



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 19 January 2011

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE
2nd Meeting 2011, 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)

*Elaine Murray (Dumfries) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Stewart Stevenson (Banff and Buchan) (SNP)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Rhona Brankin (Midlothian) (Lab)

Jim Hume (South of Scotland) (LD)

Jamie McGrigor (Highlands and Islands) (Con)

Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Roseanna Cunningham (Minister for Environment and Climate Change)

Robin Harper (Lothians) (Green)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 1

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 19 January 2011

[The Convener *opened the meeting at 09:31*]

Wildlife and Natural Environment (Scotland) Bill: Stage 2

The Convener (Maureen Watt): Good morning. I welcome everyone to the Rural Affairs and Environment Committee's second meeting of 2011. I remind you all to switch off mobile phones and BlackBerrys, as they impact on the broadcasting system.

Our first item of business is consideration of amendments at stage 2 of the Wildlife and Natural Environment (Scotland) Bill. Members should have in front of them their copies of the bill, the third marshalled list of amendments and the third set of groupings. I remind members that we must complete our stage 2 consideration of the bill today.

I welcome Roseanna Cunningham, the Minister for Environment and Climate Change, and her officials. I remind members that officials cannot participate in the debate.

After section 20

The Convener: Group 1 is on the reviewing of birds and animals included in certain schedules to the Wildlife and Countryside Act 1981. Amendment 14, in the name of Elaine Murray, is the only amendment in the group.

Elaine Murray (Dumfries) (Lab): I am so far down the table today that I feel as if I have joined the bill team. My position often feels a wee bit like the naughty step, but I am even further down now.

The current arrangements require only some of the schedules of the 1981 act to be reviewed periodically. Schedules 5 and 8 are subject to five-yearly review by statute, and the others are reviewed on an ad hoc basis by ministers or Scottish Natural Heritage and the Joint Nature Conservation Committee. Schedule 1 has apparently never been reviewed.

Amendment 14 would require all schedules to be reviewed in a five-year cycle and would achieve consistency for all the schedules, which would be kept up to date on the basis of the latest available science.

Since my amendment was drafted, it has been pointed out to me that there has been an

amendment to the 1981 act that means that the word "jointly" is included in section 24 on the review of schedules 5 and 8. That may be an issue, because there is no parallel change in the United Kingdom legislation.

If there is a technical problem with amendment 14, I invite the minister to advise us on whether she agrees with the sentiment of it and whether we could withdraw it today and rewrite it for stage 3 or make the amendment and amend it appropriately at stage 3.

I move amendment 14.

The Minister for Environment and Climate Change (Roseanna Cunningham): I fear that I will disappoint Elaine Murray. We will consult on the upcoming quinquennial review of schedules 5 and 8 of the 1981 act shortly. Reviewing those schedules is resource intensive, and to force a quinquennial review of a further nine schedules would result in a huge amount of resource being expended without any clear corresponding gain.

Amendment 14 makes changes to section 24 of the 1981 act, which provides for Great Britain-wide reviews by a range of conservation bodies. It can therefore be read as putting new duties on Natural England and the Countryside Council for Wales to carry out reviews, and we cannot really do that through our legislation without the agreement of those bodies, which has not been obtained.

We already have the power to vary schedules under section 22 of the 1981 act, which can be used where, for example, SNH advises that a change to a schedule should be considered. We would then proceed with that change and the accompanying consultation in the normal way. In my view, that is a far better use of scarce resources than bringing in an obligation for automatic reviews regardless of need. That is why I cannot support amendment 14.

The current quinquennial review is being carried out separately in Scotland and England and Wales, with two separate consultations. Previously, the Department for Environment, Food and Rural Affairs carried out the review on a Great Britain basis, so there has been a change in the way that it is done.

Elaine Murray: Given that there is a technical issue with the amendment anyway, I seek leave to withdraw it.

Amendment 14, by agreement, withdrawn.

Amendment 58 not moved.

The Convener: Group 2 is on the definition of wildlife crime for reporting purposes. Amendment 106, in the name of Liam McArthur, is the only amendment in the group.

Liam McArthur (Orkney) (LD): In the discussion on the various amendments on vicarious liability and related issues last week, we heard the committee's concerns about the inconsistent approach by various police forces throughout Scotland to wildlife crime in general and to raptor persecution specifically. Last week, we also saw the Cabinet Secretary for Justice come as close as he felt able to nailing his colours to the mast in relation to a single nationwide police force. Although that may address any problems of inconsistency, I suspect that only a supreme optimist would assume that there would be a levelling up of the standards set by Grampian Police, for example, in the policing of wildlife crime, rather than a levelling down.

In his evidence to us, Constable David McKinnon confirmed that all eight forces submit monthly returns to the national wildlife crime unit, which collates returns for the UK. However, Constable McKinnon also said that whether incidents were properly recorded as crimes and therefore recognised in crime statistics was another matter entirely.

Amendment 106 will, I hope, address that point. The minister may argue that the situation has already improved through the work of the partnership for action against wildlife crime Scotland. There may be a strong case for that, but it does not entirely square with the evidence that we have taken in recent weeks and months.

Amendment 106 may need to be refined, but I hope that the minister will acknowledge that inconsistency in enforcement is a problem. While budget constraints will make improving the situation more difficult than ever, it should be borne in mind that inconsistency of approach between the forces predates any budgetary squeeze.

On that basis, I move amendment 106 and look forward to what the minister has to say.

Peter Peacock (Highlands and Islands) (Lab): I support the principle that Liam McArthur has outlined. We often ask how we can get the attention of people out in the field in all sorts of areas of public policy, and the answer is to collect statistics. One element that lies behind the issue is the need for better reporting on wildlife crime. That would, one hopes, attract more policy attention and effort on the matter.

Roseanna Cunningham: I have considerable sympathy with the sentiments behind Liam McArthur's amendment 106. In a spooky coincidence, the definition that he is talking about was developed by PAW Scotland. It was deliberately broad, because it was designed to be used by the partnership to provide an overarching direction to which all partners could sign up. It was

never intended to be focused enough to be used in law enforcement or as a recording standard by any statutory bodies.

The report "Natural Justice: A Joint Thematic Inspection of the Arrangements in Scotland for Preventing, Investigating and Prosecuting Wildlife Crime" recommended that a national minimum standard of investigation should be developed, and that is currently being progressed by the national wildlife crime unit. It will not be binding on forces, but we hope that it will be ratified by the Association of Chief Police Officers in Scotland and will go some way towards setting a minimum standard for the police response to which amendment 106 refers.

I am not sure that imposing the provisions of amendment 106 would actually achieve the benefits that Liam McArthur is seeking. There are issues around the relationship between the definition and police response services, although the amendment allows further discussion of some of the issues that arose at stage 1.

Wildlife crime is currently a recordable crime, and a Scottish crime recording standard has been in place for some time. That means that all crimes are recordable, and the standard that has been set for recording them is suitably high. The independent police forces—currently there are eight of them, although who knows how many of them there will be in the future—will apply the same high standard to recording wildlife crime that they apply to recording all other crimes. They also report incident data to the national wildlife crime unit, following guidelines set by that unit.

There are other changes on the horizon that might address some of Liam McArthur's concerns. First, the issue of reporting to Parliament on wildlife crime was debated at the committee's first day of stage 2 consideration, and we will return to that matter at stage 3. Secondly, as I indicated earlier, the national wildlife crime unit is developing a national minimum standard of investigation for wildlife crime. I am opposing amendment 106 not because I think that it is not a good subject for debate and discussion, but because a considerable amount of work is already going on in the area, so the amendment is unnecessary.

Liam McArthur: I thank Peter Peacock for his supportive comments, and I welcome the constructive tone and content of the minister's remarks. I will reflect further on the issue, and I accept the points that she has made in relation to how developments might address the committee's concern about inconsistency. On that basis, I will not press my amendment.

Amendment 106, by agreement, withdrawn.

Section 21—Repeals relating to Part 2 and game licensing

Amendments 15 and 16 moved—[Roseanna Cunningham]—and agreed to.

Section 21, as amended, agreed to.

Schedule—Repeals relating to Part 2 and game licensing

Amendment 17 moved—[Roseanna Cunningham]—and agreed to.

Schedule, as amended, agreed to.

Before section 22

The Convener: The next group is on sustainable deer management, including the content of and compliance with the code of practice. Amendment 151, in the name of Robin Harper, is grouped with amendments 109 to 111, 152, 121, 123 and 124.

Robin Harper (Lothians) (Green): It is clear that, despite efforts in the right direction, there has been a history of deer management being carried out without always according the best interests of the natural environment their proper place. One of the key recommendations of the Deer Commission for Scotland, which the Government supported in its first consultation, is missing: that there should be a general duty on all public bodies and land managers to manage deer sustainably.

Amendment 151 seeks to rectify that omission. By placing sustainability at the forefront of the Deer (Scotland) Act 1996, it sends a strong message to deer managers and to those who have been drafting and agreeing the code of practice that Parliament expects them to act with sustainability at the forefront of their minds, not just as a desirable afterthought. That view is shared by all the non-governmental organisations that are involved in deer management, I am assured, both in relation to their own land and for wider environmental reasons. Those organisations include RSPB Scotland, the National Trust for Scotland and the John Muir Trust.

