

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 16 September 2009

Session 3

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

21st Meeting 2009, Session 3

CONVENER

*Maureen Watt (North East Scotland) (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:

Robert Balfour (Association of Deer Management Groups)

Roseanna Cunningham (Minister for Environment)

Ian Jardine (Scottish Natural Heritage)

Professor John Milne (Deer Commission for Scotland)

Jo O'Hara (Scottish Government Rural Directorate)

Duncan Orr-Ewing (Scottish Environment LINK)

CLERK TO THE COMMITTEE

Peter McGrath

SENIOR ASSISTANT CLERK

Roz Wheeler

ASSISTANT CLERK

Lori Gray

LOCATION

Committee Room 1

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 16 September 2009

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

Decisions on Taking Business in Private

The Convener (Maureen Watt): Good morning, and welcome to the committee's 21st meeting in 2009. The main purpose of today's meeting is to take evidence on the Public Services Reform (Scotland) Bill. I remind everyone to turn off their mobile phones and pagers, as they impact on the broadcasting system.

Does the committee agree to take agenda items 3 and 4 in private?

Members *indicated agreement.*

Public Services Reform (Scotland) Bill: Stage 1

10:00

The Convener: The committee has been designated to scrutinise sections of the Public Services Reform (Scotland) Bill that fall within its remit, specifically sections 1 and 2, which propose the transfer to Scottish Natural Heritage of functions of the Deer Commission for Scotland and the Advisory Committee on Sites of Special Scientific Interest. After taking evidence today, the committee will submit a report to the lead committee on the bill, the Finance Committee, in October.

The purpose of the first session is to enable us to hear evidence on the bill from a range of stakeholders. In the second session, we will hear from the Minister for Environment and Scottish Government officials.

I welcome the first panel of witnesses: Robert Balfour is chair of the Association of Deer Management Groups; Ian Jardine is chief executive of Scottish Natural Heritage; Professor John Milne is chairman of the Deer Commission for Scotland; and Duncan Orr-Ewing is convener of the deer task force of Scottish Environment LINK.

We move straight to questions from members. How has the Deer Commission for Scotland developed collaborative working with the deer management sector? Can SNH provide examples from within its current work of when it takes that approach?

Professor John Milne (Deer Commission for Scotland): We work in partnership with the deer management sector. We attend all deer management group meetings, provide advice when it is requested, and have liaison meetings every quarter with the Association of Deer Management Groups. We believe that there are strong relationships between our deer officers and individual members of deer management groups—in other words, estates.

Ian Jardine (Scottish Natural Heritage): For some time, the public bodies concerned—primarily the Deer Commission for Scotland, SNH and the Forestry Commission Scotland—have been co-operating closely, through the deer liaison group. For a number of years, those public bodies have taken a shared approach. We seek to work in similar ways and co-operatively on deer management issues.

The Convener: What has been Robert Balfour's experience of working with the two bodies?

Robert Balfour (Association of Deer Management Groups): As Professor Milne said, we have had a good close working relationship with the Deer Commission for Scotland. That does not mean that we do not disagree at times, but the relationship has been constructive and useful. Our relationship with SNH is perhaps more fraught. One of our worries about the proposed joining up of the two organisations is that there is the potential to lose the good working relationship that we have with the Deer Commission for Scotland's deer officers.

The Convener: What do you mean when you say that your relationship with SNH has been fraught? What is the context of that?

Robert Balfour: In rural land management, it is well known that Scottish Natural Heritage's relationship with farmers and landowners is difficult. I am a farmer and landowner myself. I have also been a practising chartered surveyor and have worked for SNH to try to sort out some of the mess that it has got itself into in the past.

SNH's relationship with farmers and landowners is now improving. We hope—assuming that the merger happens—that it will continue to improve and be influenced by the relationships that people who work for the Deer Commission for Scotland have already.

The Convener: Mr Orr-Ewing, what has been your experience?

Duncan Orr-Ewing (Scottish Environment LINK): It is worth noting that we are dealing in Scotland with a much more diversified land-ownership structure these days. There are communities that own land and there are non-governmental organisations—which I represent today—that own land, such as the National Trust for Scotland, RSPB Scotland and the Scottish Wildlife Trust.

We have had good relationships with SNH and the DCS over the years and we support the joint working that has been going on among those two agencies and the Forestry Commission Scotland. Such working makes a lot of sense, certainly when we are talking about hitting Scottish Government targets for improving the condition of sites of special scientific interest.

Alasdair Morgan (South of Scotland) (SNP): I will follow up Mr Balfour's remarks about SNH. The submission from the Association of Deer Management Groups also says that

"SNH's record of delivery is not good",

although it does not say delivery of what. That is a fairly broad and sweeping statement. Will you evidence that?

Robert Balfour: I cannot give you a specific example off the top of my head.

Alasdair Morgan: I did not ask you to. You would need to give me lots of specific examples, because that is a fairly general statement about the organisation's record, as is the statement that you made earlier about SNH's relations with landowners and farmers.

Robert Balfour: After the meeting, I will send you details of evidence that supports what I said. I cannot give it to you off the top of my head because I do not have the information in front of me.

Alasdair Morgan: Would it be reasonable for somebody who comes to the matter cold to say that the reason for the statement might be that the relationship between the Association of Deer Management Groups and the Deer Commission is a bit too cosy and you just do not have such a cosy relationship with SNH? Perhaps one of the benefits of merger might be a more sensible relationship.

Robert Balfour: I refute the assertion that we have too cosy a relationship with the Deer Commission. We have had disagreements with it, but that does not mean to say that we do not work with it and communicate with each other. The relationship with SNH has improved dramatically over the past few years, but it is a much bigger organisation and we have had people come to deer management group meetings who do not really know about the deer side of the situation. One of the advantages of bringing together the two organisations will be that SNH will gain the benefit of the DCS's experience in dealing with deer matters.

Professor Milne: I refute the idea that we have a cosy relationship: that is completely wrong. It would have been the truth 15 years ago when the Red Deer Commission existed, before the Deer Commission for Scotland came into being. We have an empathetic way of working because we have staff who have experience of stocking and considerable knowledge of deer. That makes for relationships that work well, but they are not by any means cosy.

Ian Jardine: It would be silly to pretend that SNH's relationship with all landowners and land managers has always been sweetness and light. I take Robert Balfour's point. There was a period when SNH was primarily concerned with implementing Government objectives, such as on designation of protected areas and on species protection issues, which led us to be quite focused on those areas. However, those are not the areas that delight the hearts of Scotland's landowners and farmers, because they see such issues as an imposition. However, that work was done in the

interests of what was seen as the wider public benefit of conserving the natural heritage.

In more recent years, the focus has been moving away from land designation and toward issues such as sustainable management of land and getting social and economic benefits from our natural heritage, which has eased the tensions between Scottish Natural Heritage and the land management community.

I see the merger of the Deer Commission with my organisation as an opportunity because not many people in SNH have the skills and experience that people in the Deer Commission have—some do, but not a great number. From the point of view of SNH, the merger would help to move that process forward and would enable us to benefit from the work that the Deer Commission has been doing.

Liam McArthur (Orkney) (LD): I wonder whether Mr Balfour agrees with the suggestion in SNH's submission that the relationship between the two organisations was "firm". I think that that has perhaps been called into question.

The opportunities that SNH foresees notwithstanding, one of the risks that SNH's submission highlights is the loss of effective stakeholder relationships, which touches on issues to which Alasdair Morgan was alluding. However, you also say that that risk is manageable, subject to resources being available. Why do you see that as being subject to resources? With the exception of some efficiencies, the merger should leave the DCS and SNH with the same relationship that existed before.

