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Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 20 November 2013

Session 4

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
34th Meeting 2013, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

Claudia Beamish (South Scotland) (Lab)
*Nigel Don (Angus North and Mearns) (SNP)
*Alex Fergusson (Galloway and West Dumfries) (Con)
*Cara Hilton (Dunfermline) (Lab)
*Jim Hume (South Scotland) (LD)
*Richard Lyle (Central Scotland) (SNP)
*Angus MacDonald (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Baker (Mid Scotland and Fife) (Lab) (Committee Substitute)
Will Boyd-Wallis (Cairngorms National Park Authority)
Simon Hodge (Forest Enterprise Scotland)
Robbie Kernahan (Scottish Natural Heritage)
Dr John Milne

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 1

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 20 November 2013

[The Convener *opened the meeting at 10:01*]

Subordinate Legislation

Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013 (SSI 2013/286)

The Convener (Rob Gibson): I welcome everyone to the 34th meeting this year of the Rural Affairs, Climate Change and Environment Committee. Please switch off all electronic devices that could interfere with the sound system.

We have apologies from Claudia Beamish and we welcome Claire Baker, who is attending as a substitute member.

Item 1 is subordinate legislation. The committee is asked to consider the Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013, which is a negative instrument. Members should note that no motion to annul the regulations has been lodged, and I refer members to the paper. Is the committee agreed that it does not wish to make any recommendation on the regulations?

Members *indicated agreement.*

Deer Management

10:02

The Convener: Under item 2, the committee will continue to take evidence on deer management in Scotland. I welcome our witnesses. Robbie Kernahan is the unit manager of wildlife operations at Scottish Natural Heritage, Simon Hodge is the chief executive of Forest Enterprise Scotland, Will Boyd-Wallis is head of land management and conservation at the Cairngorms National Park Authority and Dr John Milne is a former chair of the Deer Commission for Scotland. I refer members to the papers.

I will kick off with the first question. Will panel members provide evidence on and examples to illustrate the impact that deer and current deer management practices are having on the Scottish Government's economic, social and environmental policy and targets?

Robbie Kernahan (Scottish Natural Heritage): I am happy to go first. Thank you for the question. It is useful for us to talk about deer management again after the Wildlife and Natural Environment (Scotland) Act 2011. While the WANE bill was going through the parliamentary process, deer management was not necessarily given as good an airing as it might have been, so I welcome the opportunity to discuss it with you all today.

It is important to recognise the importance of deer in Scotland. They are an iconic species and we value them for a host of reasons. Socially and culturally we recognise that they are an important symbol of Scotland and a huge benefit to tourism, sport and biodiversity. At the same time, we recognise that they can impact adversely on a number of areas in Scotland such as agricultural production, biodiversity if they are at the wrong density, and forestry production and our aspirations to grow more trees. They can also impact adversely on public safety, with an increasing amount of interaction between people and deer on roads throughout the country. We are concerned about the increasing frequency with which deer are colliding with vehicles.

All those things show how important deer are in Scotland, and the positive and negative impacts that they can have on our aspirations.

Simon Hodge (Forest Enterprise Scotland): I suggest that the national forest estate is a major example of the importance of deer management practices. The estate, which is owned by Scottish ministers, stretches over 650,000 hectares across Scotland.

I echo Robbie Kernahan's points. Deer are a key species in managing the living ecosystems across the national forest estate, and we view sustainable deer management as absolutely central to delivering a whole range of benefits from it. Deer are an important economic asset, given the contributions of stalking and venison to the rural economy. There is also the impact of deer on forestry activities—worth in the region of £460 million a year to the Scottish economy.

We must keep that in balance with the social and environmental aspects of deer management, and I will touch on several points in that regard. On the social impacts, deer are a really important species when it comes to visitors to the forest estate and the wildlife viewing experiences of those visitors. On the environmental side, deer are ecologically a keystone species. They have a major impact on the structure of the environment and biodiversity. Managing the deer population on the estate is one of the key tools that we use to deliver other biodiversity ends, for example the expansion of native woodlands and the management of key species such as black grouse and capercaillie.

Will Boyd-Wallis (Cairngorms National Park Authority): I will not repeat what others have already said. The Cairngorms national park is one of our most treasured landscapes. Within it, there are huge areas of designations. About 50 per cent of the national park is designated for its natural heritage value. The natural heritage is obviously hugely important, and deer have both positive and negative impacts, as has been said. There are potential impacts in a number of areas including Caledonian pine forests, and a lot of the upland habitats in the national park, including peatlands, are being carefully scrutinised because it is thought that deer are having an impact there.

A huge amount has been done in the national park over the past 10 years or so to curb deer populations where they have been having a negative impact, and there have been some positive results in a number of areas. Deer culls have resulted in good natural regeneration of woodland both within fences and outwith fences, where deer culls have been quite heavy. They have been controversial in some places, as I am sure you are aware, but they have proved beneficial to the habitats in the areas concerned. There has been quite a lot of short-term pain in those areas for neighbouring interests but, in the long term, the habitats of the designated areas are improving.

As my submission outlines, there are still some pressure points and some issues, but I emphasise how important deer are to the local economy in the national park. A large number of stalkers are employed, and the tourism side is important, too. There are a lot of areas where deer are deemed to be a local attraction—people come to the area in order to see them. It is important to balance that in our thinking about how deer are managed.