That was also the view of the Government's previous advisers on deer, the Deer Commission, and I believe that it is the view of the Government's current advisers, whose chief executive recently wrote:

"We maintain the view that a duty on individual land managers to comply with a code of sustainable deer management would be beneficial in encouraging collaborative deer management."

In my view, such a duty should also be welcomed by responsible land managers who want to do the right thing—collaborating with neighbours, for example, and managing deer numbers down to more sustainable levels—but who feel frustrated

by less responsible neighbours. I will want to hear the Government's response and responses from committee members before I make up my mind whether to press amendment 151.

I move amendment 151.

09:45

Liam McArthur: We are pressed for time, so I should say that the majority of my remarks on the amendments will come under this section.

At stage 1, the committee was made well aware of the strongly held views about the need for a general duty on sustainable deer management and of the calls from a number of those with an interest and involvement in the sector for the bill to compel compliance, as Robin Harper has suggested. On balance, we emerged from stage 1 satisfied that, with its backstop powers, the Government had probably taken the right approach, therefore I am reluctant to support amendment 151. That said, there was general agreement on the need for further safeguards to ensure that the code has real teeth, that any failure to act to address problems where and when they arise will have consequences, and that there is absolute clarity about how, when and what sanctions will apply.

Amendments 109 and 110 seek to bolster the code of practice by requiring the practice of sustainable deer management and collaboration on deer management to be included. The very possibility that such aspects might be absent from any code could undermine confidence in its ability to achieve its objectives. I hope that my amendments address that in ensuring that action is not simply an option and I hope that I can convince Robin Harper that his own objectives can be met by other means.

Amendment 111 seeks to ensure that arrangements for implementing cull targets are included in the code recommendations. As colleagues will recall from the evidence that we took, the most serious implication of poor and unsustainable deer management is overgrazing, and amendment 111 seeks to deal with that by making action possible where it is necessary. Given that the natural range of deer means that managing them sustainably requires a high degree of collaborative action between different estates, landowners and managers, amendment 152 requires, rather than permits or recommends, such a collaborative approach, with the provision of advice on how that could operate.

On collaboration, I repeat my earlier comment that the backstop powers that ministers have chosen to use in this bill are, on balance, the right approach, but I point out that the committee heard repeatedly of the failure of deer management

groups to meet. Indeed, many groups do not have management plans and most do not have a formalised process for setting and monitoring cull targets. Although one would hope that deer managers would opt to follow the proposed voluntary approach—the majority almost certainly will—I think that where such an approach does not work there is a case for empowering SNH to intervene and produce a plan that must be complied with. I repeat that that course of action would be taken only when no voluntary action was taken and where it could help to address the problems created by those who persistently fail to cooperate with their neighbours and SNH. In that regard, it should have no adverse effect on responsible deer managers; indeed, it could even help to avoid the waste of time, energy and resources that they suffer as a result of certain land managers' refusal to play ball.

On a number of issues related to the bill, the committee felt that there was a case for on-going parliamentary oversight, partly to reflect an expectation that circumstances will change in future and partly as an attempt to keep minds focused on the objectives behind the measures that are being put in place. Amendment 121 follows that theme by seeking to require compliance with the deer code to be monitored with regular reports to Parliament, which would include information on action that had been taken to deal with non-compliance. As the information needed for such a report will already have been compiled by SNH, I do not imagine that the additional work load will be onerous.

Finally, on amendment 124, I think that the code's application can be improved by strengthening the link with provisions under sections 7 and 8 of the 1996 act.

I look forward to hearing what the minister and other colleagues have to say.

Stewart Stevenson (Banff and Buchan) (SNP): I wonder whether, in his summing up, Robin Harper will indicate the number of people who will be caught by the inclusion of a duty on owners or occupiers of land on which deer are found. I ask that question because of my own domestic circumstances: my one-acre plot is a regular haunt of deer, and this winter there were at one point double figures within the curtilage of our house. It is clear that, although the proposal is well intentioned, it might place a duty on people who are incapable in the practical world of discharging it meaningfully. I am interested to hear Robin Harper's comments.

Peter Peacock: I have considerable sympathy with Robin Harper's proposal. On the face of it, it has a simple attraction—it is a clear requirement to act in a way that is consistent with many other policies. I think that the Government's preferred

opening position was to have such a measure in legislation to strengthen arrangements, which many bodies—including the former Deer Commission for Scotland—and many NGOs argued were not working effectively.

I have sympathy with the principle. However, I understand from earlier debates that the idea is problematic under the European convention on human rights. It would help if the minister set out clearly why that might be a problem and, if so, whether it is insurmountable. If that is a genuine obstacle—which I concede it could be—Liam McArthur's amendments become important, as they would strengthen the policy that the Government has adopted in lieu of pursuing its original position as set out in the consultation document.

For the reasons that Liam McArthur properly set out, progressive intervention would allow and encourage people to reconcile matters if they could. I think that he used the term "persistent failure". If that occurred, SNH would have a way of intervening and requiring action to be taken. That would in itself be difficult, but the provisions would have an important set of safeguards.

I am happy to support Liam McArthur's amendments. I support in principle Robin Harper's sensible objective, but it might not work in the circumstances. I am interested to hear what the minister has to say.

John Scott (Ayr) (Con): Like Liam McArthur, I support the backstop provisions in the bill as the right approach, but that is as far as I go. It is highly unlikely that the deer code would not make recommendations for sustainable deer management, but saying that it

"must cover arrangements for ... culling targets"

is going too far, as that implies that sustainable management always means a reduction in deer numbers. The bill will amend section 7 of the Deer (Scotland) Act 1996 to repeal a reference to a reduction in numbers, so the implication that I described is contrary to that. If what is proposed were to be in the code, we should also say that the code must set out how, in appropriate circumstances, deer numbers could be increased in the interests of sustainable deer management. Therefore, I am on balance inclined to vote against amendments 109 to 111.

The code may make provision on collaboration, but I understand that amendment 152 would oblige SNH to "cover arrangements for collaboration". The amendment should be resisted, because many landowners will collaborate more effectively on a voluntary basis.

Liam McArthur: Does John Scott concede that, in the evidence that we heard—not least on our

visit to Abernethy and the Alvie estate—plenty of examples were given of the voluntary approach not working? That was not through a lack of willingness among the majority of land managers but through the repeated failure of some individuals or estates to engage with the process.

John Scott: I will deal with that point in my comments on amendment 123. SNH should retain discretion to leave landowners to get on with collaboration themselves.

Amendment 123 attempts to introduce mandatory deer management planning by SNH. It would allow SNH to make an order to require owners and occupiers of an area of land to draw up a deer management plan when none was in place. The amendment should be resisted, primarily because the new arrangements for control agreements and control schemes render it unnecessary—that relates to Liam McArthur's point.

The threat of SNH being more able and willing to use its step-in rights should be enough to encourage voluntary deer management planning. In those cases in which it is not enough, the Association of Deer Management Groups could play a role in brokering a deal.

Like other members, although I agree with the sentiments of Robin Harper's amendment 151, I do not feel able to support it, and I believe that Liam McArthur's amendment 121 would impose another reporting requirement, which would be a further unnecessary burden, so I cannot support it.

Elaine Murray: I support Liam McArthur's amendments, which I think are in line with the evidence that we heard at stage 1. He mentioned our visit to the Alvie estate, where it was clear that some landowners work extremely hard on a voluntary basis to make deer management work, whereas others are not interested and do not come to the table. In such cases, there is little that the deer management group or SNH can do to force those people to comply with what is in the best interests of the environment.

I believe that the bill needs to be strengthened a bit. I understand why the Government moved away from its initial position in the consultation, which is the position that Robin Harper is trying to reinstate through amendment 151. Difficulties were associated with that position, which is why the Government felt that it needed to move away from it, and was probably correct to do so. However, at present, the bill's provisions are too weak and need to be strengthened along the lines that Liam McArthur has proposed in his amendments.

Bill Wilson (West of Scotland) (SNP): I think that it is fair to say that a constant theme throughout our evidence gathering was what we

should do with people who refuse to co-operate with sustainable deer management objectives, which brings me to a question for Robin Harper. For people who do not carry out the proposed duty, there does not seem to be any penalty, so his proposal would not provide enforcement any more than anything else that has been proposed. I would appreciate it if he addressed that point in his summing up, and I look forward to hearing the minister's remarks on how we can deal with the limited number of individuals who just do not co-operate.

The Convener: Over to you, minister.

Roseanna Cunningham: My comments will be more lengthy than they might have been. I will start by addressing amendment 151, which I have numerous concerns about.

First, it does not seem to me to be entirely reasonable to expect to be able to impose such a wide-ranging duty that is entirely reliant on an embryonic code of practice. I am concerned that that would frustrate the progress that SNH is making in getting stakeholders together to aid development of the code, and I do not want that to happen. The code is being developed as a practical guide for deer managers, and I understand that SNH's intention is that it will contain a variety of musts, shoulds and coulds.

