

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 4 February 2009

Session 3

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

4th Meeting 2009, 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:

Dr Colin Clark (Convention of Scottish Local Authorities)

John Ferguson (Scottish Environment Protection Agency)

Iain Gulland (WRAP Scotland)

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment)

Kevin Philpott (Scottish Government Environmental Quality Directorate)

CLERK TO THE COMMITTEE

Peter McGrath

SENIOR ASSISTANT CLERK

Roz Wheeler

LOCATION

Committee Room 5

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 4 February 2009

[THE CONVENER opened the meeting at 10:00]

Subordinate Legislation

Rural Development Contracts (Rural Priorities) (Scotland) Amendment Regulations 2009 (SSI 2009/1)

Animal By-Products (Scotland) Amendment Regulations 2009 (SSI 2009/7)

Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2009 (SSI 2009/8)

The Convener (Roseanna Cunningham): Good morning and welcome to the meeting. I remind everybody, as I usually do, to get all their mobile phones, BlackBerrys and other bits of electronic equipment switched off or switched to non-receiving mode. We have received long-term apologies from Karen Gillon, who is still on maternity leave. I welcome Rhoda Grant, who is Karen's continuing substitute.

The main purpose of today's meeting is to take evidence on the waste reduction and recycling provisions in the Climate Change (Scotland) Bill, but we have one or two items to get out of the way first.

Under agenda item 1, we have three negative instruments to consider. There are comments from the Subordinate Legislation Committee on the Rural Development Contracts (Rural Priorities) (Scotland) Amendment Regulations 2009 (SSI 2009/1) and an extract of its report has been circulated to members as paper RAE/S3/09/4/4. No members have raised any points on the instruments and no motions to annul have been lodged. Do members agree not to make any recommendation in relation to the instruments?

Members indicated agreement.

Climate Change (Scotland) Bill: Stage 1

10:01

The Convener: Item 2 is evidence on waste reduction and recycling, which is included in the Climate Change (Scotland) Bill. We are the secondary committee on the bill and we are scrutinising the provisions on waste, forestry and muirburn. Today's evidence session is the second and final session on the waste provisions, which are contained in sections 52 to 61 of the bill.

I welcome the first panel of witnesses. We have John Ferguson, unit manager of sustainable energy and resources at the Scottish Environment Protection Agency; Iain Gulland, director of WRAP Scotland; and Dr Colin Clark, head of waste management at Highland Council.

Dr Colin Clark (Convention of Scottish Local Authorities): I am sorry to interrupt, convener, but I am here as chairman of the Convention of Scottish Local Authorities waste network, not as the head of waste management for Highland Council.

The Convener: Okay. That is duly noted.

SEPA's submission to the Scottish Government's consultation on waste provisions has been circulated to members as paper RAE/S3/09/4/6. We are not taking opening statements; we will go straight to questions. I think I am right in saying that Alasdair Morgan will open the questioning.

Alasdair Morgan (South of Scotland) (SNP): Dr Clark, does what you just said change anything that you were going to say today?

Dr Clark: No.

Alasdair Morgan: I have a question for WRAP Scotland. SEPA and Highland Council are probably more familiar to members. I notice from the website that WRAP is fully funded by Government. Mr Gulland, will you explain briefly what WRAP does and what its relationship with Government is?

Iain Gulland (WRAP Scotland): WRAP is a United Kingdom organisation that is funded by the four Governments—the UK Government, the Scottish Government, the Welsh Assembly Government and the Government of Northern Ireland. Our role is primarily as a delivery partner. We have now established our Scottish office, which I head up, to deliver a number of programmes to increase the amount of material that is recycled or reused—it is prevented from becoming waste. We work with a range of stakeholders, primarily households or businesses.

We look at opportunities for businesses to reduce the amount of waste that they produce.

We carry out market development exercises to look at what we can do here in Scotland with the material that is coming out of the waste stream, so that we turn it back into products that can be used or put it back into the supply chain. That might involve glass or plastics going back into producing glass and plastic bottles. We work with retailers throughout the UK to help them to reduce their impact in terms of packaging waste, and to minimise food waste in their supply chains and in the food that householders take home.

We tend to work right round what we call the resource efficiency loop. Waste prevention is our principle objective, working with businesses, consumers and the construction industry. We then look at where waste is produced, and the infrastructure for collection and recycling. We are very much involved in looking at the processing of waste materials for onward market development once they have been collected. Finally, we focus on market development, and primarily on considering the opportunities. WRAP Scotland is trying to address those opportunities in Scotland to make use of the materials and turn them into an economic benefit for our country.

Alasdair Morgan: Are any targets set for you, either internally or by Government?

Iain Gulland: We have targets. WRAP Scotland produced a business plan last year in partnership with the Scottish Government. Our target over the next three years—this year and the following two years—is to divert 600,000 tonnes of waste from landfill, which is equivalent to about 400,000 tonnes of carbon savings. That will include an economic benefit—there is potential for £18 million of savings for business if we divert those tonnes. With regard to market development opportunities, our target in economic terms is £20 million-worth of increased turnover.

Alasdair Morgan: Do all three witnesses think that zero waste, as defined—or as described—by the Scottish Government, is achievable?

Dr Clark: Zero waste is, in my view, an interpretation of the European waste hierarchy—no more and no less. The only difference between the waste hierarchy and zero waste happens to be the targets that the Scottish Government has set in relation to the zero-waste concept.

You asked whether zero waste is achievable. I think that pretty much anything is achievable if one tries hard enough. On the continent, Austria is probably the best performing nation at present—its percentage figures for recycling are in the mid-60s, and it has lots of energy from waste to deliver heat and power.

We are looking at a 17-year timeframe to reach a target of 70 per cent. It is not unachievable, although it will be very difficult to achieve, if we consider the maths. I do not necessarily agree with the current interpretation of the 70, 25 and 5 per cent targets, but COSLA hopes to discuss that with the Scottish Government in due course.

Alasdair Morgan: Is that the 25 per cent energy-from-waste target?

Dr Clark: Yes.

Iain Gulland: I think that it is achievable. We are much more aware now of what is achievable in a technological sense. When I got involved in waste management more than 15 years ago, there was an arbitrary idea that we could recycle only 50 per cent within the waste stream. There is growing evidence that more than 90 per cent of what is in the waste stream can be recycled, so we need to focus on the remaining smaller percentage. Throughout the world, it is evident that other nations and provinces are working towards zero waste, as they know that it is now technically possible to achieve that.

Increasing recycling in the European states is, as Colin Clark said, a long-term vision and a journey, but we can now view it as something that can be achieved. There will be many years of issues for us to overcome, but it is technically possible to get to zero waste.

John Ferguson (Scottish Environment Protection Agency): Zero waste is a difficult concept to pin down and define, and there is a lot of variability throughout the world in how people interpret it. It is a good aspirational environment to work in, with regard to trying to derive value from all materials. One could say that waste consists simply of certain materials in the wrong place at the wrong time, with a different economic perspective taken on their value.

Waste management is really about materials management, and about recognising that materials flow through the economy for a range of reasons. Waste is simply a different kind of material in terms of its economic utility. We have to focus on waste more as its component materials, rather than as the complex mix of materials that we tend to deal with in relation to mixed municipal waste or mixed commercial and industrial waste. We can derive value from that through the recovery of materials or the production of energy—those are the two major products. In trying to derive that value, we must understand how the system operates and how we can make it more efficient.

Zero waste is a good aspiration and it helps us to focus on deriving value from all materials, which is important in an increasingly globalised economy, notwithstanding the current economic

difficulties. There is increasing resource pressure—our economy needs resources in order to manufacture—and we must be clear about the resources that are critical to the Scottish economy. Therefore, a strong focus on material value recovery under the auspices of a zero-waste aspiration is a good thing.

Alasdair Morgan: Dr Clark said that a potential 25 per cent limit on the proportion of energy that can be produced from waste might make a zero-waste economy more difficult to attain. Do you agree?

John Ferguson: Sorry, could you repeat that?

Alasdair Morgan: Dr Clark said that the Government's idea of a cap of 25 per cent on the proportion of energy that can be produced from waste would make zero waste—however we define that idea—much more difficult to attain. Do you think that that is the case?