In the national park, we are lucky to have the Cairngorms deer advisory group, which brings together the wider deer management interests. There are deer management groups, Scottish Environment LINK, a whole range of land ownership interests and community interests, and we have brought those people together to try to get a shared vision for the national park. We are getting there in the national parks, and things are quite positive.

Dr John Milne: I have a few minor comments. Deer are important for achieving Scottish Government objectives. In the last annual report by the Deer Commission for Scotland, we highlighted how deer contribute to a greener Scotland, a wealthier and fairer Scotland, a healthier Scotland, a safer and stronger Scotland and a smarter Scotland. Deer and their management are key in all those areas. The trick is to find a balance between those different objectives, and much of the conflict is about achieving that balance.

The Convener: Gentlemen, I put it to you that, according to SNH's 2010 study "Assessing the economic impacts of nature based tourism in Scotland", field sports tourism is estimated to be worth £136 million a year—about one tenth of the total—compared with £127 million for wildlife tourism, £533 million for walking tourism, £178 million for adventure activities tourism and £240 million for landscapes and scenery tourism. That perhaps puts the issue of deer shooting into perspective. Do you have any comments on that?

Also, Simon Hodge mentioned the value £460 million. Am I correct in thinking that that is the value of forestry and not the cost of dealing with deer in forestry?

Simon Hodge: Yes.

The Convener: What do members of the panel make of those figures from SNH's study?

Robbie Kernahan: I recognise that a whole host of benefits come from people accessing Scotland's hills. Some of those can be quite narrow, in that some economic benefits related to sports stalking might relate solely to clients coming in with guests and spending money in a lodge. At the same time, it can be quite difficult to separate out the benefit that comes from people taking recreation and accessing the social benefits that people associate with access to hills, such as seeing all the species of wild deer, which are managed. Trying to unpick all those benefits is quite difficult, but I take Rob Gibson's point that some of the studies look at sports stalking in a

very niche and narrow way. We would say that sports stalking is just one of the mainstays of the rural economy, but many other economic benefits are brought, too.

Simon Hodge: I have no comment on the data, but I add that one issue with such activities is where the economic benefits go within the rural economy. I imagine that there is quite a distinction between the stalking situation, where the landowner secures the benefit of the activity, and the wider benefits that deer provide to the rural economy, such as for ecotourism and wildlife watching. Often, those benefits accrue to other businesses that are not necessarily directly associated with the estate.

Will Boyd-Wallis: As ever, we need to be careful with statistics, but it is useful to have that context, as Robbie Kernahan said. The national park includes all the economic benefits that come from deer, from sports stalking to wildlife tourism and so on. In the national park, sports stalking is one of many aspects that we see as important, but in this day and age—particularly in a national park—sports stalking may need to adapt somewhat in some areas in order to fulfil wider objectives as well. In many places, that is already happening.

Dr Milne: Many of those statements about the value of the activities relate to things such as landscapes, which are actually managed by man and are managed in relation to deer. Arguably, deer should be considered not on their own but in relation to the whole rural economy. If you do that, deer are obviously just one relatively small component—one must accept that.

The Convener: There are no supplementaries to that question. The next question comes from Nigel Don, the mathematician.

Nigel Don (Angus North and Mearns) (SNP): Good morning, gentlemen. If, as I very much hope, you heard or read about our meeting last week—I really do not want to repeat everything, as that would probably not help anyone—you will not be surprised to hear that I want to pick up on the numbers.

If anyone wishes to comment on the model that I produced last week, they may do so, but at this point I want to ask about the numbers of different species of deer. I appreciate that the deer are spread out and there are all sorts of other factors, but can we agree on the total numbers of different species of deer in Scotland? Does anyone feel that they can answer that?

10:15

Robbie Kernahan: I listened to the discussion last week. Just so that we are clear, I state that we at SNH remain strongly of the view that talking about national deer population statistics is not helpful, primarily because of the inaccuracy of the data, but also because we firmly take the view that it is more important to understand the impacts of the deer. Impacts on the ground are a much more direct and reliable measure in determining how deer densities are affecting vegetation and specific land use objectives. Deer managers still rely on counts to inform management decisions and we regularly provide those figures. Indeed, I have provided some of them in the information that members have in front of them. However, in recent years we have moved away from advising on management purely based on the numbers towards focusing on the management and measurement of deer impacts.

That said, it is impossible to get away from the discussion. Over the past five years, we have counted over 2.5 million hectares of open hill and more than 350,000 red deer primarily to inform local deer management. That is not an attempt at a national census; it is really about understanding what is happening locally to inform local decisions. In doing that, we are always conscious of the need to ensure that deer management is based on good data. We need that, but we also know that it costs quite a lot of money. We are conscious of the financial implications and certainly of the reductions in our spend and our ability to spend. We look at a reasonable balance of cost and benefit, and it is inevitable that we will target our resources into areas in which there are problems. That is what we are tasked to do.