I agree that deer management is a significant issue in many areas of Scotland, but we should not allow ourselves to be sidetracked into thinking, as amendment 151 might imply, that it is such a major concern throughout the country as a whole that every owner or occupier of land on which a deer appears should have the duty of complying with an as-yet-unseen code of practice. I think that that point was well made by Stewart Stevenson. Particularly over recent weeks in Scotland, we will all have seen deer in slightly odd places. If amendment 151 were agreed to, there would be the danger that it would trigger a requirement on the owners of those fields to comply with a deer management code of practice that they had probably not given a single thought to. That is a huge issue.

I am not sure what Robin Harper expects to happen in the event that amendment 151 is agreed to, because it proposes no sanctions for non-compliance. Without sanctions, it would take us no further forward. It falls into the category of visionary provisions, which we discussed earlier in proceedings and about which I raised my concerns with the committee at stage 1.

10:00

The bill is meant to be practical—much of it will happen by way of regulation, codes of practice or, indeed, the criminal court—and we want to be

careful not to create difficulties by being vague. What amendment 151 proposes does not sit well with all the practical and substantial things that have been strengthened in the statutory framework for deer management and the accompanying powers of SNH.

This is not a pejorative comment—we all do it—but when Robin Harper quoted SNH's advice at length he carefully missed out the next bit of its advice, which was to recognise the legal and practical difficulties of doing what he proposes. He is smiling—I am absolutely sure because he saw that bit of the advice as well. We cannot ignore those legal and practical difficulties, no matter how much we might wish to do so. I accept that Robin Harper might be trying to find a way round the legal difficulties that have been highlighted in the duty for sustainable deer management, but I think that we have already found an adequate solution.

The bill provides SNH with sharpened powers of intervention that will ensure that action can be taken when deer are not being managed in the public interest. Those for whom deer management is a relevant and real concern—not people who wake up one morning to discover a family of deer feasting in one of their fields, as I saw next to the A85 just a few days ago—will be able to call on the code to guide their management practices and provide direction on how to ensure they deliver in the public interest. The consequences of failing to deliver are clear, fair and proportionate, so we do not support amendment 151.

I remain unclear, despite Liam McArthur's comments, how amendment 123 would improve the perceived weaknesses in deer management. What he proposes is already available by the operation of sections 7 and 8 of the Deer (Scotland) Act 1996. The drawing up of a deer management plan is an obvious early step in the preparation of a control agreement under section 7, and failure to develop a plan under section 7 would lead to section 8 procedures, which could include production of a plan by SNH. SNH already has the facility to recover expenses for the section 8 procedures.

I recognise Liam McArthur's aim, which is an attempt to further collaboration, but there is little to be gained from compelling neighbours to get on and agree. Some of this is analogous to the difficulties that are experienced in mediation services. Mediation works best or, rather, works only when there are willing partners. The compulsion that could be imposed by amendment 123 could be counterproductive for the work of local deer officers. There are also problems with the drafting and approach of amendment 123. For example, the bill introduces important minimum timeframes for intervention powers, but the corresponding timeframes in the amendment are

twice as long. I am not sure whether Liam McArthur intended that; it may not be something that he really appreciated.

Amendment 124 would introduce non-compliance with the code, rather than an assessment of damage, injury or public safety, as a trigger for intervention action. As I said earlier, the code will contain advice and examples on best practice and cover a wide range of circumstances and scenarios. We therefore need to be clear that what we are really concerned about is impacts.

The trigger for intervention should not be whether the code is being followed in every last—and possibly irrelevant, because quite a lot in the code might not be of particular moment—detail; rather, the trigger should be whether deer are causing an adverse impact that needs to be managed. I appreciate that there is a debate about that, but that—rather than compliance or otherwise with the code—should be the trigger. My view on the best approach that SNH can take is that it should have discretion to intervene, guided by parts of the code, of course, rather than that it should attempt to adopt a one-size-fits-all approach, which would, I think, be unworkable. I recognise Liam McArthur's best intentions, but I ask committee members not to support amendments 123 and 124.

Peter Peacock: I hear what you are saying and what you are urging the committee to do, and I have picked up some of the technical arguments, but notwithstanding that, do you accept that the committee has a strong desire to strengthen the bill? Before you conclude your remarks, can you say whether there are things that you might be prepared to do to work with members to try to achieve that before stage 3?

Roseanna Cunningham: Our view at the moment is that what is in the bill will achieve what people want it to achieve. I appreciate that there is an honest difference of opinion about whether it will have the effect that is desired, but our view is that what we have proposed will deliver the benefits that we are saying will be delivered.

I reiterate the point that the concern is the outcome. We should not be too prescriptive about the process by which that outcome is achieved. I acknowledge that the intervention powers have not been used as often as they might, but I think that the bill will help to change that. If existing powers are not being used, the issue is whether we should attempt to ensure that they are used and strengthen them rather than introduce yet more powers. I understand the debate about that, but our opinion is that the provisions will achieve that result.

Peter Peacock: In practice, how can we encourage the use of the powers that will be

provided in the bill, given that previous powers have not been used?

Roseanna Cunningham: I will come on to that, but first I want to deal with the remainder of the amendments in the group.

Amendments 109 to 111 and 152 set out in a more prescriptive manner what the code of practice should address. The code may well cover all those points but, as committee members are aware, it is being developed by SNH with the support of a wide range of stakeholders. I am keen that the code should be completed and laid before Parliament as soon as possible. It is likely that the amendments would delay the process for formulating the code and add to the complexity of the issues that the code would have to address. We would therefore lose the benefits of having it in place sooner. I do not want the development of the code to be impeded by a focus in the bill on certain compulsory or advisory areas for inclusion, with the risk that they might be included at the expense of other potentially significant matters. Members will have to accept that I am not in day-to-day conversation with SNH officials about the day-to-day process of developing the code.

Liam McArthur: I appreciate that that work is under way. None of us wants it to be delayed. The minister said that she expects that what I seek to require through the amendments will be in the code of practice and went on to suggest that the inclusion of those requirements could delay the process. I am struggling to see how the two correlate, or how they can co-exist.

Roseanna Cunningham: The code is being developed in discussion with a wide range of people on the basis that there should be voluntary development of it by agreement.

If we start imposing things from the outside we are in danger of losing a lot of the good will that is building up around the development of the code. I am a little bit concerned about that, because much of what we are talking about will depend on people continuing to have good will towards what we are trying to achieve. My biggest concern is that the focus on the code could become a focus about compulsion rather than on what the code is developed to do. That is a potential problem.

Committee members will know that a lot of stakeholders are involved and that a lot of people have views. I appreciate that we will never get unanimous agreement, but we are trying to bring together as many people as we possibly can. My concern is that if we start talking about compulsion we will lose them from the process, and I do not want that to happen.

Deer management is about much more than culling deer. We are trying to encourage the use of a range of deer management solutions, which will

be suitable in different circumstances, at different times of the year or in different areas. Of course, that complicates matters because there is not a single focus for the discussion. For those reasons, I do not support amendments 109, 110, 111 and 152.

Amendment 121 would require SNH to issue an annual report on compliance with the code. I accept that Liam McArthur and other members will be looking for information on the operation of the code, but SNH publishes an annual report, which will contain information about action taken on deer management, just as the previous Deer Commission for Scotland annual reports did. The code will, of course, be kept under constant review, but I do not think that we will be able to publish lists of deer managers who may or may not be carrying out deer management in a sustainable manner. That would also jeopardise the collaborative approach that SNH is seeking to adopt whenever possible. I do not support amendment 121.

The merger of the Deer Commission for Scotland with SNH last summer has brought together the skills and experience of both in sustainable deer management. I am optimistic that the inevitable fresh thinking that will result from that, as well as the measures that we have introduced in the bill, will lead to a sound future for sustainable deer management. The key is co-operation between all the parties involved. It would be wrong to constrain that by introducing additional processes or detailed procedures that do nothing to deliver the improvements that committee members seek. That is why I do not support the amendments in the group.

The answer, in a sense, to Peter Peacock's question is that I expect that we will see a significant change in the way things are done. That change will be brought about by the expertise of the Deer Commission for Scotland staff being added to SNH.

Robin Harper: To answer Stewart Stevenson's question, I do not know how many garden owners would be affected, but amendment 151 states:

"It is the duty of—

(a) a public body or office-holder owning, occupying or otherwise controlling land on which deer are found;

(b) an owner or occupier of land on which deer are found".

The phrase "deer are found" should be interpreted as meaning regularly found and as referring to land that is inhabited by deer. The provision would not apply to people's gardens into which deer occasionally wander. If, legally, the amendment is not tight enough—

Roseanna Cunningham: Can I make an intervention?

Robin Harper: Yes.

Roseanna Cunningham: This is the problem with drafting provisions that will go into legislation. You may interpret the amendment as meaning “regularly” but that is not what it says, and if I were a clever lawyer—which I might have been at one time—I would act on that.