Ian Jardine: We highlighted it as a risk because we think that it is something that we need to keep an eye on, not because we think that it undermines the argument for the merger. However, it will require time and effort to maintain those relationships. We want to maintain the Deer Commission's round-table processes and the contact with the local deer management groups, and we want to establish—at least for the immediate future—a small group to support the board with its new deer functions. Part of the role of that group would be to develop and maintain relationships with the deer sector.

All those activities will require some resources, but it is important to undertake them if we want to minimise the risk that has been identified.

Liam McArthur: Do you see the functions being handled in a different way in terms of personnel?

Ian Jardine: Initially, I think that mainly the same personnel will be involved; the staff who currently perform those functions in the Deer Commission will continue to do so. Over time, however, I would like staff who are currently

employees of SNH to be trained in and to gain experience in those roles as well. I would like to widen the involvement of staff so that we are not relying only on former Deer Commission staff to carry out those functions, and on Deer Commission staff to perform other functions in relation to which they have experience, such as estate management and wildlife management.

Liam McArthur: That suggests that fewer resources would be needed because of efficiencies that could be made.

Ian Jardine: Overall, we expect that the merger will create efficiencies.

Professor Milne: One of the risks that Ian Jardine was alluding to—and one of the DCS's concerns—is that the role of the DCS board is quite different from that of the SNH board. We have eight board members outwith the staff of around 25 people, which means that the board takes a more hands-on role. As well as dealing with the corporate governance side of things, people in something like two full-time equivalent posts at senior level deal with the business of the DCS through the board. That is important with respect to the point that was made about stakeholder relationships, because much of that business relates to stakeholders. My concern is that those two full-time equivalent posts will need to be replicated in the merged body, which will require additional resources. Therefore, I do not think that savings will be as large as expected.

10:15

Peter Peacock (Highlands and Islands) (Lab): I have a question for Ian Jardine, and I want to pick up on the point that Liam McArthur made. I should make it clear that I was an SNH board member a number of years ago and that I have worked closely with Ian Jardine. I do not know whether that is a good or a bad thing; we shall see.

I picked up Ian Jardine's comment about resources slightly differently from how Liam McArthur picked it up. The Deer Commission for Scotland currently has a budget of almost £2 million—I think that it is about £1.7 million. I presume that Ian Jardine expects that whole budget to transfer to SNH and that efficiencies would then be considered. SNH will be planning scenarios that involve reductions in budgets for next year and beyond. In order that we can gauge how that £1.7 million relates to the wider scenarios that are being considered, will you say what sort of percentage reductions SNH is planning for?

Ian Jardine: I am happy to say what we are planning for. Of course, we hope to hear very soon exactly what our budget for next year will be. At the moment, we are scenario planning; we cannot

fix things. We are primarily considering the effects and impacts on our programmes of possible budget reductions of 5 and 10 per cent. We are also considering what would happen with the slightly scarier option of a budget cut of up to 15 per cent.

Peter Peacock: SNH's budget is around £63 million or £64 million. You may receive around £1.7 million, but you are considering scenarios in which there may be reductions of between £3 million and £7 million. I am not suggesting that those cuts will necessarily materialise, but if they do, the Deer Commission for Scotland transfer would be dwarfed by them. In that context, and given that the deer work would be a new work component, would SNH intend to protect that transfer from the broader efficiencies, or would it see the transfer money as subject to cuts of 5 or 10 per cent, or the scary 15 per cent scenario? Is there any policy view on that yet?

Ian Jardine: There is no policy view on that in SNH. We will ultimately be guided by whatever we are told the priorities are in grant-in-aid letters. That will determine what we protect and do not protect.

Obviously, if the merger goes ahead, my board will intend to make it work, which would tend to give some protection to the deer work in the short term. I am thinking about the matter logically. Beyond that, the honest answer is that things will depend on the scale of the reduction. If we are talking about a 5 to 10 per cent cut, we will not be able to do that, because the amount of funds that would not be forward committed would mean that we would have to consider every possibility, including with respect to the deer work.

John Scott (Ayr) (Con): I want to ask Ian Jardine about the loss of expertise with the loss of the Deer Commission for Scotland board, and about uncertainties about the future role of DCS staff in SNH. Can you reassure us that you are confident that the loss of the DCS management will be sufficiently addressed during integration? What are other panel members' views on that? Will the problem definitely be adequately addressed?

Ian Jardine: I shall start and John Milne might add something from his own perspective.

I think that the steps that we have taken will minimise the risk that John Scott has highlighted. With regard to the staff, we have carried out a lot of early planning for implementing a merger, should that be the final decision, and we have worked with the staff in various groups to examine the structures of, and roles in, the merged organisation. We are quite well advanced with that work, which has been helpful in reassuring staff that they have a future in the merged organisation,

and we are now discussing with staff in both organisations assignments in a new structure. I am optimistic that we will retain in the new organisation most of, if not all, the skills of the current Deer Commission for Scotland staff.

The issue at board level is trickier. As John Milne pointed out, he has eight commissioners for 28 staff; we have 12 board members for about 700. As a result, the relationship between staff and board and, indeed, the roles of board members, are quite different in the organisations, which is why we have set up a group to support the board. The steering group that is examining the merger supports that proposal, which we feel will minimise the risk that will be posed by the loss of the deer commissioners and their experience, in the short term.

Professor Milne: I support Ian Jardine's comments about the staff. In the merger, the commission staff will not be made redundant but will, instead, move into the new organisation. We have been working very closely together to ensure that staff who are moved into a merged organisation will continue in their current roles. I am reasonably optimistic that that will happen.

The relationship with the board is a more difficult issue because, as I said, board members spend a lot of their time doing work that staff in other larger agencies would carry out, and we need to ensure that that continues—after all, it is a key element of DCS's empathetic way of working. Senior people who are reasonably well respected in the deer sector can make things happen more easily than other staff can, and it has been suggested that a panel of experts be created to help the new merged body in that respect. Although the merger will be useful, it is only part of the story; we still have to ensure that the new organisation has enough senior management expertise.

Ian Jardine: SNH has an arrangement of local advisers throughout the country who support the board on local issues. Some obviously have deer management experience; in fact, one of them is, at the moment, a deer commissioner. The point is that we are not relying solely on the new group to support the board; it can get the expertise and advice that it needs in other ways.

Duncan Orr-Ewing: The stakeholder group that SNH and DCS have established and whose members include people who are seated around this table has very helpfully contributed to the process.

It is worth noting that, as part of the process, SNH is making some internal changes, including widening its remit and increasing the number of strands in which it is involved. The introduction of a new wildlife management strand, for example,

will help to incorporate some of the skills of the current DCS staff.

Scottish Environment LINK does not support the creation of a separate DCS board within an SNH board structure. We do not think that it would work well. However, we feel that the proposal to integrate certain aspects by training current SNH board members in deer skills and recruiting new board members with such skills would be helpful.

John Scott: The key issue is the transfer of knowledge and the loss of the board members' hands-on approach. We need definitive reassurances from SNH that it will assimilate that expertise however possible. The committee does not want to revisit the situation in two or three years only to hear that deer interests are being neglected because there was no suitable knowledge transfer at the time of the integration. Those are the reassurances that we seek.

Duncan Orr-Ewing: We support the idea of the advisory panel that SNH and the DCS propose to accompany the merger. However, it should be constituted not only from among interests from the private sporting estates sector but from community and NGO managers, so that it represents the wider interest in deer management in Scotland.

Robert Balfour: It is important, as Ian Jardine mentioned, that the advisory panel be time limited. It needs to be able to transfer knowledge to the senior staff within SNH to achieve a trickle-down effect. It is important that we do not lose that expertise, and any method of transferring that knowledge should be considered carefully.

I disagree with what Duncan Orr-Ewing said about the advisory panel being representative of the organisations. If it is to transfer knowledge, it must be a panel of expertise, not a representative panel. The board members from the DCS have that expertise, which is what we are worried about losing.