John Ferguson: No, I do not, personally. The cap is quite a smart instrument that recognises public concern about incineration. There is an argument that, in burning mixed waste, we waste raw materials that have no energy value but which have an economic utility as materials. The cap helps us to focus on the need to push prevention, to drive waste out of systems and to recycle more. Pragmatically, it helps us to recognise that, if we have a need for energy recovery, we should focus that energy recovery on appropriate types of waste—those that have an energy value—to displace fossil fuel in the system. I think that the cap is quite a good idea.

Iain Gulland: There is obviously an argument about the compatibility of producing energy from waste and the achievement of zero waste. If we do not have any waste, we cannot get any energy from it. As to how it fits into the strategy, we are on a journey to eradicate waste in Scotland and, as John Ferguson says, it is about minimising the use of resources at source. Does the production of energy from waste have a part to play in that? I am not sure.

The Convener: Perhaps Dr Clark would like to elaborate on his concerns in respect of the 25 per cent cap.

Dr Clark: I do not have too many concerns, but I think that the cap is too prescriptive. I am not advocating that Scotland should move from landfill to incineration. However, Highland Council is running a trial on the Black Isle whereby we have achieved 70 per cent diversion from the kerbside in a very small and specialised trial. I want to use the waste hierarchy to achieve zero waste, but I recognise a pragmatic argument for producing energy from waste.

The situation may be different in different parts of the country, and stating that 25 per cent is the absolute maximum proportion of energy that we should produce from waste is a bit too dogmatic for my liking. Increasing that figure a little bit when it is economically and environmentally appropriate would give Scotland a degree of leeway in meeting its targets and would not diminish the aspiration to achieve a recycling rate of 70 per cent. When energy is produced from waste, material from the front end—metals and so on—is diverted back into the recycling bag and the ash at the back end can be used for road construction and so on. Essentially, that material is recycled in a rounded, integrated process. Saying that only 25 per cent of energy should be produced from waste is a bit too dogmatic for Scotland.

The Convener: It is not the principle of the cap that you object to; it is simply where it is placed.

Dr Clark: It is the principle of the cap.

The Convener: So, you do not want any cap.

Dr Clark: I can see the value in having a cap, but a range would be more appropriate.

10:15

John Scott (Ayr) (Con): May I help you? Might it be because the cap has been set arbitrarily and it is the flexibility in and around that figure—

The Convener: Before we jump to the conclusion that the cap is arbitrary, it would be interesting to discover the basis on which it was set.

Dr Clark: If the 25 per cent cap were set arbitrarily, I would be concerned.

Bill Wilson (West of Scotland) (SNP): It has been suggested that a large level of incineration tends to take materials away from other recycling uses, thereby reducing the potential for recycling. You are not concerned about that, which I suspect is related to the cap.

Dr Clark: The evidence from Europe contradicts that, especially those nations that have been getting to grips with recycling over the past two and a half decades. The problem in Scotland, and in the UK, is that we are so far behind our major competitors and colleagues in Europe. They have been through what we are going through now and they have achieved 50 to 60 per cent recycling targets. They also have an integrated network of energy-from-waste plants that provide heat and electricity to their communities on an integrated basis. I am concerned that I am starting to be labelled as the energy-from-waste man—I do not want that. I am devoted to recycling, but more important, to waste prevention. EFW in the UK has

had a bad press for historical reasons that are fairly easy to explain.

Rhoda Grant (Highlands and Islands) (Lab): What are your views on the capacity of the current waste infrastructure?

Dr Clark: We have not got much of a waste infrastructure, quite frankly. Up until 2003-04, which was the point at which the strategic waste fund took off, we were married to landfill. We are slowly making the move away from landfill, but as I said previously, it has taken a very long time to do that and it will continue to take many years to get an integrated infrastructure that can deliver what we need. We are a long way from that.

We are short of pretty much every tool that we need to divert waste from landfill. One of the problems with the recycle market in Scotland, as far as COSLA is concerned, is that there are few materials recycling facilities here and very few in the hands of local authorities. All the recycle in Scotland is funnelled through very few MRFs.

The Convener: What are MRFs?

Dr Clark: Materials recycling facilities—people who have to use them to divert waste can be held to ransom. We have a considerable way to go. We need EFW, in-vessel composters, materials recycling facilities and possibly anaerobic digesters. We need the full panoply, but we do not have it at the moment.

John Ferguson: The early focus on recycling from 2003 was a good thing, because it allowed us to make major progress rather than focus on the post-recycling residual treatment systems that we needed.

I would have preferred it if we had started to make progress on building infrastructure perhaps two years ago; we are a little behind the game now. However, the Scottish Government is strongly focused on the need for the new infrastructure that Colin Clark identified. The rate at which the infrastructure will have to be developed is a challenge to the planning system.

One of the top 10 significant risks of the past 10 years has been the planning system's ability to deliver land use decisions for infrastructure development. However, there is a significant opportunity for investment in building capital infrastructure during the economic downturn. We need that infrastructure for the long term and it is probably coming at a good time to help to drive economic stimulation. That has been the risk, but if we can get going and make investments in the right way, we have an opportunity. Colin Clark is absolutely right that we need that infrastructure urgently.

Iain Gulland: We at WRAP are working to develop the waste infrastructure in Scotland. The

focus of our business plan is to support the development of local authority and private sector collection infrastructures for householders and small and medium-sized enterprises. We work alongside businesses that are interested in developing recycling collection services.

We are engaged in a number of capital grant projects in partnership with the Government, which is putting up money to invest in infrastructure, particularly for anaerobic digestion and in-vessel composting to meet the needs of the requirement to take food waste out of the waste stream. Recently, the cabinet secretary made an announcement about a £5 million investment in plastics processing in Scotland. A lot is on the table to be taken forward to meet the needs of the zero-waste strategy. It is happening; there is activity on the ground.

Private investment is needed, as well as public sector and community sector investment. We are involved in a partnership project with the Community Recycling Network for Scotland to deliver funding for infrastructure that is being run by the community sector. A lot is happening with regard to meeting the needs of the strategy, but it takes time to get some of the kit on the ground. There are planning and investment issues when we look for private sector investment to match the funding that the Government has made available. We face challenges, but we are actively involved in the delivery of the infrastructure.

Rhoda Grant: Last week we heard evidence from small businesses that are concerned about their place in the process. Domestic waste is recycled by councils, and large companies have the ability to do their own recycling, but no one has considered how the waste could be collected from small businesses.

Iain Gulland: A couple of years ago, our organisation ran a programme to develop small business recycling facilities. We ran a number of pilots and invested in collection infrastructure across the UK, including some facilities in Scotland. The aim was to show that it could be done, and to learn best practice so that we could create a toolkit or best practice guide that we could make available to other businesses.

The problem is that other businesses or local authorities need to come forward to say that they want to run such services and to look at the economics of doing so. We continue to work with businesses, but we do not have a specific programme for that at the moment. We ran our programme for a couple of years, and we might consider running it again. I am well aware that the issue has never been addressed properly, and that there are geographical problems with businesses that are located in remote areas in the Highlands, for example, and which cannot access

recycling services. They rely on the local authority to do recycling—Colin Clark can answer that question

The Convener: I will decide who answers questions.

Iain Gulland: I am sorry, convener.

We continue to work with businesses that are interested in developing collection infrastructure for SMEs. We provide them with as much support as we can, and with little bits of funding where required, but it is about finding the entrepreneurs out there who want to progress such services.

The Convener: We need to make progress.

Elaine Murray (Dumfries) (Lab): Last week, we discussed the revised European waste framework, which introduces a hierarchy. Total prevention of waste is the most desirable; disposal is the least desirable.

The bill is written in terms of recycling, including reuse and recovery. The minister has argued that that is really for convenience of drafting, and it will not prevent the introduction of the requirements of the European Union directive. On the other hand, Dirk Hazell from the Scottish Environmental Services Association expressed concern that that was a way of dodging the difficult discussions around energy recovery, and that, within the terms of the bill, burning paper and plastics that could have another use would be rated the same as, for example, anaerobic digestion, which means removing methane produced by organic materials from the atmosphere. Will the different definitions have an impact? Are you concerned that the bill does not seem to recognise those differences?

John Ferguson: The term “recycling” is used as a de facto replacement for the hierarchy, so I do not think that the bill implies that the hierarchy is not important. The bill also has a strong focus on waste prevention and waste minimisation powers.

I am not quite sure where Dirk Hazell’s concerns came from. Perhaps he was more concerned that there was not a stronger focus on the role of energy from waste, given that the Environmental Services Association that he represents has a large number of members that are interested in incineration, particularly in England and Wales. I think that the perspective that he brought to that discussion did not accurately reflect the true meaning of the Scottish bill.