Robin Harper: Thank you. I was going to concede that point. Having listened to the responses, I am clear that amendment 151 needs to be given more thought, even if it is brought back at stage 3, so I will withdraw it.

Amendment 151, by agreement, withdrawn.

Section 22—Deer management etc

10:15

The Convener: The next group is on minor amendments on deer. Amendment 107, in the name of the minister, is grouped with amendment 126.

Roseanna Cunningham: Amendments 107 and 126 are minor technical amendments that amend the wording of changes that the bill makes to the Deer (Scotland) Act 1996.

Amendment 107 corrects the provision for additional issues that SNH will have a duty to take into account. They are public safety and the need to manage deer in urban and peri-urban areas. I refer to the discussion that we have just had on amendment 151, because deer are now appearing regularly in urban and peri-urban areas.

Amendment 126 corrects the provision that adds deer welfare as a trigger for SNH to take emergency measures. It removes an unnecessary word and is intended to make the bill as clear as possible.

I move amendment 107.

Amendment 107 agreed to.

The Convener: The next group concerns conditions for taking or killing deer in certain circumstances. Amendment 108, in the name of the minister, is grouped with amendments 129 and 130.

Roseanna Cunningham: As the committee is aware, the Deer (Scotland) Act 1996 sets out that damage or serious damage is the threshold at which action can be taken. Amendments 108, 129 and 130 would change “serious damage” to “damage” as the threshold for action. That is intended to prevent damage to crops, pasture, foodstuffs or woodland.

All the amendments in the group relate to sections under which some form of authorisation from SNH is required. They would provide consistency throughout the 1996 act and greater certainty for the operation of the various authorisation functions that SNH carries out.

The committee agreed the difficulty in establishing what serious damage, rather than damage, consists of and we heard evidence that the term may have inhibited the use of intervention powers that are provided for elsewhere in the legislation.

Amendment 108 also permits night shooting where it is done in the interests of public safety. It is most often done in relation to the lethal control of deer in the vicinity of roads. Occasions may arise in which it is safer to shoot at night. Such shooting would still require authorisation from SNH, which would need to be satisfied that the activity would be conducted safely and responsibly.

I move amendment 108.

John Scott: Amendment 108 would remove the requirement in the 1996 act to show that

“no other means of control ... might reasonably be adopted”

before an occupier can get an authorisation to take or kill deer at night and replaces it with a requirement that it be in the interest of public safety. For many farmers that will be acceptable, but occupiers’ rights can be used by some landowners to cull deer at night to the prejudice of sporting interests on neighbouring estates.

As I am sure the minister agrees, night shooting in general is fraught with potential dangers, even in apparently unoccupied woodlands. As much as possible should be done to avoid night shootings on safety and, indeed, deer welfare grounds. Night shooting necessitates the use of dogs to follow up wounded deer from around dawn and dusk, which itself implies less good-quality shooting and deer welfare issues.

Therefore, my preference would be to leave the requirement to show that

“no other means ... might reasonably be adopted”

and I am minded to oppose amendment 108.

Bill Wilson: I am happy to see the word “serious” removed. I am convinced that a clever lawyer would have used it to obviate any attempt at control measures.

Roseanna Cunningham: I should perhaps pick up on the comments that John Scott made. I remind the committee that any shooting will still require authorisation from SNH, which will need to be satisfied that the activity will be conducted in a safe and responsible manner. This is not about

arbitrary decision making on the part of owners or occupiers; it is about properly authorised activity. The authorisation process will involve assessing safety and responsibility.

We do not believe that John Scott's concerns are justified. We will have a conversation with John Scott to establish exactly where, in practical terms, what he is concerned about might happen. We do not believe that his concerns are justified, given the way the amendment is drafted.

Amendment 108 agreed to.

Section 22, as amended, agreed to.

Section 23—Deer management code of practice

The Convener: Amendment 109, in the name of Liam McArthur, has already been debated with amendment 151. Will you move amendment 109, Liam?

Liam McArthur: I will reflect further on the minister's remarks. I might try to bring back some amendments at stage 3, but, for the time being, I will not move my amendments 109 to 111 or 152.

Amendments 109 to 111 and 152 not moved.

The Convener: The next group is on code of practice: review et cetera and procedure. Amendment 112, in the name of Liam McArthur, is grouped with amendments 113 to 117, 158, 118 to 120 and 122. Amendment 158 pre-empts amendments 118 to 120.

Liam McArthur: The pre-emption information reiterates the point that I was going to make: my amendment 112, John Scott's amendment 158 and the minister's amendment 119 generally reflect a common purpose, which is to ensure that Parliament has an opportunity to consider the code of practice and that subsequent reviews of the code can and do take place. That was a firm recommendation of the committee at stage 1 and I am pleased that, however the votes fall in a few minutes' time, we will have achieved the objective of ensuring that the code continues to reflect good practice and developing technologies. I have pleasure in moving my amendment 112, but I will wait to hear what the minister and John Scott have to say before I decide whether to press it.

I move amendment 112.

Roseanna Cunningham: I will comment first on amendment 112. I have no doubt that SNH will wish to review the code. We have already had a discussion about that. It will want to review the code as necessary to ensure that it remains relevant. I am not sure that the proposal that that be done at least every five years would necessarily help, because it would result in the mindset of having a quinquennial review, rather

than the flexibility of conducting a review when appropriate, taking into account external developments. I do not support amendment 112. I ask Liam McArthur to withdraw it, so that we can have a further discussion with him, with a view to perhaps bringing something forward at stage 3 that would allow reviews to take place, which would be acknowledged in the bill but which would not necessarily get us into the danger of saying that reviews must happen every five years—the danger is that a review would happen only every five years, even on occasions when we might think that it was appropriate for that not to be the case.

Government amendment 113 is a simple reordering of words. Government amendments 114 to 118 will ensure that a replacement or revised code is subject to the same procedures for its development and approval as are required for the original code.

Government amendment 119 responds to a recommendation of the committee to make the code subject to parliamentary scrutiny. It proposes that the code be subject to negative procedure. In contrast, John Scott's amendment 158 proposes a combination of affirmative and negative procedure. I accept that that is consistent with the procedure proposed at stage 2 for the invasive non-native species code of practice. However, as was acknowledged by the committee in its recommendation that we give serious consideration to the use of affirmative procedure for the invasive non-native species code of practice, the codes clearly have different aims. For example, the invasive non-native species code could be used by the courts to assist in establishing criminal liability; the deer management code will not be used in that way.

I realise that the committee acknowledges the importance of the deer management code of practice—I acknowledge it too—but I feel that the use of negative procedure is appropriate. I therefore ask the committee to support Government amendment 119 rather than John Scott's amendment 158.

John Scott: Government amendment 119 introduces—as the minister said—a requirement for parliamentary approval of the deer management code of practice. That is welcome, but the amendment requires only the use of negative procedure and therefore minimal scrutiny. Amendment 158 would—again, as the minister said—require the use of affirmative procedure for the first version of the code and for any replacement thereof, and the use of negative procedure for revisions. That mirrors what has been done for the invasive non-native species code of practice.

Although the deer management code might be distinguished from the INNS code in that it is not,

at the moment, to be taken into account by a court in criminal proceedings, it is nevertheless important in terms of interference with property rights, because SNH will have regard to the code when deciding whether to intervene in a person's property rights under sections 7 and 8 of the Deer (Scotland) Act 1996. Such intervention could result in a mass cull or slaughter of deer on a person's land against the person's wishes. That could have serious financial consequences, and could also have consequences for the business and the community, because the affected area might be dependent on the deer-stalking industry.

The requirement for affirmative procedure for the removal of the deer management code is therefore reasonable. I urge the minister and the committee at least to reflect on that. I look forward to hearing what the minister has to say in her winding-up speech.

The Convener: I think that you meant "approval" rather than "removal".

John Scott: I beg your pardon.

Karen Gillon (Clydesdale) (Lab): I am naturally inclined to support any amendment that would require, for the first instance, the use of affirmative procedure and therefore detailed scrutiny by the Parliament. I will be interested to hear the minister's explanation of why that would not be necessary in this case. I wait to be convinced why I should not vote for John Scott's amendment 158.

Roseanna Cunningham: All I can say is that neither the Subordinate Legislation Committee nor this committee raised the issue when scrutinising the bill and making their reports. I understand the principle behind the position that Karen Gillon wishes to take. However, in practice, if the use of affirmative procedure is always required, the Parliament will have considerable difficulty in making progress. The level of detail in a deer management code of practice is best worked out by those who will be operating it.

Bill Wilson: Would SNH intervene on the basis of damage done or on the basis of the code of practice? John Scott seemed to think that it would intervene on the basis of the code of practice, but I thought that it would intervene on the basis of damage done.

Roseanna Cunningham: It is damage.

John Scott: If I could intervene on Bill Wilson before this debate ends—

The Convener: You may intervene when Liam McArthur is summing up. That would be the normal procedure.