If I am going to get drawn into a debate on numbers—I think that I probably am—the question is how many deer there should be. Last week, the committee talked specifically about red deer and it touched on two scenarios, one of which involved the current market demand for sport stalking and how many deer are needed to satisfy that. Nigel Don had a fairly good go at trying to articulate that. We know that, on average, 60,000 red deer are culled in the country. Some 25,000 of those are stags, and of those 10,000 are shot to protect agriculture and forestry. It might be argued that the rest could be construed as the current sporting harvest and that, in order to satisfy the current demand and sustainably produce 15,000 red deer stags, the population might need to be in the order of 112,000 stags, 112,000 hinds and 33,000 calves. There are many caveats in there, but that suggests that 250,000 to 275,000 red deer might produce a sustainable sporting harvest.

The alternative way of looking at the issue, from which Mike Daniels came at it last week, I think, and for which we have some sympathy, is to ask how many deer the habitats in Scotland can support. That is a ridiculously complex question to answer on a national basis. To pick up on last

week's discussion, if the magic number is five deer per 100 hectares—I am not sure that it is in many circumstances—the population might need to be in the order of 175,000 in the open hill red deer range.

Having said all that, both views lead to the conclusion that there are probably too many red deer in some parts of the country. The key question for us, which we think is perhaps more important to answer, is what we should do and where we should focus effort to address that.

Nigel Don: I thank you for that response, as there was a risk that nobody would ever go into the real numbers. I am grateful for that. Would anybody else like to comment?

Dr Milne: I would. When I took over as chairman of the Deer Commission, our board made a conscious decision that we would not talk about numbers. Rather, we decided that we would talk about impacts, because they are really what is important.

It is difficult to measure the number of red deer in Scotland, and it is probably impossible to estimate the numbers of other species. There is no value in doing that. We have to look at the local and regional situation and identify how many deer are needed to manage the habitat and create sufficient employment. It is a matter of getting that balance right, and that has to be done locally, not nationally. That is why we decided never to mention national statistics. It is difficult to measure the numbers, we do not have the resources to do that, and it does not tackle the issues that deer management is really about.

Will Boyd-Wallis: I share that view on impacts, and we take that view in the Cairngorms National Park Authority.

There is another reason for being wary about generalising about deer numbers. In the eastern side of the national park in particular—in the Angus glens and parts of Deeside—deer have more or less been eradicated from grouse moors in order to control tick that affect the grouse. Obviously, that has resulted in a reduction in overall numbers in the area, but is that necessarily beneficial? Anyone who seeks to have a balanced approach to deer looks for them to be part of the landscape as well as to reduce the numbers to benefit the habitats. That shows that we need to be wary of making generalisations.

I absolutely share the view that we need to look at the impacts in specific areas and not generally.

Nigel Don: I want to pursue that. You mentioned that in some properties a substantial cull has been made and we can see the difference. The question that I think nobody has yet addressed is the extent to which deer migrate. We know that they run but, given that Scotland is more or less a continuum, can you give me an idea of the speed with which a vacuum in Glen Esk—I use that example since you mentioned the area—might be filled up with deer from further afield? Alternatively, does a cull in one area really work for that area for a while?

Will Boyd-Wallis: It might be better if I deferred to others on that but, from what I gather from land managers on the ground in the national park, that can happen quickly. In areas where culls have been undertaken to allow woodland regeneration, one problem is that, in the winter, a herd of 200 deer might pop over the hill and all the good that has been done in the past six months can get nibbled overnight. People say that a density of fewer than five deer per km^2 is needed to allow woodland regeneration, as Robbie Kernahan said, but deer move and an incursion of 100 deer from elsewhere can have a huge impact, which is why we get into all the complications about whether we need fences.

Nigel Don: That leaves us with the basic numbers. I take the point about local impacts—an impact will always be local—but, if Scotland is a continuum and deer move around, the total numbers matter, because the moment that a vacuum is created, others will migrate in, n'est-ce pas?

Will Boyd-Wallis: Yes. In our submission, I highlighted the term "vicious circle", because that is what we have in a number of areas. One estate might be doing fairly heavy culls to allow woodland regeneration, but neighbouring estates that want to maintain a decent sporting cull are anxious about what is going on next door and therefore perhaps take their foot off the pedal a little to maintain higher numbers in the area. Then of course, we get incursions into the area where fewer deer are wanted, and people in that estate have to work even harder and increase their cull. That kind of vicious circle is going on.

As you say, in some places, we need consideration of whether the number of deer in neighbouring land where the estate wants a sporting cull is the right number for that or more than is needed. Collectively, deer management groups need to find the right balance so that, rather than massive extremes, we get a more reasonable level of deer densities across the board, along with more specific targeting in certain areas. That is happening in a number of areas.

Dr Milne: There is not really a continuum, because there are subpopulations of deer. Because there are barriers such as rivers or mountain ranges, deer tend not to move much between those subpopulations. One of the reasons for having a deer management group system is so that the groups can manage

subpopulations of deer, which is what most of them do. Of course, deer move large distances. An example that is not far from Glen Esk is the Caenlochan area, where a section 7 agreement has been in place for 10 years. The first stage is to identify the impacts, and the next stage is to count the number of deer and talk to local stalkers about the movements that will be involved and where the deer will be in the summer and winter and so on. Only by doing that can we manage the deer effectively. That is why we need deer management groups to deal with the subpopulations of deer. I believe that that is much more important than talking about a continuum across Scotland.

Simon Hodge: I will add a couple of points to that broad discussion.