Iain Gulland: To be honest, it stands out that the bill includes energy recovery under the auspices of recycling, whereas the waste framework directive makes a clear delineation. Arguably, it would be better to clarify that so that the two pieces of legislation are aligned. However, I thought the opposite from Dirk Hazell, who seemed to me to be almost arguing against

himself. If his industry wants to present energy recovery as part of the solution to climate change, he probably should not have highlighted that issue. That is my personal view, not the view of WRAP. However, I can certainly see his point. I am not a legal expert on how bills and directives are written, but I can see that some clarity on the definitions would be useful.

Dr Clark: If the parliamentary draftsmen and the Parliament’s lawyers are happy and content that the provisions cannot be misconstrued in a legal sense, I think that I am happy with the wording. I used to deal with regulation and so forth many years ago, so I tend to like acts and regulations to state explicitly what they mean in some depth so that there is clarity for everyone. The more that interpretation is permitted, the more likely it is that there will be far more interpretation than people might have wanted.

The Convener: I advise members that I do not want to spend the next 15 minutes talking about the drafting of bits and pieces of language.

Elaine Murray: The point that I want to follow up with Dr Clark is that the previous emphasis on the prevention of landfill, which was stimulated by the landfill tax and so on, resulted in local authorities having a variety of different approaches across Scotland. Some local authorities went for recycling and reuse, whereas others went for energy recovery. In terms of the hierarchy, will those local authorities that chose a different path now face a problem, given that under the hierarchy some methods are more desirable than others? Might that present a difficulty for local authorities?

Dr Clark: Individual authorities that have invested in a particular technology to a larger extent than the targets would now suggest is wise might have some problems.

However, on waste prevention, local authorities are pretty limited in what they can actually achieve. The tools that local authorities can apply to prevent householders and communities from generating waste in the first place are pretty limited, to be perfectly honest, despite the panoply of tools—some of which are included in the bill—that are available. If the crude question is whether local authorities can significantly prevent waste from arising by means other than the promotion of waste awareness, the answer is that we are pretty limited in what we can do.

On reuse, we can do something. However, in our operations in Highland—to use that just as an example—the proportion of waste that we can refurbish, repair and reuse is actually quite small in comparison with the whole.

10:30

Peter Peacock (Highlands and Islands) (Lab): Sections 52 to 59 provide for an extensive suite of eight key powers that ministers could use to take future action in secondary legislation. At last week's meeting, one witness said that they were entirely relaxed about that approach, but others expressed concerns about it, one of which was that it would be better to specify the powers in question in the bill than it would be to wait for secondary legislation. Another view was that the future use of the truncated procedure of a statutory instrument was not the right way to enact such significant powers, and that it would be far better to deal with them in primary legislation. Do you have views about the advantages or disadvantages of using secondary legislation? The bill will give ministers a suite of powers to take action in the future.

Iain Gulland: I am not an expert on that but, at the moment, we are quite comfortable with the proposed approach. We are talking about enabling legislation. As part of its zero-waste policy, the Scottish Government has, as we have seen, set out some extremely ambitious targets that will be challenging to meet. The bill is challenging, too, and sets out a clear direction for Scotland. The enabling provisions do the same. They set out the course that we are on and the issues that are being thought about, and enable the Government to reserve the right to come back with more specific legislation.

It is clear that some issues are still being worked on, so it is not a case of saying, "Let's sit back and see what happens." My organisation is working on a range of areas to do with the bill. We are working with retailers, businesses and the packaging industry, and we are looking at recycling on the go. There is a lot going on. There is a sense that we have turned a corner on resources, not just in Scotland, but on a global scale.

Following the Stern report, businesses and individuals are waking up and looking to see what they can do. They want to come together. Our work with the retailers on the Courtauld commitment has shown that people from quite a diverse sector can get round the table, examine the challenges that their sector faces and start to work out some of their objectives and the journey that they need to go on as an industry. Enabling legislation helps that along. It is almost a way of nudging people in the right direction and keeping them on track. It lets them know that the Government is thinking about such issues, is keen to take action and wants to work with people, but that, ultimately, it can introduce specific secondary legislation if it does not think that progress is being made quickly enough.

John Ferguson: In an ideal world, a Scottish waste management bill would have been a better vehicle, but we do not live in an ideal world. There is significant pressure on parliamentary timetables. The pragmatic decision was taken to use the Climate Change (Scotland) Bill as a carrier bill. It does something extremely useful in that it links waste to climate change, the connection between which is strong. In addition, it gives us the flexibility to define secondary legislation according to a separate timetable, as and when we need it.

I have some issues with specific measures, which we might come to in later questioning, although we made the relevant points in our consultation response.

The Convener: We have 27 minutes left, so I am not sure that we will have time for that.

Would you like to respond, Dr Clark?

Dr Clark: Just briefly. I pretty much concur with my colleagues. I would be heartened to see new waste legislation in any way, shape or form, as it is long overdue. However, I would prefer a root-and-branch review of all waste legislation to be carried as soon as possible.

Peter Peacock: Thanks for your comments. Given what you have said about the relative priority that should be attached to the various provisions in sections 52 to 59, are there one or two areas on which you would like progress to be made first?

Dr Clark: Yes. I could talk about that for ages.

The Convener: Don't!

Dr Clark: I will not. I have concerns about most of those areas, but there are two that I think we should get motoring on as quickly as possible. My first priority relates to the information on waste. The municipal waste data are excellent, because the concentration has been on municipal waste, of which there is less than 4 million tonnes in Scotland. Commercial and industrial waste has been left to blow in the wind, frankly.

The Convener: Literally.

Dr Clark: Aye, literally. Commercial and industrial waste should have been tackled a long time ago. We need good-quality data on that. Perhaps I should not say that we need to force it to go down the same road as municipal waste, but "force" may be the right term.

My other priority is procurement of equipment and apparatus that contain some recycled material. There is no reason why the public sector generally should not procure in that way.

John Ferguson: I agree strongly with my colleagues' view that the procurement process could be used to significantly greater effect and

that having data is essential. In addition, deposit-and-return powers should be extended beyond packaging because that type of instrument engages the consumer more. I am concerned that there is no incentive to collect products such as fluorescent light bulbs, which will come into the waste stream in millions. That type of problem waste is hazardous and will put a lot of mercury into landfill sites. A lot of embedded plastic, electronic material, glass and chemicals can be recovered. We need to stimulate the public's engagement with recovery systems. In that respect, I would extend deposit-and-return powers to encourage the public to take more responsibility by paying for something that they then return.

Elaine Murray: I have a question on how the provisions should be enforced. What will be the impact on SEPA in particular of having to undertake additional duties when the Flood Risk Management (Scotland) Bill and the Climate Change (Scotland) Bill are eventually enacted? There may also be an impact, though a lesser one, on local authorities in that regard.

John Ferguson: As you know, SEPA has a primary responsibility as a regulator and data collector. SEPA's responsibility for the waste strategy in Scotland started in 1996, when it was established. It had that responsibility until a couple of years ago, when the powers switched to ministers. We published the national waste plan in 2003, so we have a legacy of engagement and staff competence in waste strategy issues. Those people are used more frequently in the regulatory framework to improve how we regulate. SEPA's better waste regulation project is closely aligned to the review of the national waste plan to ensure that we regulate in accordance with the objectives and targets that are set by Scottish ministers. We engage and work closely with the Scottish Government and its officials to ensure that our regulatory functions dovetail closely with wider waste objectives in Scotland.

Dr Clark: When I read through the briefing papers, the enforcement bit caught my eye. Every paragraph suggested that significant enforcement duties were likely, which concerns me somewhat. The suggestions about how many hours it would take to enforce duties are wildly optimistic. Anybody who has had to take a case to procurators fiscal under the current criminal environmental law will know that it is difficult to get them to take such cases. I shudder to think what a procurator fiscal will think if cases concerning the enforcement duties start to roll in, given the length of time that it might take to get to court and what might happen in court. I am concerned about that aspect, even though I quite like enforcement.

The Convener: So enforcement is all very well if it can be done, which depends on its nature.

John Ferguson: There is a strong emphasis in the bill on voluntary engagement and producer responsibility initiatives, which is a good way to go. We should say to industry sectors in particular that, if they come up with solutions, there will not be a regulatory environment. It is wise to have a primary process of voluntary engagement, which obviates the need for strong regulatory enforcement. Ultimately, however, we must have a sanction if we want to change things.