Liam McArthur: Clearly, I will be happy to take any and all interventions.

John Scott: Amendment 158 would require the use of affirmative procedure only for the first version of the code and any replacement thereof. After that, negative procedure would be used. I hope that the committee will consider that that approach accommodates what Karen Gillon and I see as necessary, and meets the minister's requirement that it should not necessarily impose a huge burden thereafter. It would also be consistent with other parts of the bill.

10:30

Liam McArthur: Like Karen Gillon, I have at least some sympathy with the proposal that we should perhaps subject the initial code of practice to more rigorous scrutiny and provide an opportunity for those with an interest to express their views. The minister made a valid point about every revision or amendment thereafter being relatively minor. Perhaps we risk gumming up the process by subjecting each and every revision to the affirmative procedure. I am therefore minded to be sympathetic to John Scott's proposal.

I entirely accept the minister's comments about amendment 112 and I welcome her offer of discussion on that ahead of stage 3. I am happy to take up that offer. Five years need not necessarily be the required timeframe, but I assume that no more than five years is a reasonable threshold to set for ensuring that the code of practice is constantly updated and kept under review. On that basis, I seek the committee's leave to withdraw amendment 112.

Amendment 112, by agreement, withdrawn.

Amendments 113 to 117 moved—[Roseanna Cunningham]—and agreed to.

The Convener: I remind members that if amendment 158 is agreed to, I cannot call amendments 118 to 120 because of pre-emption.

Amendment 158 moved—[John Scott].

The Convener: The question is, that amendment 158 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gillon, Karen (Clydesdale) (Lab)
McArthur, Liam (Orkney) (LD)
Murray, Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Scott, John (Ayr) (Con)

Against

Stevenson, Stewart (Banff and Buchan) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0,

Amendment 158 agreed to.

Amendment 121 not moved.

Amendment 122 moved—[Roseanna Cunningham]—and agreed to.

Section 23, as amended, agreed to.

After section 23

Amendment 123 not moved.

Section 24—Control agreements and control schemes etc

Amendment 124 not moved.

The Convener: The next group is on exclusion of deer from land in circumstances in which taking or killing is allowed. Amendment 159, in the name of John Scott, is grouped with amendments 160 to 164.

John Scott: The purpose of the amendments is to clarify the range of management options in the Deer (Scotland) Act 1996 so that appropriate exclusion of deer by, for instance, fencing them out of key areas is recognised alongside and as an alternative to taking or killing. At the moment, the 1996 act focuses on take or kill options, which would appear to be out of step with the notion of long-term, sustainable deer management.

As I indicated, my amendments do not seek to enforce a requirement to exclude deer, but are intended to ensure that in certain circumstances, exclusion—for example, by way of appropriate fencing or repairs to existing gates and fences—is considered as a potential solution. Exclusion might occur in relation to vulnerable woodland or road accident black spots. Emergency measures might include circumstances in which repairing a hole in a fence or gate might achieve a suitable outcome for collaborative deer management and mean that there is no need to take or kill.

I move amendment 159.

Roseanna Cunningham: John Scott's amendments raise the important point that deer management is about more than culling. The bill already addresses the issue, as John Scott recognised in our earlier discussion of the content of the deer management code of practice. The bill proposes that the focus on reduction in number is removed from section 7 of the 1996 act and removes the prohibition of fencing forming part of the control scheme in section 8 of the 1996 act. Therefore, amendments 159 and 160 are not required.

I am concerned about the proposal in amendment 161 that would require SNH to consider the option of deer fencing in the context of taking emergency measures. In such a

situation, I would not wish to see extra time wasted in considering such issues and I doubt that there would be time to construct deer fencing if an emergency arose.

John Scott: It is a matter of half an hour or sometimes a morning's work to mend a hole in a fence in an emergency—I have done it myself on many occasions.

Roseanna Cunningham: Mending a hole in a fence is different from constructing deer fencing. I am sure that John Scott accepts that.

Amendments 162 to 164 relate to close season authorisations. It is not appropriate for us to legislate to allow SNH to authorise occupiers to exclude deer in the close season. It is difficult to see why deer fencing should be tied specifically to close season authorisations. I recognise that the use of deer fencing is often controversial but that it has uses in certain situations. However, I do not support the amendments.

The Convener: I invite John Scott to say whether he intends to press or withdraw amendment 159.

John Scott: I wish to withdraw the amendment at this stage.

The Convener: John Scott seeks the agreement of the committee to withdraw his amendment. Does any member object?

Karen Gillon: Yes.

The Convener: The question is, that amendment 159 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)

McArthur, Liam (Orkney) (LD)

Murray, Elaine (Dumfries) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)

Stevenson, Stewart (Banff and Buchan) (SNP)

Watt, Maureen (North East Scotland) (SNP)

Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 159 disagreed to.

The Convener: Amendment 160, in the name of John Scott, was debated with amendment 159.

John Scott: Not moved.

Amendment 160 moved—[Karen Gillon.]

The Convener: The question is, that amendment 160 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)

McArthur, Liam (Orkney) (LD)

Murray, Elaine (Dumfries) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)

Stevenson, Stewart (Banff and Buchan) (SNP)

Watt, Maureen (North East Scotland) (SNP)

Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 160 disagreed to.

The Convener: The next group is on deer control schemes: procedure. Amendment 125, in the name of Liam McArthur, is grouped with amendments 127 and 128.

Liam McArthur: It strikes me that the purpose and intent of my amendments 125 and 128 are much the same as those of Government amendment 127. I also note with no little surprise and great satisfaction that my approach appears to enjoy the advantage of brevity over the minister's. That said, as before, I will listen to what she has to say before deciding whether to press my amendments to a vote.

Amendments 125 and 128 seek to simplify the procedures under which a deer control scheme can be introduced by replicating what happened under the Nature Conservation (Scotland) Act 2004 in relation to land management orders. As colleagues will recall, the 2004 act allows management tasks to be imposed on a compulsory basis. Where there is a failure to carry them out, SNH can step in, carry out the tasks itself and recover costs. It seems logical for there to be a similar approval and appeals process for deer control schemes.

I acknowledge that the Scottish Rural Property and Business Association is concerned about the requirement to cross-reference different pieces of legislation, but there does not appear to be opposition to the principle. The question is therefore whether the minister's approach meets the objective more satisfactorily than mine does. I will leave her to make the case and others to decide.

I move amendment 125.

Roseanna Cunningham: As Liam McArthur has identified, his amendments 125 and 128 and Government amendment 127 all seek to achieve the same thing. Amendment 127 would update schedule 2 to the Deer (Scotland) Act 1996, which sets out the detailed application of control

schemes made under section 8 of that act. It will streamline the publicity requirements and remove the very prescriptive approach to publicising control schemes. That will afford ministers and SNH more discretion in how they go about arranging publicity for a proposed scheme and allow them to take advantage of electronic communication. As well as reducing cost, it is likely to be a good deal more effective.

Amendment 127 will also remove the current rather unusual provision to hold a local public inquiry where there is an objection to ministers confirming, varying or revoking a scheme. Although a control scheme has never been made under the 1996 act—we are amending SNH intervention powers elsewhere in the bill to make them more usable—our advice is that the potential cost and resource implications had the effect of inhibiting the former Deer Commission for Scotland from implementing a scheme. The provision is replaced with a rather more conventional right of appeal to the Scottish Land Court.

Liam McArthur's amendments 125 and 128 replicate the land management order process that is set out in the Nature Conservation (Scotland) Act 2004 and share some of the same intentions as the Government amendments. However, amendments 125 and 128 go further than is appropriate or required. For example, under the 2004 act, three months are allowed for interested parties to make representations in relation to a land management order, with provision made for that period to be extended, whereas the Deer (Scotland) Act 1996 provides for a period of 28 days in which objections can be lodged. A land management order or its amendment or revocation would have to be recorded in the register of sasines or land register. That is why I cannot support Liam McArthur's amendments.

I ask the committee to support Government amendment 127 and I hope that Liam McArthur decides to withdraw amendment 125.

Liam McArthur: I take genuine satisfaction from the fact that, for what is probably the only time in my parliamentary career, I have come up with a briefer way than the minister of achieving an objective.

I note the minister's concerns about the shortcomings in amendments 125 and 128. I welcome her commitment to simplifying a process that, as she acknowledged, has perhaps inhibited action in the past. On the basis that there do not appear to be any substantive differences in our approaches, I seek leave to withdraw amendment 125.

Amendment 125, by agreement, withdrawn.

Amendment 126 moved—[Roseanna Cunningham]—and agreed to.

Amendment 161 moved—[Karen Gillon].

The Convener: The question is, that amendment 161 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)
McArthur, Liam (Orkney) (LD)
Murray, Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 161 disagreed to.

Amendment 127 moved—[Roseanna Cunningham]—and agreed to.

Amendment 128 not moved.

Section 24, as amended, agreed to.

Section 25—Deer: close seasons etc

Amendment 162 moved—[Karen Gillon]

The Convener: The question is, that amendment 162 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)
McArthur, Liam (Orkney) (LD)
Murray, Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 162 disagreed to.