I will comment on Ian Jardine's reply to the questions on the financial aspects of the merger. I hope that, if there are huge cuts in SNH, it will not mean that the deer bit is cut out completely. If SNH faces a cut of £3 million and £2 million comes with the DCS, it would be easy for SNH to decide just to get rid of the DCS side, but we do not want to lose that expertise because, if things go that way, we will be back here in three years asking what has happened to the deer.

Professor Milne: I support the idea of the panel because it is one way of transferring expertise and the working of the board members into the new organisation. However, there are two full-time equivalent staff positions that are fulfilled by our board at the moment but which are not included in the new merged organisation at senior level. I am keen that there be more deer expertise at a senior

level in the staff of the new organisation to replace what has been lost from the DCS board.

Alasdair Morgan: I have two follow-up points. Presumably, as Mr Balfour said, the advisory panel has to be time limited. Otherwise, if we simply carry on the structure—the staff transfer and the board members change their badges from “board member” to “member of the advisory panel”—few if any of the benefits from the merger will be realised.

There is another tension, especially if finance comes into it. Mr Balfour's submission says:

“it may seem disproportionate for one species sector, Scotland's deer, to have a dedicated agency”.

If SNH faces financial pressures, it may seem disproportionate to the organisation that one species sector should have an advisory panel and special staff allocated to it.

Ian Jardine: We acknowledge that, in the short term, because of the demands on the organisation, it would be appropriate to have a panel to advise on deer issues for the reason, which John Milne has set out, that we are going into a period of change, in which SNH will take on those areas of expertise.

I feel a bit of a need to defend the organisation. We do not start from zero knowledge of deer management. SNH has a role in deer management at the moment, and we participate in meetings with the deer management groups and deer liaison groups. I take the point that some skills and experience could be added in, but I reiterate that we are not starting from zero, and we will have the benefit of the experience of Deer Commission for Scotland staff—from all levels of the organisation, including the senior levels. I am a bit more confident than John Milne is that we can acquire and hold on to the necessary experience and skills.

10:30

Peter Peacock: I want to move on to the policy views in SNH and in the Deer Commission about the number of deer. I will probably simplify this for the purpose of the argument, but I am sure that you will get my drift.

There is probably a view in the NGO sector and in SNH that there are too many red deer in the uplands, which is having an effect on grazing and, therefore, the natural regeneration of woodlands, scrub and so on. Is it still the policy view in SNH and among NGOs that, generally speaking, there are too many red deer? Is that view significantly different from the view that Professor Milne might hold, representing the Deer Commission? Professor Milne might wish to answer that himself.

Joining two organisations that currently have a different focus presents challenges. To really simplify it, SNH has a species interest—although red deer are not, in any sense, an endangered species—and also a habitat interest. The Deer Commission focuses on red deer in particular. Can you state the current policy position?

Ian Jardine: We would find the statement “There are too many red deer in the uplands” a bit of an unhelpful generalisation. The work that has been done in the joint working group, with the Forestry Commission and the Government, has been more focused on identifying priorities. Our view is that there are still areas of concern about the size of the red deer population and its impact on natural heritage. However, the focus is more on particular protected areas, for instance, where there are demonstrable impacts, than on making generalisations about there being too many red deer.

The Deer Commission might have issues about areas in which there are problems of road safety to do with the deer population; the Forestry Commission might have issues about the effects of deer on forestry; and the Government might have issues about the effects of deer on agriculture. By getting together to identify where there are concerns about the impact of red deer populations, we have managed to agree on them among the public agencies and to work on that basis.

A number of private estates have taken the issue very seriously and have made considerable efforts to get a better balance between their deer population and concerns about the habitats on their estates.

Professor Milne: I support what Ian Jardine has said. We work together closely in joint working with SNH and Forestry Commission Scotland. Ian Jardine made a good summary of the current view that we all have: in some particular instances there are too many red deer, but there are fewer such instances now. In fact, I do not think that the population of red deer has increased at all over the past 10 years. Red deer have moved into new areas where there were not any before. That is partly because of a decline in the number of hill sheep. There have been changes in population density, although the densities in most of the old deer areas have remained much the same—it is just that the deer have moved into new areas. That will be a concern for the future.

Mr Peacock was perhaps slightly wrong to suggest that SNH is interested only in the conservation of deer and the natural heritage aspects. Like the DCS, SNH has a wider remit than that. The DCS remit is to foster the conservation, control and sustainable management of deer, and SNH is beginning to

work much more in a way that matches that very well. There are not the same differences that there once were, and we are working much more closely together to achieve a more balanced view of deer.

I would never say that there are too many deer in Scotland. One could argue that there are too many deer in a few places, but we must balance the negative aspects of deer with the positive aspects in relation to tourism, venison production, income from sporting estates and so on. We must get that balance right, and I hope that in the future SNH will talk about the issue more in those terms than purely in terms of nature conservation.

Duncan Orr-Ewing: Ultimately, we do not think that red deer should be treated in isolation from other natural resource management. That all goes together; one of the main arguments for the merger is that there should be a wider synergy to look at red deer and the way in which they interrelate with other parts of the natural heritage. We support sustainable deer management, which is now enshrined in the latest strategy on deer management in Scotland that the Scottish Government is producing with support from the agencies that we have discussed.

We acknowledge that there is an issue with high deer numbers in certain parts of Scotland, and we know that excessive browsing can cause serious damage to natural heritage features. We support the joint working process that has been established between the agencies to try to tackle those problems, but we acknowledge that 28 per cent of the SSSIs and Natura 2000 sites experience issues that are related to heavy deer browsing.

A big job needs to be done, which takes us back to the issue of resources. Given the loss of natural predators and the requirement for man to manage the deer population sustainably, consistent resources will be required to manage deer in balance with other aspects of the natural heritage.

Robert Balfour: The ADMG supports the sustainable deer management project; it is all about balance. I had hoped that we had moved away from the generalised statements about there being too many deer in Scotland—there are one or two areas in which deer numbers are probably an issue, but it is about the impact on the natural heritage rather than the numbers. Some of those impacts are perceived as being caused by too many deer, but they are in fact being corralled by other things.

John Milne mentioned sheep numbers. Deer and sheep are both grazing animals, and if sheep are taken off the land and not replaced that could lead to an issue with undergrazing in some areas. A huge balancing act needs to be achieved.

Deer management contributes a significant amount of money to the national economy: around £100 million, according to the Public and Corporate Economic Consultants study that was done 18 months ago. We do not want to lose that. On top of that, there is tourism, which is also important—although it was probably not costed in the study—as deer are an iconic species.

Peter Peacock: I am grateful for that evidence; it is very helpful.

Liam McArthur: You have discussed the loss of sheep numbers in some of the upland areas. That concern is shared not only by the Government, but by all the political parties in the Parliament, and there is a stated intention to try to redress the issue through various mechanisms, which will probably have resource implications. Is there a risk, however, that if that proves to be successful, we could return to a scenario in which there are problems with deer numbers in particular areas?

Robert Balfour: The sheep have not come off the land evenly—the Scottish Agricultural College has done studies on it—so in some parishes there are no sheep, whereas in other parishes the sheep numbers have not changed at all. We would have to increase sheep numbers dramatically to return to what may have been the position 10 years ago. I am not an expert on sheep grazing or on grazing generally—John Milne knows much more about that than I do—but I do not think that deer numbers in particular areas will become an issue. That is much more likely to happen if sheep numbers continue to fall.

Professor Milne: Deer and sheep graze fairly similarly, although there are minor differences. If sheep are removed from any of our hill areas—in some areas that is happening already—the deer take over that ground. Because they graze in much the same way, they can have the same impacts that the sheep were having. We need to manage the deer population by getting people with the right skills and training into those areas. My concern is to facilitate that process. We do not have to reinvent the sheep—we can manage the deer appropriately and produce venison, a high-quality product that will be in demand.