Liam McArthur (Orkney) (LD): There was some disagreement among local authorities that responded to the consultation over whether new statutory powers were required or whether voluntary agreements were a more useful vehicle for achieving improvements in recycling rates. Can or should the Government introduce other positive instruments to improve rates? There is debate over whether this is the best of times or the worst of times in which to take forward the waste agenda but, from your evidence, I detect the view that it is the best of times. You indicate that there is a mood to derive more value from waste and that we have an opportunity to put in place the necessary infrastructure—something that has lagged until now. However, a robust market for recycled materials is needed if that is to happen. What are your observations on the state of the market? What is likely to happen over the next couple of years or so?

Iain Gulland: There is a lot in those questions. Colin Clark alluded to the fact that there has been a drop in the overall price that is paid for recyclates that are collected in the UK and across the globe. That is due primarily to the bite of the recession. However, although markets are at a low level, they are stabilising. Material is still moving from Scotland to those markets, some of which are in the far east and some of which are here in the UK.

I am not in a position to forecast what the situation will be in future, but stability is key. The prices that people received for materials six months ago were very high—some would say unsustainably high—and a fall in the prices of those commodities was due. However, the materials still have a value. There is certainly an environmental value to taking them out of the waste stream, as part of the climate change agenda, whereas a liability is associated with putting them into landfill. We can still get value from them by using them to produce energy from waste, through incineration. There is still an economic model for waste; the majority of processing industries in the UK have been able to adjust to the situation.

The Convener: I do not mean to be rude, but you talk a lot about the UK. However, it would be a fundamental issue for all of us if we thought that

we were shipping stuff hundreds of miles to somewhere else. Can we think about recycling in the context of Scotland, rather than the UK market?

Iain Gulland: The problem has been that in Scotland there is a limited market for materials, apart from glass and organics. The majority of our paper leaves Scotland and goes to other parts of the UK and abroad. I refer to the UK because that is the market. Even now, our home-grown market is not as large as we would like it to be.

The Convener: So developing a market more locally is an issue.

Iain Gulland: Exactly. WRAP Scotland is keen to develop such a market—that is our focus. It is a bit like all the other issues that relate to climate change. If we can be more self-sufficient, we will be much more resilient as a nation in situations like the global downturn that we are now experiencing. If such a downturn were to happen again—hopefully, we will have many hundreds of years in front of us before it does—we would be much more resilient if we could deal with matters in this country. That is what we are trying to do, by building up markets for waste.

In the current situation, there is a huge opportunity. I have been in my job for seven months, but it has changed radically in that time, simply because of what has happened in the markets. When I met people seven months ago to talk about market development, they were interested in this country but, as long as the Chinese were paying high prices, materials were going straight from local authorities, through brokers, to the far east. It was difficult for Scottish industries to gain a foothold in the marketplace, because they could not compete. Now the markets are depressed and the Chinese are no longer offering the same prices—that is basic economics—so there is a great opportunity for us to build an industry in Scotland for the future.

I turn to the issue of waste savings. During the boom, industry focused on profit, but now it is focusing on the bottom line. Resource efficiency is about the bottom line as well as the environment—it is about savings. We are working hand in hand with the construction industry in Scotland, which is keen to attend meetings and seminars to hear about resource efficiency and how to minimise waste, simply because that is about savings. Anything that can impact on its bottom line is significant at the moment. The construction industry is engaged in the process, as are many other industries. This is an excellent time to build the resource-efficient economy that we are looking for in Scotland.

10:45

John Ferguson: The issue is cyclical; we have had it before and we will have it again. The previous comment was on infrastructure. We need to be flexible in our infrastructure. For example, when the recycling markets for paper fall, we should be able to displace into energy markets.

We need more indigenous markets, because we have the potential for economic development. That dovetails well with the emerging work that we are doing with Scottish Enterprise on developing in the environmental technology sector. Waste is a strong element of that wide and diverse sector.

To stimulate more recycling, I think that we are going to have to bite the bullet of charging the public for their waste. It is a complex issue. I would not call it direct variable charging; I would call it direct variable savings. I would incentivise the public to save money. In most countries in Europe, charging works well to drive recycling rates up. I know that it is unpopular, but it is important.

The Convener: That can work only where it is possible to uplift the material, but there are huge parts of Scotland where physical reasons prevent that.

John Ferguson: It is horses for courses. Instruments can be designed to work in different ways in different geographies and different socioeconomic areas. Europe has rural areas too.

The Convener: Perhaps Dr Clark will come in on this point. I can speak from experience of Perth and Kinross Council, which cannot uplift separated waste from 10,000 households. The areas where the houses are cannot physically be accessed—I know, because I live in one of them. As a result, there is undifferentiated waste. You could not fine those households.

John Ferguson: Agreed.

The Convener: I wonder whether Dr Clark will comment. My guess is that the problem is much greater in the Highlands and Islands than it is in a place such as Perth and Kinross.

Dr Clark: I am not an advocate of pay-as-you-throw, for a whole raft of reasons.

The Convener: There are too many areas in which to throw at 2 o'clock in the morning, without paying.

Dr Clark: I make no criticism of my colleagues, but the debate constantly comes back to municipal waste—the stuff that local authorities pick up. As I have said before, that amounts to less than 4 million tonnes. That includes commercial waste, which is a whole other debate. A huge rump of commercial waste just gets landfilled. It is outwith the context of the landfill directive, but if I landfill it, I am subject to that directive.

I want to respond to issues that Mr McArthur raised. Recycling to high levels takes more than infrastructure; it also takes time. If we created all the infrastructure tomorrow, we would not immediately get 60 or 70 per cent recycling. It takes time. Europe has taken that time, but we decided to ignore completely the landfill diversion debate until only a very few years ago. That is partly why we are now rushing to get infrastructure. Recycling has come to the fore partly because the Chinese and other markets have closed off.

Because we have been in such a rush, we have often gone for the cheapest options. As a result, the quality of the recyclate that we have collected has perhaps not been all that it should have been. Those are self-inflicted wounds. What we started five years ago, Europe started 30 years ago. We have to play catch-up, because of the landfill directive—particularly, the landfill directive targets for 2013.

John Scott: A moment ago, the convener mentioned the possibility of Scotland taking a different approach from that of the United Kingdom. Would the witnesses care to talk a little more about that?

The Convener: Is there a difference between Scotland and the rest of the UK in terms of waste reduction? If so, what is it?

Iain Gulland: The situation is the same—the challenges are the same. Householders in England and in Scotland are all trying to reduce waste.

The Convener: If everybody is trying to achieve the same aim, is avoiding divergence important? Given where we start from, is that possible? Does Scotland diverge from the rest of the UK? Do Scotland and the rest of the UK diverge from the rest of the EU? The issue is different approaches.

Iain Gulland: The targets in Scotland are higher, but that is not a problem—Scotland is leading on that in the UK. Other people in the UK and Europe are looking at that. Somebody must lead and push the envelope.

The Convener: I am sorry—perhaps we are not framing the questions in the right way. Having different approaches opens up the possibility of folk saying, “It’s easier for us if we ship our stuff off to them.” That raises cross-border issues, particularly for people such as Elaine Murray, who represents a constituency that borders England. If we have a different set-up from England, whoever has the more attractive set-up might be inundated. That goes, too, for the whole of the EU.

Iain Gulland: Yes—I guess that that is an issue. It is obvious that retailers that operate throughout the UK look for UK-level agreements. If they

aspire to achieve targets, they want what they are asked to do in England, Scotland and Wales to be similar. It is beneficial to have a common approach. However, it is encouraging that Scotland has set higher objectives, to try to bring England or other parts of the UK up to its level, with the support of retailers.

The opposite is also true. As far as I know, waste from Northern Ireland is still coming into Scotland, because landfill is cheaper here than it is there. Such activity is happening already. There are issues that need to be considered.

The Convener: What about the EU scenario? The same issue applies to the whole of the EU.

Iain Gulland: Absolutely. However, recycling is undertaken for economic and environmental reasons, which means that distances are important. It is not economic or environmental to truck organic waste over long distances or even out of Scotland—that defeats the purpose. The drivers for recycling are not just costs but sustainability and climate change. People will not be allowed to drive materials all over the country, because that will not add up for the climate.

The Convener: What does

“People will not be allowed”

mean? I am not sure how people will be prevented from doing what you describe. That takes us back to the enforcement issue.