Amendment 163 moved—[John Scott].

The Convener: The question is, that amendment 163 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)
McArthur, Liam (Orkney) (LD)
Murray, Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 163 disagreed to.

10:45

Amendments 129 and 130 moved—[Roseanna Cunningham]—and agreed to.

Amendment 164 moved—[Karen Gillon].

The Convener: The question is, that amendment 164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Scott, John (Ayr) (Con)

Against

Gillon, Karen (Clydesdale) (Lab)
McArthur, Liam (Orkney) (LD)
Murray, Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Wilson, Bill (West of Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 164 disagreed to.

Section 25, as amended, agreed to.

Section 26—Register of persons competent to shoot deer etc

The Convener: The next group is on register of persons competent to shoot deer: consultation. Amendment 165, in the name of John Scott, is the only amendment in the group.

John Scott: There was consultation on the concept of mandatory deer shooting competency during the earlier stages of consultation on the bill. The concept was controversial and a deferred power to make regulations has been put forward as a compromise position. As with so many deferred powers, the devil will be in the detail. However, the support of and full buy-in by the industry will be crucial to the success of any such regulations. It therefore seems reasonable that there should be consultation on draft regulations if and when they are produced.

I move amendment 165.

Roseanna Cunningham: In practice, it is difficult to imagine ministers taking such a step without some form of consultation. However, it may be that ministers are not best placed to run the consultation process. It is possible that the consultation may be linked to the SNH review process. Therefore, although I do not support amendment 165, I agree with the sentiment behind it and would be open to consideration of a redrafted amendment at stage 3 that would allow flexibility in the consultation requirement. I therefore ask John Scott to withdraw his amendment.

Amendment 165, by agreement, withdrawn.

Section 26 agreed to.

After section 26

The Convener: The next group is on offences by bodies corporate et cetera under the Hill Farming Act 1946 and the Deer (Scotland) Act 1996. Amendment 131, in the name of the minister, is grouped with amendment 148.

Roseanna Cunningham: Amendments 131 and 148 ensure that partners or managers can be prosecuted when the relevant partnership or unincorporated association has committed an offence. I proposed a similar change to the Wildlife and Countryside (Scotland) Act 1981, which was agreed by the committee last week. The changes are intended to modernise the provisions in the acts and bring them into line with current enforcement policy.

I move amendment 131.

Amendment 131 agreed to.

The Convener: The next group is on action intended to prevent the suffering of deer. Amendment 166, in the name of John Scott, is the only amendment in the group.

John Scott: Section 25 of the Deer (Scotland) Act 1996 exempts persons from prosecution and sets out the reasons for which close seasons may be breached to prevent further suffering of affected deer. The terminology that is used suggests that an animal that is dying of starvation must be diseased or injured before its humane destruction out of season is acceptable and lawful. The reality is that it is impossible to determine whether an animal is diseased or injured without invasive inspection.

Amendment 166 therefore seeks to introduce the condition of starvation, with the caveat that the animal must be unlikely to survive, as a condition justifying a humane death. The purpose is to give practitioners a clearer interpretation in the

circumstances of actions that are intended to prevent the suffering of deer.

Peter Peacock: What is the test for knowing when an animal is starving and beyond the point of reasonable recovery?

John Scott: I am sad to say that people who live and work with deer and, indeed, other animals will know when animals are near to death. It can often be the humane thing to dispatch them because they are self-evidently going to die in perhaps another hour or day, or, in some cases, even a week. However, it will be self-evident to the trained eye that death is unavoidable.

I move amendment 166.

Roseanna Cunningham: We are all aware that we have experienced severe weather this winter and, indeed, last winter. The wild deer population in particular experienced problems because of the weather, which were probably more evident last winter than this winter. I am sure that we are all agreed as to the importance of the section 25 exemptions.

Amendment 166 seeks to clarify the position in relation to deer that are suffering from starvation but may not necessarily be injured or diseased and, for that reason, I welcome it. To reassure Peter Peacock, I say that guidance and best practice exist that would cover his concerns about definitions. I have considered the issue over the past year, particularly in the light of the two severe winters that we have had. I am pleased to say that the advice that I received was that there was no problem on the ground with action being taken to prevent suffering. However, I recognise the level of concern over the issue and the fact that clarification would be appreciated. I therefore ask the committee to support amendment 166.

John Scott: I share Peter Peacock's concerns, of course, but, as the minister said, there are codes of practice, and condition scoring in particular is a recognised practice for dealing with all animals, including deer. I am grateful for the minister's support for amendment 166 and I hope that committee members, too, will support it.

Amendment 166 agreed to.

Section 27 agreed to.

After section 27

The Convener: The next group is on the duty to further the conservation of biodiversity in the Scottish biodiversity strategy. Amendment 18, in the name of Elaine Murray, is grouped with amendments 153 to 155.

Elaine Murray: I think that all the amendments in the group were prompted by concerns that Scotland, in common with the rest of the European

Union, has failed to meet the 2010 targets for the conservation of biodiversity. We discussed some of the issues at stage 1. I appreciate that there is a concern, which I think we accepted, that a bill of this type should have an overall vision. However, I think that all of us who are lodging amendments feel that we must concentrate minds on the need to conserve biodiversity and feel that the current situation is unacceptable.

The Nature Conservation (Scotland) Act 2004 places a duty on every public body and office-holder to further the conservation of biodiversity so far as is consistent with the proper exercise of their functions, and it defines what the public body or office-holder must have regard to in complying with that duty. Amendment 18 would add to the matters that the body or office-holder must have regard to

“the ecological coherence ... of features of value to biodiversity.”

The amendment would not impose duties that are additional to those that are imposed by the 2004 act, so the argument about its inclusion in a bill that creates criminal offences would not seem to apply. However, in line with our amendments to the Marine (Scotland) Act 2010, it would require consideration of the contribution of the interaction and relationship between sites that are of value to the conservation of biodiversity.

What the amendment proposes is not an overarching vision, but it could be a step towards achieving the aim of having a network of ecologically coherent sites that would sustain biodiversity and allow adaptation to climate change. The concepts of biodiversity and ecological coherence are well established and understood. Habitat fragmentation ranks alongside climate change as one of the most significant threats to global and domestic biodiversity. Enhancing connectivity is stated Government policy and is reflected in the habitats regulations. Ecological coherence was excluded from those regulations in 1994, but that does not mean that it must be excluded now.

Amendment 18 would clarify and add value to the existing biodiversity duty by making it of greater assistance to local authorities and others in meeting their public policy and legislative obligations. It would encourage SNH and others to think outside the boundaries of sites of special scientific interest and other designated areas and consider how they form a functional network, which is especially important given that there is a changing climate and nature does not respect lines on maps. If the UK faces infraction proceedings for failing to apply article 3 of the habitats directive on an ecologically coherent network of Natura 2000 sites, the Scottish Government, not the Department for Environment,

Food and Rural Affairs, would bear the cost. I believe that the amendment would put Scotland in the vanguard of conservation policy in the UK ahead of the publication of the natural environment white paper down south.

The clarification that amendment 18 would provide would be both helpful and proportionate, as it would help local authority staff to interpret their duties, to focus their resources in the best way to achieve Scotland's international biodiversity commitments and to manage our protected areas in the face of climate change. The amendment would be revenue neutral and it would enhance the value of existing conservation spend as well as guiding the development of the planning process. Giving consideration to coherence and connectivity would not be onerous on local authorities or others and it would increase the efficiency of Scotland's environmental spend.

I move amendment 18.

Peter Peacock: As Elaine Murray has set out adequately, the failure to meet our biodiversity targets has become a matter of growing concern to a range of people. Amendment 153, in my name, seeks to add to the existing reporting arrangements a provision that the actions that are taken and by whom they are taken will be covered by the reporting process. That is designed to enable greater and closer scrutiny over time of whether we meet our targets and of the actions that are taken or the failure to act. I accept that the amendment could be regarded as introducing a slightly more onerous reporting system, but that is a price that one would have to pay to get greater scrutiny.

Although I have sympathy with all the amendments in the group, I can see that, taken together, they might be regarded as being onerous overall. Perhaps the minister can select one or two that would help to move matters forward without burdening the system unduly.

Bill Wilson: It is disappointing that we have missed our 2010 targets. The fact that every nation in the EU has missed its 2010 targets is not a reason not to take action. Clearly, the 2004 strategy is wanting. It was well intentioned, but there were few hard commitments in the strategy and the 2004 act did not appear to require any specific actions. In retrospect, I think that that was unfortunate. I know that the minister took the view at the time that there was a need for the 2004 act to specify a requirement with regard to actions. The wording of amendment 154, in my name, may seem strangely familiar to the minister, because it has, of course, been lodged before. I know that she was disappointed when the amendment was rejected then.

I accept Peter Peacock's point that including all three amendments in the bill would be a little excessive, but I hope that the minister takes one of them as the mechanism to move matters forward.

On amendment 18, whether the matter is dealt with in the bill or in the land use strategy, I feel that the principle of ecological coherence is important and I await the minister's comments on that with interest.