We can consider impacts on the national forest estate rather than overall numbers. It is useful to have two types of carrying capacity in mind. One is the ecological carrying capacity of the land and the other is its deer welfare carrying capacity, particularly the ability of the land to support deer over winter. We find that a more helpful way of thinking than overall numbers.

I bring to the table a couple of examples of deer movement. Red deer are certainly moving into parts of north-east Scotland where they have not been for a long time. That is an observation that we are making on the national forest estate. Another good example is the movement of sika deer around Scotland. Typically, young juveniles are making big movements across the landscape. They now inhabit many parts of Scotland from initial release points. That demonstrates that deer can move large distances across the landscape.

Forest Enterprise Scotland manages about 9 per cent of Scotland's land area but accounts for about a third of the national cull of deer. That is partly because of the productivity of the habitats that we are trying to create on the national forest estate, which can support a high reproduction rate for deer. However, in part, it is also because, when we create a vacuum by lowering densities, we get deer movement within the landscape—at least locally—into the more favourable habitats.

Nigel Don: I will pursue the issue of subpopulations, because this is the first that we have heard about it. Is there such a thing as a map of the subpopulations of deer, if they tend to stay in areas?

Dr Milne: There is no such map, but the deer management group system would provide some indication of the subpopulations of deer because it was set up specifically to deal with them. Sometimes that did not work out and other reasons have led to a deer management group being set up.

Nigel Don: That is precisely the point that I was coming to. I am delighted to hear that that was at least the initial idea, because the groups clearly should deal with subpopulations.

Robbie Kernahan: We have populations of deer throughout Scotland and there is quite a lot of good local knowledge about how hinds and stags move. Hinds are hefted, traditionally. They will have a range, so they move.

The key is local understanding about how populations respond. That is why it is difficult to draw too many conclusions about how successful places such as Creag Meagaidh or Glenfeshie are because they are all dependent on local circumstances. If we are going to remove deer or reduce their numbers significantly, a really good understanding of what that means for deer movements is required.

We talked about the Angus glens. If we are going to maintain deer numbers at very low levels, I want everybody to be clear about the amount of time, energy and effort that is required to do that, because it requires men on the ground 365 days a year, often through the day and the night, to deal with the animals when they encroach, which they do occasionally. The risk of that happening depends on the landscape and how the deer are moving locally.

I support John Milne's point.

Alex Fergusson (Galloway and West Dumfries) (Con): Good morning, gentlemen. I want to look a little more deeply at balance, which is inherent in the WANE act and the code of practice. It is all about trying to find a balance between economic, social and other factors. Indeed, Dr Milne said that the trick is to try to get the right balance.

It has become very clear last week and this week that, when it comes to populations, environmental bodies have a different idea from sporting interests of what the right balance is. There are clear differences, and it is obviously not easy to achieve the balance, but as Mr Boyd-Wallis said in his opening remarks, the Cairngorms are good example of how that balance apparently can be achieved.

It was mentioned that it is possible to have a deer management group area in which most of the owners agree what the balance should be but one owner does not. Given that SNH is the overseeing body for the deer management system that has only just come into place through the code of practice, what is its role in such a circumstance and how does it try to bring about the balance?

10:30

Robbie Kernahan: You are absolutely right. We are the Government body that is tasked with the conservation, control and sustainable management of deer, so it is absolutely in our gift to help estates and deer management groups come to terms with how they reconcile some of those conflicting objectives. I will put my cards on the table again and say that that is by no means easy in many situations.

There has been a growth of complex and conflicting objectives in the red deer range. We have a range of different owners with a range of different aspirations and it is becoming more commonplace for such conflicts to arise. You mentioned that traditionally deer management groups were set up primarily to manage a sporting resource; I must confess that they did that reasonably well. Their purpose was all about working out together how best to sustainably harvest sporting stags.

However, the expectations that are placed on deer management groups have been increasing for some time. They are more complex and the groups have to balance woodland objectives and conservation objectives. To a lesser extent, forestry and agriculture have been dealt with largely through legislation for a long time.

Now that we have the code articulating for the first time the types of behaviour that we expect of all landowners, including environmental bodies, private sporting estates and even public bodies, we hope that deer management groups can provide a framework for a mature discussion, in which we need to be clear on what everybody's objectives are, have a certain amount of respect for those objectives and recognise that where some objectives are incompatible, at least we can go through a mature process of dialogue, discussion and, potentially, compromise, in the hope of reaching consensus. That is the principle with which we would like to see the voluntary system continue.

However, that breaks down from time to time, often when public interests are involved. Our focus has been on designated sites for 10 years or so. We are intervening in that system in an attempt to regulate it, or at least to provide a framework for those more formal and mature discussions to take place. The code throws down that challenge to the whole sector and we need to ensure that everybody reads the code and is cognisant of what it is telling them. There is a shared responsibility and we have a role to step in and intervene when the voluntary system does not work. Whether that is through measures in the Deer (Scotland) Act 1996 such as additional section 7 agreements or compulsory measures in section 8, that is what we are tasked to do, and we are equipped to do that.