Karen Gillon (Clydesdale) (Lab): There is general consensus among politicians that we want to reinvent the sheep in some areas of Scotland where we have taken sheep off the hills. There are clear benefits in putting sheep back on to those hills. Members would be concerned at the suggestion that we should not go down that road and should continue replacing sheep with deer.

Professor Milne: One reason that you may wish to retain sheep is that they provide jobs, but the management of red deer also creates jobs. In many fragile rural areas, it is one of the main

sources of jobs. If the deer population expanded, the number of jobs in those areas would increase.

Elaine Murray (Dumfries) (Lab): As you are aware, the First Minister announced in his statement on the legislative programme two weeks ago that a wildlife and natural environment bill will be introduced this year. The consultation on the possible content of that bill, which will include aspects of deer management, closed on 4 September. The consultation has already flagged up concerns about closed seasons and the qualifications that are required in order to shoot deer. Would it not be better for the merger to be postponed until after the wildlife and natural environment bill has been considered, especially given that two members of the DCS board work in stakeholder relations? If the proposed bill turns out to be a bit contentious, will a change of structures at this time make the process more difficult?

Professor Milne: That is an interesting question. I will rewind a little. When the proposed merger was first announced, we pointed out to the minister at the time that the current legislation was not fit for purpose and that, if the merger took place, there needed to be a new deer act to replace the old one, so that the new, merged organisation could work more effectively. That is beginning to happen. I hope that we will get new deer legislation as part of the wildlife and natural environment bill. We have been supportive of the proposed bill, on the basis that it will make deer management better and more sustainable in the future and make it more possible for the responsible agency to deliver that. Currently, only the hard work of our board, in particular, enables some pretty daft provisions in the Deer (Scotland) Act 1996 to work reasonably well.

Because we have been heavily involved in developing the wildlife and natural environment bill and because of our relationships with stakeholders, there is an argument for delaying the merger until the bill has been passed and has begun to work. The other argument, of course, is that as long as sufficient expertise from the previous board moves into the merged organisation we can get round the issue.

10:45

Duncan Orr-Ewing: We see no particular reason for delaying the merger. All the agencies have been working closely together and are signed up to delivering sustainable deer management through the most recent deer strategy. Whatever new, merged body is in place will have to deliver sustainable deer management, which is the fundamental premise of the way forward.

Ian Jardine: I do not need to tell members that it is hard to get the timing perfect when we are trying to get legislation to fit together. If it is decided that the merger should go ahead, I ask that it not be delayed, because staff in both organisations have a timetable to which they can plan, subject to parliamentary agreement, and to put that timetable into a state of suspended animation would increase uncertainty and increase the risks. There are challenges attached to merging and changing legislation, but with sufficient lead-in time we can manage the risks. Greater risks would be posed if there were uncertainty over the timing of the merger.

Robert Balfour: The ADMG regards the merger almost as a done deal. It has gone off our members' radar; they are much more concerned about the proposed wildlife and natural environment bill. I have been saying to our members that the staff in the two organisations have been fully involved in reaching this stage of the potential merger. As Ian Jardine said, we do not want to increase uncertainty.

When the merger was originally being discussed, I remember a meeting in Pitlochry with the civil servants who were involved, at which the idea of a new deer act came up. We suggested leaving that until after the merger had happened and the new organisation had bedded down. We would much rather such an approach were taken than the approach that Elaine Murray suggested.

Elaine Murray: Would it be better to delay the introduction of the wildlife and natural environment bill, given that there is no huge urgency in that regard, to allow the new organisation to bed down and create relationships with stakeholders?

Professor Milne: The counter-argument to such an approach is that to make the new arrangements work better we need a new bill to deliver sustainable deer management, because the current legislation is not fit for purpose.

Elaine Murray: I was not suggesting that the bill should be delayed for a long time; I was suggesting that it could be delayed to allow the new organisation to bed in and develop a relationship with stakeholders before the bill goes through the parliamentary process.

Robert Balfour: We do not want there to be uncertainty about whether the organisations will be merged. That would be much riskier than the introduction of the new bill close on the heels of the merger. We are all up for the challenges that the merger will bring, but we think that they are manageable.

The Convener: The issue has been dealt with well, so we will move on.

Bill Wilson (West of Scotland) (SNP): I want to ask about the dissolution of the Advisory Committee on Sites of Special Scientific Interest. If objections to SSI notifications are to be considered and resolved by SNH, which itself is responsible for proposing SSIs, the process might not be terribly independent of SNH. I appreciate that SNH currently makes the final decision, but ACSSSI might put the alternative view more vigorously than might someone from the organisation that proposed and will make the final decision on the SSI.

Ian Jardine: Yes. The argument about ACSSSI has been about whether there needs to be a standing committee to do that job or whether there are other ways of doing it that avoid having a standing committee and the costs that are associated with appointing and managing it. The argument has been that there are other ways of getting independent sources of advice for SNH and that there could be a requirement for SNH to seek and publish independent advice. That would place a duty on SNH to source that advice, which might come through a university contract. A source of impartial advice would therefore be available to SNH, but it would not come through a standing committee with appointees who are appointed through the public appointments process. The result should be similar.

Bill Wilson: If you have to go to independent organisations such as universities, could that not end up costing more than having ACSSSI?

Ian Jardine: The belief is that it would not. The savings from removing ACSSSI are not huge, as you have seen from the bill, but there would be associated costs. However, the argument is that if there is still a view that it is important that SNH gets independent or at least impartial advice, the question is what the most cost-effective way of providing that advice will be. The current suggestion is that having a standing committee appointed through the public appointments process that might not deal with more than one case a year might not be the most efficient way and that there are other ways of getting impartial advice, through an academic institution or whatever, that would be cheaper. It would not be hugely cheaper, but it would be cheaper.

Karen Gillon: I am interested in the costs. As I understand it, removing ACSSSI will save approximately £10,000 a year. The point of the public appointments process is that it is seen to be fair and people are seen to be impartial. If you go to somebody else for advice, how do you ensure that impartiality? How do you ensure that the people who are involved in making such decisions—although they are independent of SNH—are sufficiently independent of everybody else? That is what the public appointments

process is about and I am not entirely convinced that a saving of £10,000, some of which will have to be offset against the cost of employing consultants to deliver the same advice, is worth losing the impartiality of the process.

Ian Jardine: At the end of the day, Parliament will make a judgment about the appropriateness of having a committee appointed through the current processes and whether those processes are appropriate to a committee that might deal with only one case a year, and will decide on the level of safeguard that is required.

Unless we doubt the objectivity of our universities, it will be possible to identify individuals or institutions that have the scientific standing and respectability that will mean we can have confidence in their impartiality.

The Convener: John Scott and Peter Peacock both want to ask questions. We will hear them both before the witnesses respond.

Peter Peacock: It might seem like a small and trivial matter because of the sums involved, but the origin of ACSSSI is important. It is no accident that ACSSSI was established in 1991. Ian Jardine said earlier that SNH was not necessarily flavour of the month at that time because of the work that it was doing; in fact, it was far from being flavour of the month. I was a Highland councillor at the time and was involved in some of the criticism of SNH. Indeed, Mr Balfour made that point. I recall that ACSSSI was established because of the sense at that time—I readily accept that things have moved on, although there are still disputes—that there was an over-zealous approach to designation among some people in SNH. It was therefore deemed to be necessary to have some body that stood completely independently of SNH to look objectively at scientific evidence and give advice to SNH before it confirmed any decision. That was an important part of trying to balance the equation at the time. Are those arguments not still valid on the occasion that such disputes might still arise? Is it not entirely valid that that body should continue, given that it would do so at such a marginal cost?