Iain Gulland: Forcing people is not the way to proceed. If we are challenging people to buy locally and ethically and thinking about such things as ecological clauses in public procurement, that will drive people to think of local solutions and local pragmatic approaches to doing stuff. That will swing the pendulum away from people trucking green waste all over the country simply because that is the most economic way to operate, which I do not think that it will be, given the cost of petrol and diesel.

John Ferguson: Cross-border consistency is important, but it is not a reason not to do things differently, when that is justified. The transboundary movement of waste is carefully regulated by legislation. As Iain Gulland said, moving waste involves a cost. Increasingly, that cost pressure will reduce the movement of waste over illogical distances.

The Convener: We have had no difficulty in shipping material to China.

John Ferguson: Let us be clear. If we are to import China’s goods, China needs the raw materials to produce those goods, but I am not talking specifically about China. The trade in goods is international, as is the trade in raw materials. That is not to say that we should not try

to develop indigenous markets and economic development potential and to manufacture more in this country, but trade in goods is international, as are commodity movements. We must recognise that reality of the globalised economy.

The Convener: We have a couple of minutes left. We have talked about differences between countries. Equally, differences exist between local authorities, so I have a question for Dr Clark. Does COSLA have a view on the impact of differences between local authority recycling collection schemes? Has COSLA discussed introducing consistency across local authority boundaries? We have talked about consistency across legislative boundaries, but starting with local authority boundaries might be useful.

Dr Clark: You are right that there is not a great deal of consistency in how local authorities collect waste, what they collect and the frequency with which they collect. The reasons for that are historical—different local authorities started off at different points. Some have been recycling for years, whereas others have not been doing it for very long. Some authorities had facilities to start with, whereas some had no infrastructure and had to scrape it together quickly to put recycling services in place. However, I am not particularly concerned about how the waste is physically collected, because that is not the critical point in the process. I return to my earlier point about infrastructure. The critical issues arise once we have collected the waste: what are we going to do with it and where are we going to do it? We still do not have the necessary infrastructure, although that is understandable because we have just started.

Iain Gulland talked about local infrastructure. He knows that grass, other green waste and food waste are being chucked throughout Scotland because there is little in the way of infrastructure for in-vessel composting and other measures. We have a fair old way to travel to make the infrastructure local. However, I emphasise that we have a real opportunity—

The Convener: Are discussions on-going in COSLA about consistency across boundaries, or is that conversation just not being had?

Dr Clark: A conversation is taking place between officers. We know what everybody is doing and we can tap into that. For example, if a new collection service for tenements needs to be set up, we know who is doing that and we know the problems and attractions of the various systems. However, there is not a conversation about a one-size-fits-all approach for all local authorities.

The Convener: I have a quick question for all three witnesses. If you could put one more

measure in the bill, what would it be? Is there anything that is not in the bill that you think should be in it?

John Ferguson: We should ban sending biomass from commercial and industrial waste to landfill.

Dr Clark: We should make commercial waste subject to the same legislative requirements as those to which municipal waste is subject.

Iain Gulland: My immediate reaction was to think along the same lines as John Ferguson. We should consider banning particular waste streams from going to landfill.

The Convener: I thank all three witnesses. We probably could have taken three times as long but, unfortunately, the timetable for stage 1 does not permit us to do that. If anything occurs to you when you go away, you can get in touch with us. The clerks are always happy to hear from witnesses even after they have given evidence. Equally, if anything occurs to us, we might get back to you and say, "We should have asked you this", so be prepared for that. You are welcome to sit in the public gallery to listen to the next evidence, which will be from the Cabinet Secretary for Rural Affairs and the Environment.

I welcome, 15 seconds ahead of schedule, the second panel of witnesses: Richard Lochhead, the Cabinet Secretary for Rural Affairs and the Environment; Simon Stockwell, the waste strategy team leader; Kim Fellows, the deputy director for waste and pollution reduction; and Kevin Philpott, the waste regulation senior policy officer. Is Louise Miller coming?

11:00

Kevin Philpott (Scottish Government Environmental Quality Directorate): We think that she is, but she does not appear to have arrived yet.

The Convener: So she may show up—okay, there is no problem.

There is a letter from the cabinet secretary on the table, which members received this morning. We will move straight to questions for the cabinet secretary.

John Scott: Good morning, cabinet secretary. What progress is being made in reviewing the national waste plan?

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): It is a pleasure to be here to discuss an important issue for the environment in Scotland.

We are making progress with the national waste plan. The provisions that we will discuss today are

just one piece of a much bigger jigsaw in tackling waste and protecting Scotland's resources. Much of the other work that we are undertaking will be taken forward in the national waste plan. We will launch a consultation in June, and we hope to have the final version of the new plan by early next year. The steering group that will help us with that plan will meet on 12 February to work up the consultation document.

John Scott: What is your response to concerns that the current waste infrastructure will not support the implementation of a zero-waste policy?

Richard Lochhead: A zero-waste policy is an ambitious policy. It is also an aspiration. Since we announced our zero-waste policy, it has attracted support from local authorities and private sector organisations throughout Scotland, as well as from members across the Parliament. Such an ambitious aspiration requires infrastructure to be in place for recycling, recovery and other measures, and a lot more infrastructure will be required if we are to meet our zero-waste target in the coming years. We have some infrastructure in Scotland, but we have nowhere near enough to meet our targets for 2013 and beyond. We are addressing that in our discussions with local authorities.

John Scott: How do you propose to deliver the greater volume of infrastructure that will undoubtedly be needed?

Richard Lochhead: Many local authorities are working on their infrastructure plans for the future. As zero waste is also an economic opportunity, there are private sector proposals for facilities that are either being built or proposed for various parts of Scotland. It is an issue for both the public and the private sector.

We have allocated part of our zero-waste fund to local authorities to help them with their infrastructure plans, which many of them are working on just now, and we will allocate more resources for that in the next financial year. We are also discussing with COSLA how we can ensure that that funding is used for infrastructure.

Rhoda Grant: Concerns have been raised with us about waste from small businesses—not so much municipal waste as waste from the private sector. The infrastructure to deal with that waste does not appear to be in place, especially for small businesses that cannot deal with it themselves. What plans does the Government have to address that? Does it have a vision?

Richard Lochhead: As you know, local authorities currently take a lot of commercial waste; there are private sector routes for commercial waste, too.

We have to address the issue from two angles. First, we have to work with businesses to reduce the amount of waste that they produce, which I am sure we would all agree is the number 1 priority in the waste hierarchy. It is in their economic interests as well as their environmental interests for businesses to do more in that regard.

Secondly, on infrastructure, we have listened carefully to the submissions to our consultation on the bill and to the evidence given to the committee by small business representatives, and I am considering how we can help small businesses with some of the challenges they face. I noticed that there are calls for exemptions for small businesses from some of the bill's provisions—we will have to consider whether that is feasible. We do not want to say that small businesses do not have a role in tackling waste in Scotland, but nor do we want there to be a disproportionate impact on small businesses, which produce smaller amounts of waste compared with much larger commercial operations. We have to strike a balance.

John Scott: The elephant in the room discussed by the previous panel is the fact that commercial and industrial waste is not addressed adequately. Will you talk about your plans for that?

Richard Lochhead: Thanks to the efforts of previous Administrations, supported by the work of this Administration, Scotland has made huge progress on municipal waste and household recycling. We have gone from recycling less than 6 per cent of our waste before devolution to recycling more than 32 per cent now. The signs are that the rate will continue to rise, which is great news.

The Government believes that we must now concentrate a lot more on commercial and industrial waste, which accounts for 85 per cent of Scotland's waste mountain. That will be addressed by the national waste plan and by some of the provisions in the bill. As I hope that the committee has noticed, there is a pretty big emphasis on commercial and industrial waste in the bill. An issue that we have to fix at the beginning of the process is ensuring that we get accurate information—one of the provisions in the bill addresses that. Although much of the 85 per cent of waste that comes from the commercial and industrial sectors is already reused or recycled, we need better information, and we need to focus more on that in future. We are addressing that through the provisions that the committee is discussing today. The national waste plan will put a lot more emphasis on industrial and commercial waste, particularly construction waste.

The EU waste framework directive sets out targets for construction, industrial and commercial waste. We have a lot more work to do in Scotland

with regard to our own targets for that sector, but the EU directive is already before us. The big issue of bringing that sector in from the cold will be at the heart of our future plans.