Robin Harper: Unfortunately, Scotland, in common with all other EU countries, failed to meet the Rio commitments on biodiversity for 2010. It is widely felt that part of the reason for that was foreseen in 2004 when, during stage 2 proceedings on the Nature Conservation (Scotland) Bill, Roseanna Cunningham said:

"I still have some concerns that the bill"—

now the 2004 act—

"as drafted basically requires a strategy to be designated and requires some reporting, yet does not actually require any actions to be taken."—[*Official Report, Environment and Rural Development Committee*, 28 January 2004; c 655.]

Following the failure to meet the 2010 target, I warmly welcome the developments at Nagoya and the Scottish Government's adoption of the target that has been set. I hope that the minister will take the opportunity to put right the deficiency that she saw in the 2004 act and strengthen the statutory basis for Scotland's biodiversity process. For the same reason, I also welcome and would support at stage 3, if necessary, the amendments lodged by Peter Peacock and Bill Wilson. The amendments seem to develop similar themes—requiring a strategy with clear actions and requiring those actions to be reported against. The latter would enable the committee's successors to better scrutinise progress up until 2020 and require corrective action if it seemed that we might fail once again to meet our target.

11:00

John Scott: The amendments enhance the Government's duty in relation to biodiversity. Although I acknowledge the sentiment behind them, public bodies have to balance the enhancement of biodiversity against other interests, such as economic development and growth. In my opinion, the value of yet more reporting is dubious. Peter Peacock tacitly acknowledged that in promoting the amendment in his name. As I said previously, it appears that the Government and SNH will spend a great deal of their time preparing reports if the amendments are accepted and I am far from certain that that is the best use of their time.

Roseanna Cunningham: This group of amendments seek to make changes to the biodiversity duty on public bodies and the duty on Scottish ministers to produce and report on the Scottish biodiversity strategy. They need to be judged, therefore, against whether they will, on balance, contribute to improving the delivery of an effective biodiversity strategy.

I am not claiming that the Scottish biodiversity processes and forums are perfect. They are probably not perfect in any country. Since 2004, the person who has had the role that I have now has had the benefit of chairing the Scottish biodiversity committee, as I have done in the past two years. In that position, I have seen some of the weaknesses as well as the strengths of the process. The great strength of the forums lies in the partnership between organisations, both in the public sector and in the NGO community. A lot of good work to improve habitats and hold back the decline of many species has been achieved.

The weakness of the process—I know that this concern is shared by others—is where it gets bogged down in endless lists and tracking of measures, rather than focusing on actions and policy shifts that can make a difference. I ask the committee to consider whether any of the amendments strengthens the partnership in delivering actions or whether they will merely lead to more process.

In lodging their amendments, I know that Elaine Murray, Peter Peacock, Bill Wilson and Robin Harper seek to safeguard the protection of biodiversity and, of course, I share that view. I note Bill Wilson's comments but, given that everyone has got used to the ideas that are set out in the 2004 act, I fear that going down the road that he proposes would have the unintended consequence of counting against the partnership approach that I mentioned. The various partners, whether they are local authorities, public bodies or NGOs, all have their own planning cycles, which are influenced to a greater or lesser degree by ministers. The partners then bring forward actions in support of the strategy. On balance, that is probably the better way to continue. I cannot support the introduction of a more top-down approach to biodiversity action planning, so I will not support amendment 154.

Amendment 18, in the name of Elaine Murray, seeks to make an addition to the existing biodiversity duty to require public bodies to consider specifically ecological coherence and connectivity. There are two issues here. The first is that singling out one aspect of the general duty will lead to undue weight being given to that issue and might detract from the many other important aspects. The second is that certain public bodies, such as planning authorities, will be more able

than others to influence ecological coherence and connectivity, so there is no good reason to place an express duty on them all. The committee will be aware that the national ecological network is an action in our national planning framework. The best approach is that we should give time for that action to be implemented before we judge that further measures are needed.

Amendment 155, in the name of Robin Harper, seems to be drafted on the premise that the current strategy is somehow deficient and seeks therefore to specify more precisely what the strategy should contain. I am not sure on what evidence that view is based. No doubt, the strategy could be improved but, in its current form, it already touches on all the issues that the amendment proposes to list in statute. If we adopt a new statutory specification for the content of the strategy, a good deal of effort will inevitably be required from public bodies and stakeholders to ensure that a new version is fully compliant with the new wording in the statute. I seriously question whether that is how we want to focus our efforts, as it would not deliver the kind of practical benefits that we all seek. In fact, I think that it would turn out to be a significant distraction from our attempts to focus on the actions and behaviours that can make a real difference to biodiversity. I therefore ask the committee not to support amendment 155.

Peter Peacock pleaded with me to accept one or two amendments. I can announce that the winner of the competition is amendment 153, in his name, which would add to the current requirement for ministers to lay a triennial report on the biodiversity strategy by including a list of actions taken by public bodies. Nevertheless, in line with my earlier comments, I fear that that would lead to whole new waves of list making and monitoring, which would not necessarily add to the quality or quantity of delivery. For example, I need to know that SNH is working to promote biodiversity through its range of activities and that it is actively leading the delivery of the Scottish biodiversity strategy. An exhaustive list of all the actions taken by SNH over three years to implement the strategy and fulfil its duty would be pretty impenetrable.

I am also concerned that the proposed reporting requirement would be placed on the Scottish ministers with no corresponding duty on the public bodies to supply the information. Extracting that information from bodies with their own reporting cycles, which suffer many requests for information, not least from the Government, could be an unwelcome burden. I acknowledge, however, that the lack of a reporting requirement has been identified as a weakness in the current duty, including by Audit Scotland, and I think that the matter might benefit from further consideration. In particular, I would be interested in an amendment

that placed the duty to report directly on the public bodies covered by the duty. The reporting duty could allow them to report in a proportional fashion on the measures and strategies that they are following in fulfilment of the duty. The requirement could be framed in such a way as to allow the report, which might be brief, to form a part of whatever reporting regime they already follow.

Therefore, although I do not support amendment 153 in its current form, as members may infer from my comments, I would be happy to discuss with Peter Peacock how we can tweak it to make it more usable in our view.

Elaine Murray: I am not certain that I accept the minister's arguments about amendments 18 and 155. To an extent, they are alternatives. If amendment 18 places too much emphasis on one part of the biodiversity duty, amendment 155 lists all of them, so I am not sure why one of those amendments is not acceptable.

Bill Wilson: Forgive my intervention, but I want to respond briefly to John Scott's comment and this is my only chance. He cites his concern with economic growth as a reason not to take action, but I point out that biodiversity loss and environmental degradation have an impact on both economic growth and human health.

Elaine Murray: I agree very much with Bill Wilson. He is absolutely right.

I am not sure why one of amendments 18 and 55 is not acceptable. However, I am prepared not to press amendment 18 so that we can have a think about which of the approaches is most acceptable and appropriate. I do not accept the argument that neither is acceptable.

Amendment 18, by agreement, withdrawn.

Amendments 153 to 155 not moved.

Section 28—Muirburn

The Convener: The next group is on muirburn. Amendment 132, in the name of the minister, is grouped with amendments 133 to 147.

Roseanna Cunningham: Notwithstanding the number of amendments in the group, I can be relatively brief. The substantive amendment to the muirburn provisions is amendment 133. The bill broadens the purposes for which ministers may vary the dates of the muirburn season. Ministers may, in the future, wish to use this power to extend the beginning of the muirburn season into September. There is some concern that burning during September could occasionally disrupt the stock management practices of crofters and other tenant farmers. Amendment 133 will allow ministers to further regulate muirburn during any extension to the season—for example, by providing additional notification requirements or

procedures—if that is considered necessary to address any concerns. Amendments 132 and 134 to 147 are minor technical amendments and do not change the notification requirements.

I move amendment 132.

Amendment 132 agreed to.

Amendments 133 to 147 moved—[Roseanna Cunningham]—and agreed to.

Section 28, as amended, agreed to.

After section 28

Amendment 148 moved—[Roseanna Cunningham]—and agreed to.

The Convener: The next group is on tree conservation areas. Amendment 156, in the name of Bill Wilson, is the only amendment in the group.

Bill Wilson: A recent petition to the Public Petitions Committee—PE1340—focused attention on the issue of inadequate protection for some of Scotland's important trees. Tree preservation orders do of course exist at present, but they tend to be used for trees under threat and they also tend to be expensive to introduce. The Woodland Trust estimates that it costs between £5,000 and £10,000 per order. Trees can also be protected if they fall within a conservation area and are not specifically exempted.

Amendment 156 proposes to use the protection powers that are offered to trees within a conservation area and apply them to a new form of conservation area: a tree conservation area. That would allow local authorities, when preparing local plans, to designate, after public consultation, an area as a tree conservation area. The proposal is intended only to protect trees within the conservation area and is not intended to place any wider architectural restrictions or other burdens on land or property owners.