Secondly, Ian Jardine said that if the bill were to allow ACSSSI to be removed and SNH were to take on its responsibilities, he would be placed under certain duties about publishing and seeking advice. Is the bill strong enough in that regard?

John Scott: My question is on a similar topic, which is the corporate governance structures of SNH. Presumably, if you have confidence in yourself, your non-executive board directors must have a huge influence on this sort of evaluation process. You might want to talk a little bit about that.

Ian Jardine: I do not question the value of such impartial advice. It has been extremely helpful,

and I hope that nothing that I say here will be seen as questioning the value of impartial advice—in many ways, having it has strengthened the process. I am not talking about doing away with it. The question is how SNH accesses that source of impartial advice. We have led the way. In England and Wales, there is no such process; they do not have that impartial input. However, we have it in Scotland and we should retain it in some form or other. The question is how.

On the question whether the bill is strong enough, it is not a question of strength. As you probably saw in our submission, we have some questions about the current arrangements, which seem to require us to set up a committee. There is a risk that we will get into quite complicated governance arrangements. It might be simpler for the bill to outline what SNH should do and the requirements that we have to meet, and then allow the SNH board to set up whatever structure is needed to meet those requirements.

John Scott asked about corporate governance. The board has a standing sub-committee—a protected areas committee—which considers any cases for notification of SSSIs. It gives the authority for us to proceed. It considers any objections, refers them to the advisory committee and considers its response. If there is a difference of view between that sub-committee and the advisory committee, the main board of SNH is asked to act as the appeal body to consider that difference. That is how the system works at the moment.

Duncan Orr-Ewing: We support the abolition of ACSSSI and suggest that there may already be structures in SNH that are able to accommodate it, such as the SNH protected areas committee.

I note what members of this committee have said, but ACSSSI deals with very few cases each year. I know that it cost money to set it up, but there may be other ways of dealing with the issue.

The scrutiny of SSSIs is largely about the science, and whether SNH's proposals stack up on scientific grounds. We could see the merit in bringing in independent advice from Scotland's universities to provide peer-reviewed criticism of what SNH is suggesting.

Karen Gillon: Could we get some evidence—perhaps over a period of five years—on the cases that ACSSSI has heard and the views that it has come to, so that we can determine what difference it has made?

Ian Jardine: That is all published and we can provide it to the committee.

The Convener: Members have no further questions. I thank the witnesses for their attendance. It would be very helpful if you would

supply any supplementary information to the clerks by Monday 21 September so that we can circulate it to members to inform the drafting of the committee's report.

10:59

Meeting suspended.

11:03

On resuming—

The Convener: I welcome the second panel of witnesses, who are from the Scottish Government: Roseanna Cunningham MSP is the Minister for Environment; Frances Beck is a solicitor in the food and environment division; and Jo O'Hara is head of the natural heritage management team.

The Minister for Environment (Roseanna Cunningham): I have some brief opening remarks, mainly in connection with the DCS-SNH merger. I am sure that all of us in Scotland recognise that deer are a fairly iconic part of our heritage. They play an important part in the rural economy and they help to shape Scotland's wild landscapes and habitats. Managing them sustainably is important for the delivery of our biodiversity and economic objectives in the uplands of Scotland, and protecting their welfare and managing their impact on road safety in particular are of growing significance in the lowlands.

The Deer Commission for Scotland does an excellent job in furthering the conservation and sustainable management of wild deer. It works closely with stakeholders to develop strong partnerships and to address issues of balance between the various interests.

SNH also works with a wide range of stakeholders in promoting the conservation, appreciation and sustainable use of Scotland's natural heritage. There is a clear overlap between the roles of the DCS and SNH. The skills and competencies that DCS staff have developed will be a huge asset to SNH as it increasingly addresses wider wildlife management issues. I know that SNH and DCS have regularly spoken to stakeholder representatives to identify future ways of working that will ensure the full use and expression of that expertise.

Some people have expressed concern that, by losing a distinct voice in the land use debate, deer risk being relegated to the ranks of problem species or vermin. I do not believe that that will happen; indeed, I am determined that it should not. All sides recognise the value of deer in their own right and as a sporting and economic resource. The DCS has been instrumental in achieving that consensus. I see the merger as a

sign of maturity in the debate about the conservation of our natural heritage. I see a move away from concentrating on single interests—whether sporting, economic or conservationist—towards a more holistic and balanced debate about the wide range of good and bad impacts of such important animals.

I acknowledge the contribution that the Advisory Committee on Sites of Special Scientific Interest has made since 1992. ACSSSI is somewhat anomalous in that it is appointed by ministers to advise SNH, which is the principal adviser to ministers on the natural heritage. It is also interesting that there is no equivalent body anywhere else in the United Kingdom. Its workload has reduced significantly since its establishment, and it is likely that the number of new SSSIs that will be notified in the future will be minimal. The proposal to dissolve ACSSSI is therefore sensible; it clearly reflects the bill's objectives.

The Convener: Thank you very much, minister.

It has been said, both in the written evidence that we have received and during the first part of the meeting, that SNH and the DCS have different approaches to regulation. What is your view of the different perceptions of their approaches to regulation? What effect might doing away with the DCS have in that respect?

Roseanna Cunningham: I agree that a lot has to do with perceptions. People with strong interests argue that it is necessary to keep the functions separate, but the merger offers enormous opportunities for better relationships with stakeholders, the release of funds for delivery and better integration of policies—on climate change, for example. We are now in a very different atmosphere, and we must consider such matters in a far more holistic way. The new buzzword will be “ecosystems”, as opposed to single issues. Rather than trying to regulate for a single thing, we will have to consider how everything interacts in our ecosystems. We will hear that word much more often in the coming months and years.

A reference group will be established to represent the deer industry on the programme board. Its terms of reference will include ensuring that the merger produces a body and legal framework that are in the best interests of deer and the people who are employed to manage them. The group will represent stakeholders throughout the deer industry.

I do not think that there will be any loss of expertise or that what we have proposed will lead to any diminution of the good work that has already been done. Indeed, the proposal is a way of making that good work better.

The Convener: It is likely that quite modest financial savings will arise from the merger, but a job will have to be done to build stakeholder relationships. Are there any other benefits that might arise from the changes?

Roseanna Cunningham: There is a financial question, but it is not huge. We are not talking about saving vast amounts of money. To be honest, saving money is not necessarily the only driver of our proposals.

Originally, it might have looked as though the DCS and SNH were working in quite different ways and in different spheres, but their work has gradually overlapped quite significantly over the years. The DCS is now involved in sustainability, conservation and other things that might not originally have been thought of as part of its remit. Its work is already crossing over into some of SNH's functions.

By merging the bodies, we think that we can maximise expertise in the much larger organisation, deliver the same, if not better, results and reduce the overlap in the wider sense, given that our aim is to simplify the organisational landscape. We think that when there are significant overlaps between organisations, as is the case with SNH and the DCS, it is useful and important to reduce the overlapping functions. We want to avoid having two sets of people doing the same thing when better delivery can be achieved by a single organisation.

Liam McArthur: You have been quite bullish in suggesting that there will be no loss of expertise, but you will be aware that some concerns have been expressed along those lines. I presume that that is why you said that you consider the skills of DCS staff to be a real asset to the new merged body—that pinpoints where you think that the benefits of the merger lie.

In order to deliver those benefits, do you envisage the DCS staff remaining in some sort of discrete unit within SNH, either in the short or the longer term? How do you see the expertise and the knowledge that DCS has built up being retained and more widely dispersed in the new organisation?

Roseanna Cunningham: Some of those questions are about internal matters, which are for SNH to resolve. I am not in the business of giving specific directions about staff and where they might be located—that is not really my job. SNH is managed by an extremely efficient and competent set of people who are better placed than I am to make some of those decisions.