Peter Peacock: The bill provides for significant enabling powers, an approach that has given rise to both favourable and negative comment. What is the rationale for using that approach? Are there specific measures that are not yet policy ready, or is there some other reason?

Richard Lochhead: There are several reasons. First, I have been tackled many times by members of all parties who have called for much more ambitious measures to be taken to tackle Scotland's waste problem. We now have a zero-waste policy in place, which requires much more radical and ambitious proposals, and we need the tools at our disposal to reach the targets that we have set.

Waste contributes to climate change—2.5 per cent of greenhouse gas emissions in Scotland come from waste. Last week, the committee heard from Professor Jim Baird from Glasgow Caledonian University, who reckons that about 6 to 8 per cent of our 80 per cent target for reducing emissions by 2050 would be met by tackling waste management in Scotland.

The Convener: That is 6 to 8 per cent, not 68 per cent.

Richard Lochhead: I wish it was 68 per cent, as then we would know how to reach the target.

The bill gives us an opportunity to provide for enabling powers to introduce secondary legislation if it is needed in future. The alternative is to do nothing in the bill and waiting for a slot in the legislative timetable, whether it is in this or the next session—it is unlikely to be this session—for a waste bill. That would lead to further delay, and I think that we would all agree that there is a degree of urgency in implementing some measures. The bill is therefore a good vehicle for introducing enabling powers.

The nature of some of the provisions in the bill means that we require to do a lot of work to ensure that we put the best provisions in place if we go down the route of secondary legislation. Some of the provisions will take more time than others. For example, it could take several years to get a blueprint for the best deposit-and-return system for Scotland. By using the opportunity presented by the bill, we can start that work now, but it might take some time to introduce the secondary legislation.

The other dimension is that we are not sitting doing nothing. A lot of voluntary agreements are now in place, and my preference is for the voluntary route to deliver results as soon as

possible. There are some signs that that might happen, but it is clear that the prospect of legislation helps to concentrate minds and encourages many of the various players to co-operate with the Government and Parliament in achieving some of our ambitious targets. It is worth having the backstop of the legislative route, in case it is required at some point in the future.

Peter Peacock: It is helpful to have that on the record.

Last week, we heard evidence from the Federation of Small Businesses and from at least one other witness that, notwithstanding what you have said, it is not appropriate to use secondary legislation for some of the provisions because their impacts could be substantial for small businesses and other parts of the business sector and that the better way would be to use primary legislation, on which there can be fuller debate and scope for amendments. What is your comment on that?

The other criticism that we have heard—to the extent that there has been any criticism—is that you might never use the enabling powers in the bill but some people will want you to use them very quickly. What timescales are you thinking about for the use of those enabling powers? I recognise that you cannot be absolutely precise about that.

Richard Lochhead: Your first question relates to the role of secondary legislation. I hope that we have made it clear that we intend to have a full consultation process on the secondary legislation and that there will be ample opportunity for parliamentary committee scrutiny. The secondary legislation will be affirmative, so I will have to come before the committee, which will have the opportunity to scrutinise—

The Convener: From a process point of view, if anything is brought before us during this session of Parliament, the committee is likely to want to treat it as if it was a bill at stage 1 and therefore to schedule evidence sessions. We will therefore need the longest possible notice of anything happening. Can you commit to giving us that?

Richard Lochhead: I can commit to that, and I welcome your comment, convener, because it helps to reinforce the assurance that we want to give to small businesses and other sectors that the Scottish Government will conduct a proper consultation. Taking the secondary legislation route will allow the committee to scrutinise our proposals in detail.

For the reasons I have already outlined, having enabling powers in the first place will help us to achieve our targets. I am introducing secondary legislation under the Animal Health and Welfare (Scotland) Act 2006, in which there are enabling powers. The committee will have the opportunity to scrutinise that, and lots of consultation will be

done on the various measures. That is similar to what will happen under the Climate Change (Scotland) Bill. I hope that I have reassured the committee. We aim to give you ample notice of our thinking.

That takes me onto Peter Peacock's second point about a timetable. It would be premature for me to look at the provisions in the bill and give you a list ordered 1 to 6 of what we favour introducing in the coming months or years. However, some of the provisions will be much easier to enact than others. For example, I suspect that the waste prevention and management plans will be one of the earlier provisions that we enact under secondary legislation. The provision about getting information from bodies has widespread support, and there is a degree of urgency about it so, although I cannot give a strict timetable at this point, that is another provision that will probably come ahead of some others.

I have already used the example of the deposit-and-return schemes, which will require a lot of detailed work. The feedback from the consultation process, the parliamentary parties and wider Scotland, as well as the response at the time of our announcement of the consultation, shows that there is a lot of support for deposit-and-return schemes. However, it is a complex, detailed area. Other countries have deposit-and-return schemes that work, but Scotland is not the same as other countries so we will have to put a lot of work into ensuring that we can produce a scheme that works in Scottish circumstances. That will require a lot more work and will be further down the road.

11:15

Peter Peacock: You just happen to have listed the three things that are dealt with in the first three sections of the chapter of the bill that we are discussing—sections 52, 53 and 54.

Richard Lochhead: There was no intention in that.

Peter Peacock: Can the committee take it that the order of the sections in the bill alludes to some sense of policy priority, or is that coincidental?

Richard Lochhead: It is entirely coincidental. When I gave you those examples in response to your question, I was not aware that that was the order in which they appear in the bill.

Elaine Murray: I have a question on the use of secondary and primary legislation. Although there are mechanisms by which ministers and committees can work together to ensure the maximum scrutiny of secondary legislation, and although there is an obvious role for enabling legislation, there is only the possibility of accepting

or rejecting secondary legislation—there is no possibility of amending it.

A lot of secondary legislation on puppies, kittens and various other things is currently coming through under the Animal Health and Welfare (Scotland) Act 2006, but the contentious issue of mutilations and tail docking was included in the original bill, which gave members the opportunity to amend the legislation at stages 2 and 3. Is there not an argument for putting in this bill some of the more contentious measures that it is proposed to introduce through secondary legislation? That would allow members to lodge amendments at stages 2 and 3.

Richard Lochhead: That is always an argument when the choice is between enabling powers and detailed provisions in primary legislation, but I emphasise the urgency with which we need to tackle the waste situation in Scotland and its contribution to climate change. As WWF Scotland is always saying, we are using resources as though we have three planets rather than just the one, and other political parties are constantly asking for action on packaging and other issues to tackle waste in Scotland. The enabling powers in the bill, which are partly a response to those demands, will allow us to make some progress.

Let me speak briefly about contentious provisions. One of the potentially contentious provisions is for deposit-and-return schemes. As I said earlier, I detect widespread support for them, but there is some nervousness about such schemes among the business community. Our approach will be to set up a working group that includes businesses that have strong feelings about the schemes to ensure that we have the right schemes, that they are delivered to the right timescales and that they are suited to Scottish circumstances. I hope that any secondary legislation that is introduced—even prior to the consultation—will result from input from the relevant bodies in Scotland.

The Convener: You have talked quite a bit about the provision for deposit-and-return schemes. Is it your view that it might be the most contentious provision in the bill? If it is not, which one might be?

Richard Lochhead: I think that they are all worthy of support.

The Convener: That is not what I asked, cabinet secretary. I asked which provision is the most contentious.

Richard Lochhead: I know what you are asking. It is a difficult question to answer because it would depend on whom you spoke to. I have listened to the evidence that you have received.

The Convener: You have also been sent all the written submissions.

Richard Lochhead: Yes. The business community has strong feelings on the proposed measures that will impact on business. The Scottish Environmental Services Association has views on future infrastructure, as its members build infrastructure and have an interest in it. Environmental non-governmental bodies are supportive of all the proposed measures because they will help Scotland's environment. I am sure that several of the provisions will be contentious to certain sectors in Scotland, but I am not in a position to rank how contentious the proposals are.

If we want to reduce the amount of waste that is produced in Scotland and increase the reuse and recycling of the waste that we produce, we must be ambitious and radical. I look at what other countries in Europe are doing and achieving, and I see that they are managing. When I consider where Scotland is starting from, my view is that we have to be more ambitious and radical.

The Convener: The issue arises from the possibility of putting something very contentious in the bill. I am trying to discover whether any issue obviously stood out as being the most contentious and therefore amenable to the treatment that Elaine Murray suggested. I do not know whether your officials have a view on that. Obviously not.