The fact that we have not required or relied on compulsory measures does not reflect that they are unusable; it just demonstrates our willingness to make the voluntary system work. However, I do not underestimate the difficulty that we have now that we are beginning to introduce additional public interests such as carbon sequestration, the importance of peatlands, adaptive management of ecosystem resilience and some of the targets that we have set ourselves on biodiversity. All those expectations that are being placed on estates and deer management groups are relatively new. Realistically, estates and deer management groups are only just getting their head round designated sites, which has taken an awfully long time.

In the code, we are seeing some of those public interests being articulated for the first time. It will be difficult for DMGs to reconcile what that means for them and how they should respond. We have a job in helping to lead them through that.

Alex Fergusson: Thank you very much. We will come back to that later, so I will leave it for now.

Graeme Dey (Angus South) (SNP): To protect the public interest, the environmental voice has to be heard in these settings. How can that happen if, as was claimed in evidence last week, those who try to articulate an environmental view believe that the atmosphere is sometimes intimidating?

Robbie Kernahan: I listened with some interest to last week's discussion. I return to the point that we recognise that deer management groups have traditionally been set up to manage deer as a shared resource for sport. Inevitably, they have been on a bit of a journey and have recognised that some of the expectations that are placed on them have changed.

During my attendance in the past 10 years or more at the deer management group meetings, I have recognised that significant cultural shift taking place, with a wider public interest in deer, some of which has been driven exclusively by the Deer Commission's focus in that period on tackling designated sites. More estates and DMGs are proactively engaged in conducting habitat impact assessments and recognise that other interests are at stake. Having been to quite a few DMGs in my early days as a Deer Commission staff member, I am aware that they can be intimidating forums to come into, although perhaps much of that reflects the need to ensure that there is respect for different legitimate objectives and to build and ensure trust between members of the group. A rapport certainly needs to be established when new members come in.

We also have good examples of DMGs that are very inclusive, open and transparent, such as those in west and south Ross to name but a few. They have strong links with the local community, are generally productive and anybody can approach them. However, we still have a few deer management groups that are relatively closed and they can be difficult forums for people to come into and raise concerns—they may not be intimidated, but the discussion is not always straightforward. The cultural shift is taking place, albeit more slowly than some people might like.

Dr Milne: I have a lot of experience with deer management groups. When I was the Deer Commission's chairman I visited almost all the groups, so I have a range of experiences of attending them. As the chairman, I was treated with respect but that was not necessarily always the case for staff members; that was just the way that the groups worked.

The important point that Robbie Kernahan made is that deer management groups are changing, but they have to do so because estate owners have a much bigger range of objectives than they had in the past. That creates a lot more conflict. Equally, it must be recognised that deer management groups also have members who fall out for other reasons altogether and that therefore conflict can potentially arise because of matters other than deer. That makes managing a deer management group difficult. I have spoken to many chairmen who have despaired of trying to make the group work because of conflicting objectives that are difficult to reconcile.

A way forward has been to develop the deer management plans, with a consultant being brought in to do that. That consultant acts very much as a mediator and in that mediation role can bring a group together. However, there is a lack of consultants and abilities in the deer management group sector to fulfil that role. That is why we felt that placing a duty on land managers was the only way forward for delivering what is needed in the public and private interest.

Under the duty, landowners are empowered to manage their deer within a framework, which has now arrived as the code. The problem is that the code is voluntary and therefore will not necessarily be adhered to—it does not need to be—and the powers under section 8 of the Deer (Scotland) Act 1996 are still very difficult to use and require a huge amount of effort to ensure that, if there is legal challenge, the Government does not have to pick up a huge bill at the end of the day.

Graeme Dey: Thank you—that is useful.

Will Boyd-Wallis: I, too, can add a perspective on the matter. I have had nearly 20 years' experience with deer management groups from north-west Sutherland to Knoydart through to the Cairngorms. In that time I have seen quite a dramatic change. I have not been back to north-west Sutherland recently, but I have noticed that deer management groups have—reluctantly in some cases—changed and they are much more inclusive than they used to be. They have recognised that they must be more inclusive and respect the wider interests.

One thing that we were trying to achieve in the national park with the deer framework, which the Cairngorms deer advisory group helped to produce, was to foster that spirit of trust, understanding and co-operation, and it was seen as a first step in building relationships and helping to move things on and improve the situation. The framework has certainly been very positive. Another positive move is the introduction of the six or seven principles that the ADMG is getting people to adopt and whose loud and clear message is that there should be respect on both sides, not just on one. Things are moving in the right direction.

Simon Hodge: I, too, acknowledge the ADMG's positive role and the extent to which it is encouraging individual deer management groups to adopt the positive principles that Will Boyd-Wallis has mentioned. We in the national forest estate have also been on a journey, part of which has been about recognising the deer management objectives of other landowners and our neighbours and acknowledging that these problems are shared and that we need to find joint solutions to them instead of simply seeing them as being over the march. The ADMG has worked hard in that respect.

It would be good to have a broader basis of representation at deer management group meetings. Some might find them intimidating because of the attendance. A wider representation of land use interests, including a greater number of those who represent environmental and agricultural interests and the like, would be positive and would open up the discussion in individual localities and ensure that, in each locality and at each meeting, that balance of views was pitched in.