We want to ensure that there is no loss of expertise. It would not be in SNH's best interest for us to come back in two years' time and say that there was a problem. SNH will not want to produce

a set-up that will contribute to a loss of expertise. A lot of work has been done over the past year to ensure that that does not happen. There has been a lot of to-ing and fro-ing. When I was at the SNH office during the Easter recess, I met DCS officials, so that work was already in progress. Both bodies have been working closely with stakeholders to identify future ways of working that will allow their joint expertise to be fully used.

In addition, an appointments round for the SNH board is just about to start. Up to four new members are sought. In recruiting to the board of SNH, we recognise the importance of wildlife management. Given that that includes deer, we have an opportunity to ensure input of expertise in that regard.

It would not benefit us to deliver a perceived dilution of expertise when we are trying to strengthen expertise through a two-way process. The work that is done on the DCS side of things will be contributed to enormously by the pool of expertise that exists in SNH. I go back to what I said about ecosystems. We are moving into an era when we will take a whole ecosystem approach. It will no longer be appropriate to isolate one species and deal with it on its own. We will have to look at the impact across all species and ecosystems.

Liam McArthur: I appreciate that that is the medium to longer-term vision, but SNH has been quite candid in its evidence in suggesting that there is a risk of a loss of effective stakeholder relationships. Would it be beneficial, even just in the short term, to retain a discrete source of expertise within the new merged organisation that would allow those relationships to progress during the transition process?

11:15

Roseanna Cunningham: That will ultimately be a matter for SNH, which will make the decision on the basis of the outcome of its discussions with various stakeholders. I do not want to tell SNH what it must or must not do; SNH must make the decision. You suggest a sensible way forward, although it might not be the only way forward. I suspect that SNH will have in mind such a way of proceeding and I would be surprised if things did not go that way, certainly in the immediate future. I suspect that SNH is already thinking along such lines, but you will understand that I do not want to direct its operational work.

Liam McArthur: From a more practical point of view, as you carry out your day-to-day responsibilities, from where will you seek expert advice on deer management when the DCS board has been dissolved?

Roseanna Cunningham: There will initially be a deer panel in SNH and I would expect to go to the

people in SNH who are identified as those who work most directly on deer. I already do that in relation to aspects of SNH's work; there are staff who are better known for certain aspects, and that will continue to be the case. There will be folk in SNH who are identifiably dealing with deer management. I expect to know fairly early on who to go to, as will a variety of outside organisations and stakeholders, who will get to know the individuals in SNH who are most directly concerned with deer. In that regard, the new arrangements will not be really different: in a situation in which I would currently go to the DCS I will go directly to the people in SNH who are most involved with deer.

SNH is considering doing a number of things to include deer management in its functions, in recognition of its new responsibilities, but such things will be done overtly; they will not somehow happen in an unclear and invisible way. I hope that I can give comfort to members and to outside stakeholders that they will know who to approach on deer management.

Liam McArthur: Will there need to be a sign-off from the overarching board? Will you be comfortable going directly to panel members who have the relevant expertise?

Roseanna Cunningham: As a minister, I seek expertise where I know it can be found. Even in the short time during which I have been a minister I have learned who are the go-to people on a variety of matters. SNH wants to identify a deer group or panel in its organisation, so we will know who those folk are. The most important issue is that stakeholders should understand that and should be able to access those people. That is rather more important than my capacity as a minister to have an immediate meeting with whoever it is. In the short term, stakeholders need that comfort—we intend them to have it.

Peter Peacock: You said that the merger reflects a maturity in the debate about deer and habitat management. We have heard much evidence this morning that supports that view. However, as you would expect, there is anxiety among deer interests that resources that are transferred to SNH might be compromised to some extent and that the priority that has hitherto been given to deer might diminish significantly.

SNH told us that in the wider context of financial planning it is looking at various scenarios of reduced expenditure, and that it will be very much guided by you in determining what priority to give deer management in the short term, through the grant-in-aid conditions that you impose on whatever grant is available. You said that you do not want to direct internal operational matters, but SNH has helpfully thrown the issue back to you. Will you use the grant-in-aid conditions to say to

SNH that in the transition period it should ensure that deer management interests are not disproportionately affected by a reduction in expenditure in the wider financial context?

Roseanna Cunningham: You will not be surprised to hear that I will not make funding commitments or statements at this point. I have said that it is not in SNH's interests to have deer interests become invisible following the merger—that is certainly not the Government's intention. We are looking for an overt internal recognition of the importance of deer interests. Indeed, deer interests are extremely important, for a wide variety of reasons, as everyone here knows.

We want to achieve a situation in which, in the early years, stakeholders become comfortable with what is happening. I will do what I need to do to ensure that that happens.

I remind members that the Deer Commission has changed over the years. One of the reasons why we are in the position that we are in now is that the Red Deer Commission underwent changes and was given new tasks when it became the Deer Commission for Scotland. The resultant overlap with the duties of SNH is what is driving the merger.

The merger is not about making deer interests disappear; it is about strengthening those interests.

Peter Peacock: Are you thinking about asking SNH to report to you on the matter, in the short term, just to check that deer interests are not in any way being compromised?

Roseanna Cunningham: I can absolutely reassure the committee that I will be monitoring the situation over the next year or two. I have regular meetings with SNH's management and the issue of deer interests will become a regular part of those meetings. Deer interests will form an important part of SNH's work over the next year or two and, therefore, I will have to be aware of how the issue is being handled. I will take a hands-on approach in that regard.

John Scott: Will you be a little more specific? You say that you will ensure that the merger is a success and that you are confident that it will be, but how will you evaluate that? How will you know that the quality of service delivery is adequate? Are you benchmarking anything?

Roseanna Cunningham: Some of that will come from feedback from stakeholders. I know that there is a great deal of anxiety, as there always is when any change is proposed. However, part of the proof of the pudding will be in the eating. I am confident that SNH will be able to ensure that the stakeholders on the deer

management side will not experience a diminution in the service that they receive.

The principal issue will be stakeholders' perception and experience of the changes. That is why I want to keep an eye on the matter. If the situation starts to go adrift in any way, we will address that. However, I do not believe that that is going to happen, because I believe that the senior management of SNH is well aware of the expectations that are associated with the merger.

John Scott: So the evaluation of the success or otherwise of the measure will be an informal rather than a formal process. You will depend on stakeholders' views when you conduct that evaluation.

Roseanna Cunningham: At a personal level, there will be a constant informal process, which might, on occasion, become formal. I have not put in place the kind of internal set-up that you are talking about.

The situation will, of course, be monitored through the Scotland performs framework, which evaluates the performance of Government in a broader sense.

There will be some formal evaluation but, instead of simply seeing formal figures once a year, I would rather keep in close, informal contact and gain an understanding, on a rolling basis, of how things are working. That is a better way of ensuring that, if a problem begins to develop, it can be dealt with at an early stage. As you know, the evaluation of the output of a formal process always lags well behind the period that is being measured.

John Scott: So there is no quantitative way of assessing the changes?

Roseanna Cunningham: Not at the moment, other than through Scotland performs.

Elaine Murray: The Parliament is likely to consider two bills involving deer management this year. The first is the bill that we are considering, which deals with the merger, and the second is the proposed wildlife and natural environment bill, which, going by the consultation document, will cover aspects of deer management. I believe that the consultation finished this month. The previous witnesses were not particularly exercised about the coincidence of the timing, but they suggested that they would be concerned if the merger were delayed. However, what consideration did you give to the conflation of the timings? Did you consider whether the wildlife and natural environment bill might be delayed slightly to allow the new organisation and its relationships to bed in?