We have dealt with the order of priority for implementing the provisions and such matters. Elaine Murray wants to talk about voluntary agreements.

Elaine Murray: The minister has touched on the importance that he places on voluntary agreements, and we have discussed in the chamber being able to reach the ambitious targets that are coming over the horizon. What impact are the current policy levers and voluntary agreements having on reducing waste? How is that impact being measured so that you can ensure that you achieve the targets that you wish to achieve in future years?

Richard Lochhead: We have, since we came into office, put a lot of effort into voluntary agreements. There are a few new voluntary agreements—a few firsts—and others have built on previous voluntary agreements and taken them a stage further.

The voluntary approach is working and is making progress. You may recall that we had a supermarket summit last year—around November, I think—which the First Minister chaired and at which I was present. One outcome of that summit was the voluntary agreement to reduce use of carrier bags in our supermarkets by 50 per cent by spring this year. The signs are that progress has

been made towards that target. We will, of course, find out in due course the extent to which progress has been made. Since then Tesco, for instance, has decided not to display carrier bags on its counters—they are kept below the counter. Other practices have also changed in our supermarkets.

Therefore, there is evidence of progress as a result of voluntary agreements. A voluntary agreement has also been struck with the construction industry to reduce its waste. I think that that was a first—I see my officials nodding. The voluntary route is clearly the preferred route, but given the importance of the issue, we must be able to pass legislation if required.

Elaine Murray: What you have said is useful. How has the reduction in the use of plastic bags been measured? The bill's provisions could result in secondary legislation that would introduce a plastic bag tax. Is that your stopgap? Is that the stick if the voluntary agreement does not work? Are you laying in place a number of sticks that can be used?

Richard Lochhead: We must say to the business community and the wider community that we are serious about our ambition to move towards being a zero-waste society. Many examples exist of how other countries are achieving their ambitions in a range of ways. The enabling powers and provisions in the bill and the debate that is now taking place show that the Government and Scotland are serious about the future.

I have said that a lot of progress has been made on carrier bags with retailers coming on board, but time will tell how successful the measure has been. Of course, the UK Government decided to put the provision that we are discussing into its Climate Change Bill and asked me whether we want it to apply to the whole of the UK, but my response was that we have our own bill in Scotland and our own voluntary agreement, which was signed in November—and has, of course, since been adopted by the rest of the UK—so it made sense for us to decide on the provision in Scotland. That is why it is before the committee today as a proposal for inclusion in our bill.

Elaine Murray: For clarification, you would not expect to use the provision in question unless voluntary agreements did not work.

Richard Lochhead: That is fair comment. I would not expect to use the provisions if we achieved the same objective outwith legislative routes. However, we are not at that point and it is important that Parliament and the Government have the wherewithal to achieve our objectives for Scotland.

Alasdair Morgan: Do you have a particular figure in mind that would mean that the agreement

on carrier bags was not working? In other words, what is your target?

Richard Lochhead: We have to take one step at a time. The national waste plan is still to be consulted on. It will examine the bigger picture, and people will present their views on a wide range of issues. We might decide at that point that the provisions will have a greater role in the future in response to a new waste plan or whatever. I will ensure that the committee is kept up to date with progress on the current voluntary agreement. I cannot until spring 2009 make a judgment on the carrier bags agreement with the retailers.

Alasdair Morgan: I will, if I may, press you a bit. You must have some idea about what would constitute success in reducing carrier bag use. We are not going to eliminate them entirely, but at what point could we decide that we do not even need to think about legislating?

Richard Lochhead: We have to consider that one step at a time with regard to the voluntary agreement. If the voluntary agreement were not delivering and not achieving the target by spring 2009 I would—following further discussions with the retailers on why that was the case—take the view that there might be a case for legislation.

The Convener: The target is a 50 per cent reduction by spring 2009.

Richard Lochhead: Yes.

The Convener: If you get to 45 per cent, you might say “Well, okay, we’re just about there”, but if only a 20 per cent reduction is achieved, you might say, “Hang about—”.

Richard Lochhead: We need to be reasonable and proportionate. We would consider the results.

Liam McArthur: You have reflected on the progress in improving recycling rates, as initiated under the previous Government. We would all accept that although it was very welcome, it started from a very low base and it started very late, in comparison with our European counterparts. Furthermore, it took place in economic good times, whereas we now face an economic storm. I have been reflecting on the points that Elaine Murray and Alasdair Morgan have made about the amount of bite that voluntary agreements have. What impact will the current economic situation have on the zero-waste strategy? Do you expect voluntary agreements to operate as they have done hitherto?

Richard Lochhead: That is a very interesting question—I look forward to reading the committee’s views on that when you report.

The answer has two or three dimensions to it as there are several ways in which the economic downturn could impact on our zero-waste plans

and on the provisions that we are discussing today. We will wish to consider the impact on the economy and on the business community of any provisions that we make in the future. Secondary legislation will not be made in the immediate few months from now, so we will have to monitor the economic situation, but I can assure the committee that we will be sensitive to the impact of any provisions on the business community and the economy in general. That applies right across Government; it is not confined to the bill.

There are two key areas that we are monitoring closely and in which there is a direct impact on our targets. I cannot give the committee a definitive answer on the exact situation just now, but the first of those two areas is the market for recyclates, which is clearly influenced by the economic situation, not just in this country but internationally. Many of the markets for those materials are international markets. We are monitoring the situation—markets in which recycled collections are of good quality seem to be holding up. In other cases, storage is being considered by local authorities and other bodies, and SEPA is helping to co-ordinate storage of materials until the markets get better.

The second issue is the impact on landfill. Ironically, our landfill targets might be assisted by the economic downturn, in that less waste is produced when there is less economic activity, which illustrates how the impact of the economic downturn might be that it helps with some targets. Other targets, for instance those for recycling, might become more challenging, although there is no evidence of that at the moment. It depends on how the markets respond to the economic downturn.

11:30

Liam McArthur: As you said, some people say that this is the worst time to be taking forward the strategy and some say that this is precisely the moment to do so—for example, John Ferguson at SEPA and Iain Gulland at WRAP told us that they believe that there are opportunities to make strides in the current economic climate. Is the Government considering positive incentives that could be implemented quickly, rather than going down the route of introducing the statutory requirements that are alluded to in the bill?

Richard Lochhead: An important dimension of this debate involves the opportunities that are available to people. For example, businesses can cut costs by cutting waste. Households can do the same thing, so we have put some effort into our food-waste campaigns, which pass on simple tips to help household budgets by reducing food waste. The feedback from some of the companies that are involved is that their services are in quite

high demand, which suggests that companies are interested in cutting waste as a way of cutting costs.

Liam McArthur: Most of the positive incentives in that area seem to be in the form of awareness-raising and information-spreading initiatives.

The previous panel talked about there being an opportunity to introduce infrastructure that should have been introduced before now. Are you considering positive incentives in that regard?

Richard Lochhead: That is an important point. The wider response of the Government to the economic downturn involves efforts to stimulate economic activity in our communities. We have been discussing with the Convention of Scottish Local Authorities ways of using resources such as those that have been made available through transfer of money from the zero-waste fund to local authority budgets in order to implement infrastructure projects as quickly as possible. That will not only help with councils' zero-waste targets, but will stimulate economic activity as people will be employed to construct that infrastructure. We have already taken action to transfer money to local authorities for the next financial year, and are discussing with COSLA the levels of resources that will be transferred for the subsequent financial year. That will give local authorities a good lead-in to the infrastructure projects.

Bill Wilson: You referred to the possibility that there will be some reduction in landfill waste because of the downturn in economic activity. I would like an assurance that, when we are recording those levels, we will not confuse the results of our attempts to deal with waste with the results of the economic downturn. There is always the possibility that we will take our eye off the ball and that, when economic activity recovers, the waste levels will bounce back as well.

Richard Lochhead: I totally agree. I assure you that we are not taking our eye off the ball. One of the benefits of creating the infrastructure to which I just referred is that it will ensure that we are going down the road towards becoming a zero-waste society. Irrespective of the impact of the economic downturn on landfill, we will not take our eye off the ball in terms of the wider environmental objectives. The levels of waste are measured, and SEPA and others will publish information about landfill rates in due course.

Bill Wilson: There is always a chance that businesses might seek to gain competitive advantage by not complying with voluntary agreements. What level of non-compliance would concern you and what action would you take?

Richard Lochhead: I cannot give you a simple answer to that question just now. Clearly, that will depend to a great extent on the detail of

secondary legislation, which will set out exactly what is required of various people, including the business community.