Robbie Kernahan: I agree that the administration and leadership of the groups are key. The ADMG provides a national lead, but the mantle needs to be picked up locally, and quite a lot of time, energy, effort and resource will be required to create the most productive space and tone for meetings. My experience of that has been variable. We have good examples of DMGs that involve the police, the local fire service and the local community council, but they are perhaps few and far between.

Graeme Dey: Does the fact that the majority of DMGs do not have plans provide an opportunity to address the situation, and can we take that opportunity without being more prescriptive? Can we simply trust that the groups will do the right thing in protecting the natural heritage and environment?

Dr Milne: Plans are a very good idea. In fact, 15 years ago, I was actively involved in the first six deer management plans that were developed for deer management groups. We were pleased with how they were developed—I was much younger then—but a study carried out three years after they had been put in place showed that they had not been updated and that the groups were not really following them. Since then, my experience has been that deer management groups that have developed such plans tend not to use them properly or update them. A plan is a good exercise in getting some consensus, but it requires continual delivery, which tends not to happen. As I have said, plans are a good thing, but their operation after they have been implemented is also important.

The Convener: We will discuss plans in more detail later, but I think that we have strayed off the issue of the numbers. Before we stray off the matter entirely and begin to discuss the impacts, I want to raise a small point. Last week, I mentioned an email that I received from Lisbet Rausing, who owns the 50,000-acre Corrour estate in the west central Highlands, in which she claimed that there were 55 deer per km^2 in sites of special scientific interest next door. That figure is confirmed in SNH's Ben Alder deer count for July 2013; indeed, there are some blocks where there are more than 100 deer per km^2. Does SNH agree that what Lisbet Rausing has said is, in fact, correct?

10:45

Robbie Kernahan: I am happy to confirm that. I should point out, however, that when we undertake a deer count, we use helicopters and digital cameras. Deer will occasionally move in response to that stimulus, so it does not surprise me that in certain parts of a count we will see large concentrations of, say, 100 in a very small space. Indeed, in one photograph, you can see 1,100 red deer, which when scaled up will result in densities of the type that you have mentioned. My only caveat is that we are talking about snapshots in time that have been taken as we have flown over an area and which are then translated into a map, so you need to think about what that information is saying. We are simply trying to cover a sensible area in our count so that we can get a total for deer, which will then help us to think about how we advise on management issues. I would therefore be careful about reading too much into a single density figure for a certain point in time.

The Convener: Would it not be useful to look at the report of the deer management group for west central Highland, which Richard Cooke showed us last week, to see exactly what the situation is over the whole area?

Robbie Kernahan: Yes. That is a case in point. Although there might be those kinds of concentrations of deer, the important issue is the impact that they are having. What causes us concern is large groups of deer in some sensitive peatlands and the tracking impacts that they can have, rather than a density figure of 100 deer per km^2 at any one point in time. The impacts are more important.

The Convener: Alex Fergusson has a supplementary question.

Alex Fergusson: I just want to clarify a point for the record. The fact is that, when you get that kind of number by counting from a helicopter, that is the number at that point in time and not a permanent stocking rate. It is just that the deer happen to be there at that time.

Robbie Kernahan: Yes. In the regular censuses that we undertake throughout the country, we come up with an absolute population relative to the area that we have counted. That will throw up a range of densities from zero to 100, but we are seeking only to provide a population estimate within which we can subsequently manage the situation. Those deer are transient and will move and, as we are talking about a specific snapshot in time, it is difficult to read too much into it.

The Convener: But the area was part of a special area of conservation.

Robbie Kernahan: Absolutely. In that part of the mid-west, we were looking at some of the impacts on the Monadhliath and Ben Alder SACs. Given our concerns about the impact of summering deer densities on such sensitive upland habitats, we need to think about what we can do to reduce that pressure.

Jim Hume (South Scotland) (LD): My question might be for SNH, but others might also have views on it. Last week, we heard conflicting evidence on deer's impact on designated sites and their features. Jamie Williamson mentioned the Monadhliath SAC bog, which had been considered to be damaged but which an aerial photograph showed to be recovering and Scottish Environment LINK said that, for some sites to be categorised as "unfavourable recovering", all that is needed is a plan rather than any difference to be made on the ground. Given such conflicting views on the impact of deer on sites and how they

are assessed, I am interested in finding out the impact of deer on designated sites and their features, how that impact is assessed and how such an assessment can be made, given other factors that might have an effect such as sheep and hare grazing and weathering.

Robbie Kernahan: I am happy to have a go at that question.

We have already discussed the significant ecological role that deer play in Scotland's uplands, principally through grazing on vegetation but also through trampling. We have a history of grazing and burning in Scotland, which is why we have the open landscapes that we value today. Those vegetation communities are kept in check principally by grazing, both by deer and by domestic stock, and that creates and maintains the open moorland and peatland habitats and all the benefits that they provide. They are internationally rare, which is why we value them so much.

In terms of measurement, we can get a broad indication of grazing, which can be seen at a distance. From a woodland point of view, that might be lack of understory. From a moorland point of view, it might be greyish heather or high grass-to-heather content on the hill. However, we need much more detailed assessments if we are really to understand what is going on, what impacts deer are having and whether those impacts are actually resulting in damage to habitats.