Roseanna Cunningham: As the committee knows, I am not in charge of the parliamentary

timetable. We do not yet have a specific timetable for the wildlife and natural environment bill, other than that it will be introduced in the present parliamentary session. The merger discussions have been on-going, but the problem with a merger is that it could take a considerable time to bed in. However, I would not want to delay the wildlife and natural environment bill to allow that one process to work its way through. The wildlife and natural environment bill is about a great many things, not just the licensing of shooting. On balance, it is better for us to proceed with the merger now. As we have discussed, the merger will proceed and work its way through, and I will monitor progress constantly. It is right that that should happen anyway and that we should not delay the proposed bill until it happens. The proposed bill will be much bigger than just the few sections that relate to deer. I suppose that the alternative might be to take them out.

Elaine Murray: As you are well aware, deer management issues have always been contentious.

Roseanna Cunningham: I appreciate that.

Elaine Murray: Even some of the points in the consultation document are contentious. We heard from the DCS that two full-time equivalent board members have been working on stakeholder relationships. Obviously, those relationships will be important in considering any proposed changes to the legislation. How can that expertise and those relationships with others be retained during the passage of the bill?

Roseanna Cunningham: Are you talking about the present bill or the forthcoming wildlife and natural environment bill?

Elaine Murray: I am talking about the wildlife and natural environment bill. Will that expertise still be available to you and the Parliament during the passage of that bill, if you decide to continue with the deer management proposals?

Roseanna Cunningham: I expect so, and I would be disappointed if that were not the case. I am aware of the controversial nature of some of the measures in the wildlife and natural environment bill, but your question was whether we should delay that bill—

Elaine Murray: The other option is to take the deer management provisions out of that bill and introduce them in separate legislation.

Roseanna Cunningham: But we would have to find another vehicle for that, and the issue would keep knocking on. It is better to deal with it. The Public Services Reform (Scotland) Bill is being dealt with now and the wildlife and natural environment bill has not been introduced yet. By the time that we are at stage 1 of that bill, the

merger will be working its way through. We will be able to monitor as we go. I strongly expect that, if any member feels that there is a problem, I will get letters from them along those lines. However, delaying the wildlife and natural environment bill would not be helpful, nor would removing its sections on deer management, because at some point we would need to find another legislative vehicle for them. That would probably not happen within the timescale of the present four-year session of Parliament, so we would lose the opportunity and a significant amount of time.

11:30

Peter Peacock: I turn to ACSSSI, about which we heard evidence this morning. The Government commissioned an independent review of the appeals process for disputes over agricultural subsidy payments. The Government agreed the principle of having an independent appeals panel in that instance, yet it is talking about abolishing ACSSSI. As you rightly said, ACSSSI does very little work. That said, what it does—when it does it—is extremely important. The fact that it is entirely independent of SNH is, of itself, important to the process. Given the marginal costs, is it not worth while keeping ACSSSI? Retaining the independent element would be consistent with other aspects of Government policy.

Roseanna Cunningham: I could just as easily turn the question round and ask, given the marginality, why continue with it? In effect, SNH is set at one remove to provide independent, scientific advice. We have that independent body—which, of course, is paid for through the public purse—to look independently at the independent scientific advice that I am given. Your suggestion does not seem a useful way in which to proceed.

In my brief opening statement, I said that there is no equivalent body to ACSSSI south of the border: such a body was not deemed to be necessary. I am not entirely clear why it was deemed necessary in our case. ACSSSI has a diminishing amount of work—indeed, its work has diminished significantly. Given that we are moving towards a landscape where the number of SSSI designations is falling markedly, the likelihood of the body having any role whatever to play is vanishingly small.

I say again: if SNH is the independent advisor to Government, I am not entirely certain what the purpose is of having an independent overview of the independent science. The science that the Government is given is either independent or it is not. In view of the situation, there is no real need to continue with ACSSSI. Indeed, SNH is under no obligation to take on board what it says. In ACSSSI we have an independent organisation

with a vastly diminishing amount of activity that supposedly provides a backstop to another independent organisation, the latter of which is not required to take any notice of the recommendations of the former. In those circumstances, one has to ask, why have the body in the first place?

Peter Peacock: I could tell you, and I will tell you. The reason why a body like ACSSSI is not found in England and Wales dates back to the 1980s and 1990s. At that time, in Scotland, huge tracts of land were being designated as SSSIs. Such large designations tended not to be made in England and Wales; the areas involved tended to be smaller. In Scotland, huge controversy arose about the decisions. Having ACSSSI was seen as an important lightning conductor, safety valve or check and balance in the system. The objective was to ensure that when SNH—which is independent of Government—made recommendations on designating land, the designations were checked by scientists who sat apart from SNH. The view at the time was that SNH was perhaps overzealous in some of what it was seeking to do.

I accept that the world has moved on. SNH has moved on and things have changed. Nonetheless, the important principle remains that, at times of controversy—infrequent though they may be—there is merit in having an independent body such as ACSSSI.

Roseanna Cunningham: If we went down that road, we could populate the landscape with similar bodies. One might argue that if you accept that logic, you would have to have one such body for virtually every non-departmental public body, Government agency or whatever. My question would then be, who watches the watchers? Would we have another independent body to look at the independent body that is looking at the independent body? At some point you have to say, “Enough.” We are trying to declutter the landscape. The first time that I heard of ACSSSI was in February on becoming a minister. It has become so redundant that it no longer has a function.

Peter Peacock: From what you have said, would I be right in saying that you are not thinking of reconsidering the matter?

Roseanna Cunningham: You would be absolutely correct in taking that from what I have said.

John Scott: Part of the *raison d'être* for the Government's abolition of the appeals panel is, as you have said—

Alasdair Morgan: It is not an appeals panel.

John Scott: A review panel, then.

Part of the reason is the diminishing workload. Do you rule out completely the possibility of ever resurrecting such an appeal system even if designations are required in future, perhaps under another EU directive?

Roseanna Cunningham: No. In those circumstances, we would need to have a proper debate about the need for such review bodies for either all or none of the various bodies. In those circumstances, would we populate the landscape with organisations such as ACSSSI, which was set up to review independently organisations that were already set up to do independently the things that the Government needed them to do?

We are not scientists, so we rely on scientific advice. That advice is independent: we frequently get advice that we wish was different, even from organisations such as SNH. If we have an independent review panel to review the independent advice, why should we not have another independent group to review independently the review panel?

John Scott: You assert that SNH is independent of Government, but it is financed by Government and regarded by most people as an organ of Government. To claim, therefore, that SNH is independent of Government is—with respect, minister—semantics at best.

Roseanna Cunningham: The new panel will be financed through public money too, so the same argument applies.

Alasdair Morgan: I have a small technical question. As I am sure you are aware, section 2 will insert in the Natural Heritage (Scotland) Act 1991 a clause that states:

“SNH must establish a committee on sites of special scientific interest”.

RSPB Scotland has pointed out that SNH is planning to give the work of ACSSSI to an existing committee, and it queries whether the bill as drafted would require a separate committee to be set up. Does the wording need alteration, or are you fine with the fact that it could mean that the same committee does both jobs?

Roseanna Cunningham: I will ask Jo O'Hara to respond to that.

Alasdair Morgan: I am glad that I have given her an opportunity to participate in the debate.

Jo O'Hara (Scottish Government Rural Directorate): We have talked about that issue quite a lot during the past couple of weeks. From the wording, it appears that the bill would require SNH to set up yet another committee, when it already has a scientific advisory committee and a protected areas committee to provide scientific advice to the board.

We are examining the wording to ensure that we do not constrain SNH too much in relation to how it addresses the situation, while ensuring that it maintains the provision of impartial and transparent—rather than necessarily independent—advice. The advice needs to be clear and scientific, and transparent so that anyone can see and question it, but do we really need a process that involves setting up yet another committee? We may need to tweak the wording at stage 2.