With secondary legislation or other legislative tools, agreements must be enforced in a way that ensures that businesses that are taking action to cut their waste and help the environment are not disadvantaged. That is why, in all legislation, penalties are available.

Bill Wilson: If you exempt some of the smaller businesses from provisions in the legislation, they might gain a competitive advantage. Would that be of concern to you?

Richard Lochhead: All legislation has to be proportionate. If there were a case for exempting small businesses, it would involve the creation of a level playing field for the small businesses. You are never going to get a level playing field between small businesses and massive multinational companies—I am not sure that you can approach the issue in terms of small businesses versus bigger businesses. What is important is that, if there is an exemption for small businesses, we correctly determine the level below which businesses are exempt, and ensure that that is proportionate.

The Convener: I have a question about amendments at stage 2, but before I ask it, I will give other committee members an opportunity to ask further questions of the cabinet secretary. Does anyone have a question? It seems not. You are getting off very lightly today, cabinet secretary.

Richard Lochhead: Please do not say that, convener; it will just stimulate people.

The Convener: I would like to return to the discussion that we were having about potentially contentious elements and so on. It would be useful for us to know whether there is any intention to lodge stage 2 amendments in respect of waste management. I should say that, when we asked a similar question when we were considering the Flood Risk Management (Scotland) Bill, we got a helpful and useful answer.

Richard Lochhead: I might ask officials to contribute in a second or two, because there is a lot of discussion about stage 2 amendments at the moment.

The Convener: I realise that it is still early days.

Richard Lochhead: I can give you an assurance that I shall write to the committee in the very near future to outline potential stage 2 amendments.

We have been considering stage 2 amendments in relation to deposit-and-return schemes. We do not have the power to set up a deposit-and-return clearing house. In other countries, because not

every company would have the wherewithal to operate its own deposit-and-return scheme, clearing houses operate for whole sectors and put in place all the necessary arrangements. We would require enabling powers to give us the ability to set up such a clearing house. Kevin Philpott will say a little more.

The Convener: I realise that this is early in the process, but I am seeking an indication of whether there are going to be stage 2 amendments relating to waste management. Obviously, there are.

Kevin Philpott: The only stage 2 amendments that we are considering at this point relate to deposit-and-return schemes and are, as the cabinet secretary indicated, to do with setting up a body to fill the clearing-house role. Specifically, we need to be able to set up that body and tender its functions.

The Convener: That is the situation at the moment, but that does not rule out the possibility that other amendments might emerge.

Kevin Philpott: Time is ticking, but you are right to say that that possibility is not ruled out.

The Convener: I thank the cabinet secretary and his officials. I see that Louise Miller appeared—I am sorry, I did not register that you were there.

If anything occurs to us, we will be in touch with you in short order. I think we are seeing you again in connection with forestry.

Richard Lochhead: You will see Mike Russell.

The Convener: Okay.

As we are running a little ahead of schedule, I suspend the meeting.

11:38

Meeting suspended.

11:43

On resuming—

Pig Industry

The Convener: Item 3 is correspondence on the pig industry. The item relates to a matter that was raised by a member who is no longer a member of the committee, so it has been going for a wee while, with correspondence going backwards and forwards. Members might be interested to know that the Department for Environment, Food and Rural Affairs published a report on the English pig industry, which includes a recommendation that the UK Government discuss with the Scottish Government common and cross-border issues. We hope to be kept informed by the Cabinet Secretary for Environment and Rural Affairs of the outcome of any such discussions.

We have a note—paper RAE/S3/09/4/8—from the clerk. Members will recall that we wrote to the cabinet secretary requesting clarification on why the Government did not intend to act on all the recommendations in the pig task force report. We have used correspondence to make progress on the issue. We sent the correspondence to the pig industry to seek its views, and we sought an update on the issues.

All the correspondence is attached to the paper. I invite comments from members on the correspondence and on any further action that they wish the committee to take. We will consider a work programme paper on 25 February. As always, if the committee wishes to do additional work, that will have to be considered in the context of the overall work programme.

11:45

Peter Peacock: I am not sure how we can bring the matter to a satisfactory conclusion, but we need to do a bit more work. The paper reveals that the pig industry is still in a parlous state and there are some pretty dire projections. We are told that

“A recent report has suggested that the pig herd is now below the critical mass required for a sustainable Scottish pig sector.”

That is significant.

There are indications from stakeholders that they will, at a time when margins are tight and the industry faces difficulties, have to make substantial extra investments in storage to comply with nitrate vulnerable zones legislation. We are also told that access to the Scottish rural development programme is difficult.

There are several loose ends. We could perhaps conclude the issue by producing a short report that brings together the evidence. We may wish to have a short evidence session involving the pig

sector and the cabinet secretary in order to try to draw the matter to a conclusion. We should produce a report that makes clear to Parliament the industry's concerns and difficulties, and any concerns that members have. There is a bit more work to be done.

The Convener: For the record, I ought to correct what I said earlier—it was not DEFRA that produced a report; it was our committee equivalent in the House of Lords.

John Scott: I agree with Peter Peacock. It is a good idea to produce a short report because, unquestionably, the pig industry in Scotland is teetering on the edge of viability—it is in the last chance saloon. It has gone below the critical mass and sow numbers are falling. Notwithstanding the upturn in the market, the returns that Quality Meat Scotland provided show that there is still no future for, or reason for, investing in the pig industry. However, much of the pig industry needs to invest in order that it can comply with NVZ legislation. It is vital that the 40 per cent grant for putting in slurry storage facilities, which is available on a competitive basis, should be available to all people in NVZs.

The Government must send a message to producers about whether it wants a viable pig industry in Scotland. As Peter Peacock said, we are reaching the stage at which we might not have a viable pig industry. We are down to four days of slaughtering capacity. There is nowhere to go except down, which is my huge concern. It is important that the House of Lords committee that the convener mentioned should speak to our Government on the issue. The Scottish and, indeed, the UK pig industries are operating with one hand tied behind their backs.

The Convener: It was actually a House of Commons committee, John.

John Scott: Thank you. I thought that you said it was a House of Lords committee—at any rate, it is the Environment, Food and Rural Affairs Committee. The reality is that pig farmers in the UK farm their pigs to much higher animal welfare standards than is the case in Europe, which means that they are farming with one hand tied behind their back and are at a competitive disadvantage. We will end up with no pig industry in the UK.

That is just a flavour of the issues that we need to consider. We also need to consider changing UK legislation.

The Convener: Can I cut to the chase? There is some give in the committee workload in the run-up to Easter and just beyond it. I suggest that we isolate a date for taking evidence along the lines that Peter Peacock suggested, involving industry representatives and the cabinet secretary. The

evidence session should be in the terms that John Scott set out. If the industry in Scotland is verging on being non-viable, we should find out whether there is a commitment to maintaining it. I suggest that we schedule one such meeting, after which we can bring the evidence to a close. Do members agree in principle that that is a good idea? We can include that in the work programme paper that we will consider on 25 February.

Liam McArthur and Elaine Murray want to speak. I do not want to prolong the discussion if we agree in principle that we are going to do more work.

Liam McArthur: I am happy with that approach. There is bad faith around the original pig task force report and the response to it. However, the issues that have come through in the evidence that we have received are about a lack of confidence and about sow numbers, which have continued to decline despite what has happened in the market. If we could squeeze time into our agenda to produce a report, that would be good.

Elaine Murray: I agree with the suggestion, but we should take evidence on the animal welfare issues. Members may be aware of the rooting for pigs campaign that is being run by the Royal Society for the Prevention of Cruelty to Animals, which is trying to highlight the fact—

The Convener: That would be the RSPCA that covers only England and Wales.

Elaine Murray: On farm animal welfare and some European Union issues, it covers Scotland. The issue is complex.

The Convener: I do not want to get into that argument.

Elaine Murray: We do not necessarily have to hear from the RSPCA, but there is an issue about animal welfare. We can think of high animal welfare standards as tying one hand behind the industry's back, but they can also be seen as a positive way in which to promote the industry. There are issues to be considered.

The Convener: We will bring back the suggestion for the work programme discussion on 25 February. We will decide on appropriate witnesses and schedule an evidence session, after which we will produce a short report on the back of what we have found out. Are members happy with that?

Members indicated agreement.

The Convener: That ends the public part of the meeting.

11:52

Meeting continued in private until 12:32.

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