Those measurements might take the form of looking in more detail at browsing on dwarf shrubs. For some of our heather and ericaceous species, we can measure the offtake that herbivores are having. In some of the more sensitive peatland or flush habitats, we can look at and quantify the impact that trampling is having. Those measures can then be compared and quantified against measures that we know will lead to deterioration of the habitats over time. For example, if we find more than 66 per cent offtake of heather shoots, that will lead to heather loss over time, which is not good from anybody's point of view, and certainly not from a biodiversity point of view, because the heather will be replaced by more resilient grassland species that are not of much benefit to the herbivores or to the land managers. We know that that can happen at a certain level of grazing and trampling, and we can assess that against the aspirations for what we think the grazing regime should be.

The question of a balance between sheep and deer brings me back to the point about needing good information about deer numbers and domestic stock, so that we can think about what management we can put in place to achieve that balance. In large parts of our uplands, we are trying to balance wild deer and domestic stock, so we need to look at the numbers that are involved and think about where the balance lies.

Feature condition on designated sites has been mentioned. In our written submission, we tried to quantify that to a certain extent, and in doing so we have focused principally on the red deer range. In a Scottish context, there are 2,500 features on designated sites that could be impacted by grazing, and 80 per cent or more of them are in reasonable condition. However, in the red deer range, we have specific concerns about the state of our woodland features and some of our uplands and peatlands, and I tried to quantify that in our submission. Although, on the face of it, we can still be confident that things are generally okay across the country, I do not underestimate the scale of the challenge of reconciling some difficult things about some of our most important woodland SACs, and of how best to sustain our peatland habitats over time.

There are two other important points that we should reflect on. It is quite difficult to think about the tools that are available to us to ensure that we have the right balance and can provide advice, guidance and incentive in relation, for example, to the off-wintering of sheep so that people can achieve the best balance in agriculture infrastructure and rural business, while understanding what we can do to influence wild deer management. That is quite challenging in itself.

We should also reflect a little on the progress that we have made in the past three years. In the upland red deer range, we have secured management of another 90 features out of all those woodland, peatland and upland features, which is good progress. That progress includes section 7 control agreements and rural development contracts so that we have management in place. We believe that, over time, that grazing prescription will lead to favourable condition, but those habitat types take a long time to respond, so all that we can really do is try to put suitable management in place, and we are seeing some results from that.

At the same time, as new information comes to light, and since site condition monitoring is a cyclical process, we are constantly getting feedback about the condition of other sites. So at the same time as 90 features have been secured, another 50 have come back as unfavourable. It is a constantly dynamic situation, and we must ask how realistic it is for us to expect to have 100 per cent of those features in favourable condition at any one time. I suspect that we will struggle to achieve that.

Jim Hume: Scottish Environment LINK stated that all that is needed to have a designated site

categorised as “unfavourable recovering” is to have a plan. Is that correct, or do you disagree with that?

Robbie Kernahan: There are various categories that we might assign to a designated site or a feature. If we categorise it as favourable, that means that we are quite comfortable that everything is fine, but if it is unfavourable and declining or unfavourable and not changing, that means that we need to think about what management we might put in place to address that. The status of a feature will not change overnight from unfavourable to favourable, so all that we can do is put a plan in place. It might be a rural priority contract that involves domestic stock prescription, off-wintering or a reduction in stock numbers, or it might involve a reduction in deer numbers, but once we have a contract in place and we are happy that that contract will be seen through, we can assign the feature “unfavourable recovering” status, because we believe that the management prescriptions that we have identified and worked on with owners will, over time, lead to a reduction in those grazing impacts. I do not see what else we can do.

Jim Hume: I would like to clarify that, because there is still a bit of doubt there. You are saying that you would give an “unfavourable recovering” designation if there was a plan in place but there were no signs of recovery on the ground. Is that correct?

Robbie Kernahan: It is necessary to understand the nature of the plan. Some plans might require monitoring in year to see whether the management prescription is working. A section 7 control agreement is a good example. If we sign a section 7 control agreement, that means that we are comfortable that we have identified the management that might be required, but that will be subject to monitoring on a regular basis and to annual meetings to review that and perhaps change the management prescription in the light of that. In that example, it is a live process. There are other examples, such as management agreements or rural priorities, whereby we might have a five-year contract and, at the end of the five years, we might come back to that site and not necessarily see the progress that we would have liked to have seen. A lot of it depends on what measures are in place to adapt to the information that comes to light.

Jim Hume: That clarifies the issue well.

The Convener: Fine. We will move on to questions from Angus MacDonald.

Angus MacDonald (Falkirk East) (SNP): I want to stay with the issue of designated sites but to broaden out the discussion to the wider countryside. We have been told that the work of the Deer Commission and now SNH is focused on designated sites. Presumably, that is partly because of a lack of resources. That has meant that the impacts of deer on a considerable proportion of the land area that is grazed by deer species have not been dealt with. At last week’s meeting, Scottish Environment LINK’s deer task force told the committee that there was not good evidence about the impact of deer in the wider countryside. In addition, the John Muir Trust referred to the recent native woodland survey that was commissioned by Forestry Commission Scotland. Although the report on the survey has not yet been published, we have some detail on it. For example, I believe that every area of native woodland of more than 0.5 hectares in size has been assessed.

Why is SNH’s work focused solely on deer impacts on designated sites? How are deer impacts in the wider countryside monitored?