John Scott: I want to ask you about the order-making powers in part 2, which will give new powers to reform public bodies and remove legislative burdens. Some people take the view that that will transfer substantial powers to the Executive, for which the Government has not made the case. Indeed, when similar legislation was considered by the UK Parliament it was dubbed the “abolition of Parliament bill”. It is obvious that there are concerns. Which public bodies in the rural affairs and environment portfolio do you have plans to reform? What justification is there for taking such wide-ranging and sweeping powers?

Roseanna Cunningham: In the portfolio for which I am responsible, there are no further plans to reform public bodies. The proposals that we are discussing are our only ones to implement what might broadly be described as public sector reform. I have no further plans to do anything of that nature within my part of the portfolio and I have no knowledge of any other proposals within the broader portfolio of the Cabinet Secretary for Rural Affairs and the Environment. In the context of what affects the committee, there are no further proposals.

The more general issue of order-making powers is not a matter for me; it is not my responsibility. I understand that the Subordinate Legislation Committee will consider the matter next week, and I suggest that it is better dealt with through that process. John Swinney will appear before the Finance Committee on the power in part 2 of the bill because it is a broad umbrella provision that covers all policy areas. I can answer only for my part of the Government.

John Scott: Nonetheless, you are the only Government minister whom this committee will have in front of it to ask about the wide-ranging and sweeping powers that the Government wishes to take. You apparently cannot give us any justification for doing that.

Roseanna Cunningham: I told you that there are no proposals in my portfolio other than what is already in front of you. I am not taking anything forward, and I am not aware of anything that the cabinet secretary is taking forward or intending to take forward, in this context. This debate is

probably best dealt with in a wider sense in the appropriate places.

Peter Peacock: I will follow up on John Scott's point. The potential powers are significant and sweeping. I accept that John Swinney has a wider policy responsibility for the bill, but do you accept that although you have no immediate plans—or, indeed, any plans—to use the powers in relation to any of the bodies for which you are responsible, the fact that the powers will exist on the statute book means that any future Government could use them in all sorts of ways that we cannot anticipate? That could subject potentially big, radical changes to a truncated parliamentary process. Is that not a matter of fact?

Roseanna Cunningham: I expect and hope that any Government of any colour would treat Parliament with consideration and respect. I do not expect that any Government would want to undertake massive, wide-ranging changes under the guise of the powers in the bill. In any case, as I understand it, any changes would still be required to come before Parliament in an affirmative instrument, so although the powers would mean not having to do things in primary legislation, an affirmative instrument would require to come before the relevant committees and Parliament and they would have pretty serious input.

Peter Peacock: I hear what you say, but, notwithstanding that, the powers would permit ministers to reform public bodies, effectively reform legislation, remove burdens, change functions and so on, which are significant powers. I accept that the use of such powers would be subject to the affirmative procedure in Parliament, but that is substantially different from dealing with primary legislation, which would allow far greater scrutiny of potentially important changes in the future—even though you do not propose to make such changes.

Roseanna Cunningham: The bill will introduce a different way of processing public sector reform. I expect that one of the rationales is that it will help to speed up reform—there is widespread agreement across all the political parties that reform requires to take place. Although affirmative instruments are not primary legislation, they are an understood, accepted and traditional way in which Governments within the United Kingdom—whether at Westminster or Holyrood—proceed. We have primary legislation and subordinate legislation. Ultimately, Parliament will still be able to knock down any legislation, whichever Government introduces it.

11:45

Alasdair Morgan: Given that this committee has spent a fair bit of time discussing the abolition

of a committee that meets on average twice a year, does the minister agree that there is an argument for speeding up the process of reforming public services?

Roseanna Cunningham: I cannot bind a future Government, as everybody knows. I must step carefully here. However, I anticipate that even with the proposed order-making powers, any massive changes are still likely to proceed in time-honoured fashion. However, Alasdair Morgan is right to say that a change such as the one that we propose for ACSSSI does not require to be in primary legislation. It could have been dealt with by an affirmative instrument, which undoubtedly would have allowed the same exploration of the issues and could have been agreed or otherwise by Parliament.

John Scott: If you will forgive me, minister, we are talking about much wider-ranging powers than Alasdair Morgan suggested. Although I appreciate that you are not responsible for the bill, you certainly do not appear to have made the case for the need to take such powers. If there is no need to take them, why take them?

Roseanna Cunningham: It could be argued that with some cases on the reform agenda, such as the ACSSSI reform, constantly looking for bills through which to make the changes would hold up the process considerably. There is great advantage in Parliament being able to deal with such situations far more quickly than it is able to do at present. That is one of the principal arguments for part 2 of the bill.

The Convener: Let us move on to the leasing of forestry land. Minister, you will recall that in its stage 1 consideration of the Climate Change (Scotland) Bill, the committee asked that the proposal to lease significant parts of the national forest estate be dropped. Indeed, you took the committee's advice. The Cabinet Secretary for Finance and Sustainable Growth has advised that in order to take the matter forward, the Scottish Government intends to introduce a stage 2 amendment to the Public Services Reform (Scotland) Bill. Do you have any further details on that proposal, including the financial implications and how they will be calculated?

Roseanna Cunningham: We do not think that the proposal has any real financial implications. There was a great deal of debate on the leasing issue. The irony is that although the Forestry Commission can sell land, it cannot lease it. I appreciate that the leasing debate was heated, but it was in a context that is different to what we propose now. We propose to allow the Forestry Commission to lease to community groups. It is a small-scale proposal that will allow community groups to approach the Forestry Commission in a way that they cannot do now because it is not

permitted to lease land, even to community groups. We do not propose a big change; the Forestry Commission will be allowed to do something that I suspect most people either think that it can do already or think that it is the right thing for it to do. The idea is that we will introduce an amendment at stage 2. I do not have a worked-up amendment at this stage, but that is the intention.

I am being reminded by my official that the Forestry Commission is allowed to lease for non-forestry purposes, but it cannot lease for forestry purposes. Leasing to community groups would be for forestry purposes, which is why we require a legislative change.

Karen Gillon: The response from your officials says that the amendment is likely to allow for

“Sales and leases under the National Forest Land Scheme” that

“take place at (independently assessed) market value.”

There is an issue about various pots of public money being used to cross-subsidise other pots of public money. If a community group were allowed to lease a piece of land, the chances are that it would apply for a pot of public money to enable it to do so. Can anything be done—perhaps you can look at this—to allow the Forestry Commission to lease to bona fide community organisations at a peppercorn rent? That way, they could get grant funding to create walkways or to carry out nature conservation work or other things within the forest, but large amounts of money would not have to be paid to lease the land, because the rent or lease value would be nominal.

Roseanna Cunningham: I am happy to have a conversation with the Forestry Commission about that. I would have to be confident that anything that we did complied with the various rules that surround public finance. However, I understand your point. I know that there are issues about how we deal with situations where we use public money to lease from other public bodies, which begins to look a bit circular. I will raise that specific issue with the Forestry Commission to see whether there are circumstances in which it would consider leasing at rates that are below market value, if that is permissible—it might not be.

The Convener: There are no further questions, so I thank the minister and her officials for their attendance. If you have any further supplementary information, please get it to the clerks by 21 September, so that it can be circulated to members.

Before I close the public part of the meeting, I want to mention that our committee assistant Vikki Little is leaving the Rural Affairs and Environment Committee clerking team after four years to take

up a temporary post with the Standards, Procedures and Public Appointments Committee. On behalf of the committee, I thank Vikki for all her hard work. We wish her all the very best in her new role.

Members: Hear, hear.

The Convener: I extend a warm welcome to Iain Weston, who is Vikki’s replacement.

11:52

Meeting continued in private until 12:20.

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