There is a variety of reasons why such protection might be considered necessary. The Woodland Trust makes the point that mature and ancient trees can be particularly valuable from a biodiversity perspective but are often unprotected; the ancient tree hunt campaign has identified 182 important yet unprotected trees. Stands of trees can be very important to communities, and I am sure that I do not have to remind the minister of the recent paper in *The Lancet* highlighting the value of green space to individuals' health. The proposal in amendment 156 aims to give local authorities another means by which they can protect trees with a high biodiversity, cultural or historic interest.

I move amendment 156.

Roseanna Cunningham: I am, of course, aware of the recent petition on the apparent inadequate protection for special trees, particularly those that are ancient or veteran, or have high value. However, I am pleased to say that the recent commencement of parts of the Planning etc (Scotland) Act 2006—so ably put through Parliament by the then minister, Stewart Stevenson—will provide an opportunity to address the issues that amendment 156 raises. From 1 February 2011, it will be possible to serve a tree preservation order on the basis of a tree's cultural or historic significance. Planning authorities will therefore be able to serve TPOs relating to ancient or veteran trees, or trees of high value.

Although the proposal for tree conservation areas would make it an offence to damage the trees that it protects, a TPO would still have to be served when the planning authority considered that proposed works would damage an area's amenity value. We have no evidence to suggest that planning authorities desire or would use the power proposed by the amendment. It is open to debate whether it would result in a light-touch mechanism.

I consider the amendment to be unnecessary in the light of the changes to tree preservation orders that I have outlined. Therefore, I do not support amendment 156.

Bill Wilson: In the light of the minister's comments, it is reasonable to give the TPOs an opportunity to work, so I will not press the amendment.

Amendment 156, by agreement, withdrawn.

Sections 29 to 31 agreed to.

After section 31

11:15

The Convener: The next group is on planning applications adversely affecting sites of special scientific interest. Amendment 157, in the name of Robin Harper, is the only amendment in the group.

Robin Harper: SSSIs are the crown jewels of our natural environment—a series of sites that are given special protection because of the special qualities of their wildlife. As such, they represent a very special part of Scotland's natural capital, the environmental assets on which the quality of our environment and our sense of Scotland depend.

If we really want to make Scotland better and greener, as the Government's objectives suggest, we must ensure that, to the greatest extent possible, that natural capital is not depleted. However, the 2004 act is deficient in one regard: it is completely overridden by any decision of a local authority or a minister under the town and country

planning system. It is probably appropriate that ministers should have that power, even if they make decisions with which it is possible to disagree strongly. Amendment 157 would ensure that, if ministers chose to use the power in a way that might damage the interest of an SSSI, the power would have to be used in a manner that seeks, at the same time, to maintain our natural capital. The amendment does that by requiring that any damaging planning permission must be conditional on whatever compensation works might be possible.

I do not want to give the impression that I approve of offers of compensation being used to justify the damage in the first place. The original decision-making processes should remain the same: a balancing of the economic and environmental factors. If, rightly or wrongly, the environmental factors lose out, it is only right that an attempt to compensate should be made. That is what the amendment seeks.

I move amendment 157.

Roseanna Cunningham: In considering amendment 157 we need to be aware of how the planning system operates. At present, planning authorities are required by law to consult SNH on applications where development may affect an SSSI. In responding, SNH may object and may recommend actions in order to safeguard the interests of the site. Should a planning authority wish to grant planning permission contrary to SNH's advice, or grant it without attaching the conditions that SNH has recommended, the planning authority must notify the application to the Scottish ministers, who can then consider whether to call in the application for their determination or require the authority to attach any conditions to the permission as ministers see fit, while taking account of all the material that has been put before them.

It should, therefore, be clear that when a decision on an application might conflict with SNH's recommendations regarding SSSIs, there are already sound safeguards in place. It is right, nevertheless, that existing procedures should provide a degree of controlled flexibility to account for limited situations in which it may, for example, be in the national interest to make use of that flexibility. Amendment 157 would significantly diminish that. In addition, the amendment has the potential to unbalance the decision-making process by requiring compliance with one statutory consultee's recommendations at the possible expense of others'. That may compromise the ability of planning authorities to come to a balanced view when weighing up the pros and cons of a proposal.

I therefore ask the committee not to support amendment 157.

Robin Harper: I listened very carefully to the minister and I will not press the amendment.

Amendment 157, by agreement, withdrawn.

Section 32—SSSI offences: civil enforcement

The Convener: The next group is on SSSIs and the effect of a notice of intention to comply with a restoration notice. Amendment 149, in the name of the minister, is the only amendment in the group.

Roseanna Cunningham: Amendment 149 is a technical amendment. The bill proposes that where there has been illegal damage to the natural features of an SSSI, restoration notices can be given by SNH. Those restoration notices will provide the person responsible for damage with an alternative to prosecution, the alternative being to restore the damaged natural features of the SSSI, as set out in the restoration notice. The amendment adds the acceptance of a restoration notice to a list of alternatives to prosecution that was inserted in the Rehabilitation of Offenders Act 1974 by the Criminal Justice and Licensing (Scotland) Act 2010.

I move amendment 149.

Amendment 149 agreed to.

Section 32, as amended, agreed to.

Section 33—Crown application

The Convener: The next group is on Crown application. Amendment 150, in the name of the minister, is the only amendment in the group. *[Interruption.]*

Roseanna Cunningham: I understand that, for some obscure reason, there is a considerable amount of amusement about and interest in amendment 150—I cannot possibly think why.

Government amendment 150 extends to the Crown part 1 of the Wildlife and Countryside Act 1981, the muirburn part of the Hill Farming Act 1946 and the Protection of Badgers Act 1992. The Deer (Scotland) Act 1996 already extends to the Crown and amendment 150 clarifies those provisions. The Nature Conservation (Scotland) Act 2004 already extends to the Crown. The drafting of the provisions follows the relevant conventions of each of the acts being amended.

I move amendment 150.

The Convener: Do any other members wish to speak? Liam McArthur cannot resist.

Liam McArthur: For the record, I know how difficult it must have been for the minister to embrace the concept of Crown immunity in these areas. I thought that she did tremendously well in

moving the amendment. We all enjoyed the rich irony.

Peter Peacock: This is a serious point; when she sums up, I ask the minister to clarify the question of vicarious liability in relation to the Crown.

Roseanna Cunningham: The existing position is that the Crown is exempt from criminal liability.

Peter Peacock: No employee of the Crown is exempt in that sense.

Roseanna Cunningham: The vicarious liability issue is about the owner. Any employee of the Crown would still be subject to—*[Interruption.]* My official is reminding me that line management standards are very high on Crown estates. An individual, whether employed by the Crown or not, is subject to criminal law if they break it. The vicarious liability offence is a specific offence and cannot be extended to the Crown.

John Scott: In that regard, this obviously applies to the Queen's sporting estates—

Roseanna Cunningham: I said that it does not.

John Scott: I am seeking clarification. With whom does the buck stop if there is an incident of poisoning—

Roseanna Cunningham: The buck will stop with the person who breaks the law in the first place.

John Scott: Under vicarious liability, that is the landowner—in this case, the Queen.

Roseanna Cunningham: I have just said that that is not the case. We cannot apply the provision in respect of the Crown.

John Scott: As long as that is absolutely clear.

Roseanna Cunningham: It is a matter for those who take a different view from mine.

Elaine Murray: Surely, in that particular case, the Queen does not directly line-manage the staff concerned, therefore it would be the land managers employed by the Crown who would be subject to vicarious liability.

Roseanna Cunningham: We ought to be careful about how far we go with this discussion about the operation of vicarious liability.

Amendment 150 agreed to.

Section 33, as amended, agreed to.

Sections 34 and 35 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the minister, her

officials and everyone else for their attendance. We look forward to stage 3 proceedings of the bill.

11:25

Meeting suspended.

11:33

On resuming—

European Union Legislative Proposals (Reporter)

The Convener: Our next item of business is the appointment of an EU reporter. A member of the committee is to serve as EU reporter on behalf of the committee as part of a pilot scheme on the so-called early warning system for consideration of EU legislative proposals. It follows on from the coming into force of the Treaty of Lisbon, which envisages an enhanced application of the principle of subsidiarity in rejecting or amending legislative proposals from Europe.

The project was proposed by the European and External Relations Committee in a report last year and was agreed by the Parliament last month. It has been agreed that each subject committee in the Parliament will nominate a reporter for the duration of the pilot, which will last until dissolution.

I have taken informal soundings on the position from committee members and I am pleased to nominate Liam McArthur for the role, unless anyone else would like to put themselves forward.

Members: Hear, hear!

John Scott: I nominate Karen Gillon. *[Laughter.]*

Bill Wilson: I second that.

John Scott: It has been seconded so we must have a vote.

Karen Gillon: I decline.

The Convener: Karen Gillon has declined. I invite Liam McArthur to accept the nomination.

Liam McArthur: I accept.

The Convener: Thanks, Liam. That concludes the public part of today's meeting. I thank everyone for their attendance.

11:34

Meeting continued in private until 12:57.

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