John Scott: The Scottish Government officials do not tell SEPA how that should be done, nor does the bill prescribe how it should be done. Are you none the less confident that SEPA will—whether out of the goodness of its heart or in the spirit of good practice—adequately disseminate the information to people who are likely to be flooded?

Justin Jacobs: I think that I misunderstood your previous question slightly. I thought that you were talking about when a flood is imminent.

John Scott: I was, but I suppose both—

The Convener: I am curious about both circumstances. When a flood is imminent, it might be too late to put in place some measures. However, such measures could be put in place in advance of an imminent flood in an area that has had issues with flooding before. There are two separate sets of advice: emergency advice and longer-standing advice.

Justin Jacobs: Increasingly, insurers issue both sets of advice but—as I said—I do not think that flood risk is sufficiently understood. We should explore further any ways in which SEPA could raise awareness of flood risk with our members: making that requirement for SEPA clear in the bill would be worth while.

Bill Wilson: On coastal flooding, are insurance premiums being affected by the debate over global warming? If so, how?

Justin Jacobs: That is a trend that is likely to develop, unless some of the impacts of global warming are managed effectively. Insurance works primarily on an annual contract basis. Therefore, the risk that might be present in 20 years will not necessarily affect the price today. However, we are worried about what will happen in 20 years if that risk is not managed. We do not want to be able to offer only prohibitively expensive insurance in 20 years, which is why we are doing a lot of work on the impact of climate change.

Bill Wilson: Is it likely that you might issue a warning to customers that you might not insure them five or 10 years down the line?

Justin Jacobs: We want to ensure that we never have to say that. That is part of the agreement on flooding that we are discussing with the Scottish Government. The Scottish Government is the first in the UK to consult on a climate change adaptation strategy, which we support. The idea of long-term strategies applies not only to flood risk, but to the other impacts of climate change.

The Convener: We have before us a petition that suggests that SPP7 is not being followed by some councils. As it happens, Jim Moodie from Fife Council clearly stated earlier in evidence that, if building is happening within a 5m above sea level contour line around the coast, that means that there must be councils that are simply ignoring the guidance, which substantiates the petitioner's view to an extent.

The Government has said that, in the light of the Flood Risk Management (Scotland) Bill, it will revise SPP7 and that, because of the problems we have talked about today, it will introduce further legislation in respect of planning processes. It does not have a timescale for that work, but it has made it clear that it does not think that it would be appropriate to use the bill as a vehicle for those changes.

Do you have concerns about whether the planning process will take flood risk into account in advance of any future legislative changes, or is that not something that has been a big issue for you?

Justin Jacobs: We think that SPP7 provides quite robust and tight planning guidance in relation to flood risk, so we are supportive of it. If it is not being followed, that is a concern, but we are not aware of that.

The Convener: You are not conscious that problems are arising because people are blatantly ignoring SPP7.

Justin Jacobs: That is not an issue that we are aware of.

Liam McArthur: I can offer a specific example of something that might be a problem. The local council in my constituency did not accept the recommendations of SEPA with regard to a particular development, and the matter was referred to ministers. The ministers passed it back to the council for approval, but the development had already passed the ABI threshold of risk. Clearly, however, SEPA continued to have concerns. SPP7 was at the heart of that matter. It could be argued that the local council was overriding or ignoring aspects of the guidance, but

ministers and the ABI seemed to be comfortable with that.

The Convener: You cannot be expected to answer on an individual case, Justin, but are you aware that that kind of thing happens?

Justin Jacobs: No. I am not entirely sure what you mean when you refer to the “ABI threshold”. However, next month, we will publish draft guidance for developers on how they can ensure that their future developments are insurable. In Scotland, that guidance will suggest that developers confirm that they have followed SPP7 and that SEPA is happy with the flood risk level. We are less concerned about SEPA’s opposition to a development on technical grounds—for example, if the developer did not do the right thing at the right point in the process—than we are about its opposition on the ground that there is a substantive flood risk.

The Convener: When will that draft guidance be available?

Justin Jacobs: It will be published either late this month or, more likely, next month. It will be UK-wide, and will take into account the various planning regimes.

The Convener: Could you ensure that the committee is on the distribution list for that?

Justin Jacobs: Of course.

The Convener: We have no further questions. I thank you both for coming along. You are getting out of the meeting a little bit earlier than you might have anticipated.

11:55

Meeting continued in private until 12:34.

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