Robbie Kernahan: I am happy to start that conversation. Going back 10 to 15 years, the Deer Commission used to advise deer management groups on what we thought the appropriate population of stags and hinds should be. At that time, the approach was principally but not exclusively aimed at providing a sporting return. We found that our advisory cull targets were often not being met, and we were putting quite a lot of time, energy and effort into providing that advice to DMGs. At the time—John Milne can perhaps say a bit more about this—we took a conscious decision to focus and target our resources on those areas of the public interest that were most at risk. At that time, the focus was very much on designated sites. We had European designated sites that were in urgent need of attention. That is why we took a strategic decision to prioritise our resource on tackling those issues, instead of continuing to try to support DMGs at a national level.

11:00

That is why the focus has been on designated sites. It is absolutely the case that the decision was resource driven. However, I want to pick up on the point that we pay attention to designated sites at the expense of the wider countryside. To put the issue in context, I can provide two or three examples that show that, although our focus is principally on tackling designated sites, there is wider countryside benefit. We have talked about the Caenlochan example. In 2003, we signed a section 7 control agreement in relation to 10 estates in the Angus glens that covered 35,000 hectares. The designated site covers a significantly smaller area. We have reduced the deer population from 12,000 to 5,000 in that time. That will have benefited the designated site, but the control area has been much wider.

We recently signed a section 7 Breadalbane hills control agreement, which covers 75,000 hectares and just under 30 properties. Only 16,000 hectares of that control area is a designated site. Therefore, there are knock-on benefits to the wider countryside, but we use designated sites as a stimulus to try to tackle the issue at a catchment scale, which is appropriate to the problem. For some of the big upland sites, we certainly use designated sites as a focus, but we know that there is additional benefit from that.

I will let Simon Hodge, John Milne or Will Boyd-Wallis add to that from a woodland perspective.

Simon Hodge: I have a couple of points to make on the woodland aspects. We assess damage levels in woodlands across the estate, including outside designated areas, and our evidence suggests that over half of our woodland areas are noticeably affected by deer browsing. Around 15 per cent are affected to a level that is a major concern to us. That happens when the leading shoots of the trees get eaten away.

I do not lead on the native woodland survey for Scotland in Forest Enterprise Scotland, but I had a word with my colleague in the Forestry Commission Scotland about it, as I saw it mentioned in the evidence. The data has not been published yet, but it is right to suggest that the majority of woodlands covered by the survey showed some evidence of browsing, although it is not definitively possible to indicate what did the browsing—it could have been livestock as well as deer. Around a third of the native woodlands that were surveyed had high or very high damage levels that would be judged to have an impact on biodiversity. That data has not been published yet, but it will be published relatively soon.

Dr Milne: I would like to add to what Robbie Kernahan said. We decided to concentrate on designated sites because of resource limitations. We were aware that we were then not looking at the non-designated sites. That was not because we did not think that damage was occurring; it was because we simply did not have the resources to look at those areas and, obviously, because the Scottish Government was driving us to ensure that the designated sites were in a favourable condition, as it has a responsibility for that. Information is not available for the non-designated sites, because it is costly to get and has not been obtained. I suspect that the culls in many areas in non-designated sites are much less than those in designated sites.

The only way in which we can manage that currently is through the voluntary deer management group system. The issue with that, of course, is that, if that system is not working very well, we do not get much of a handle on the matter. That is another reason why the Deer Commission put forward the idea of a duty. That would allow us to get a much better grip on an issue that we do not have the resources to deal with in relation to non-designated sites.

Will Boyd-Wallis: I would like to add something about best-practice guidance, which SNH now administers after DCS. That guidance has been an important element in the wider countryside in encouraging estates to take their own initiative in monitoring habitats. In the national park, both we and SNH have been training people up to help them to go out and do their own monitoring on their own sites. That is one way of sharing the costs and ensuring that the stalkers on the ground are directly involved in monitoring. The approach has been quite useful and has been taken up quite widely, but we would like it to be taken up more widely.

Angus MacDonald: Do you have a more precise idea of when we can expect the Forestry Commission's report on native woodland to be published?

Simon Hodge: No, I do not, but we can get the committee information on that.

Angus MacDonald: That would be good. Thanks.

Cara Hilton (Dunfermline) (Lab): I have a question for all the panel members. Most of the debate so far has been about the impact of red deer. What evidence is available on the impact of other species of deer?

Robbie Kernahan: For the purpose of submitting our written evidence today, we focused primarily on red deer, because of the challenges that they pose, the complexity of ownership and the significance of the problem in the uplands. That is where most of our focus has been, but that is not to get away from the fact that we know that other deer species can and do impact on natural heritage outcomes.

The issues to do with deer and woodlands are not restricted to red deer range; there are a number of smaller woodland sites in Strathclyde, Ayrshire, Dumfries and Galloway, the Borders and the Forth valley that are in principally unfavourable condition perhaps because of roe deer. The challenge of sorting those out is significantly less, because we are not talking about the same complexity of ownership and scale of problem.

However, that is not to say that there are not problems with other species, which have been experienced even in some woodlands where the focus has been on red deer. For example, quite a lot of the focus on Mar Lodge in the Cairngorms, which is one of the best examples of pine wood that we have in the Highlands, was on red deer management. However, after National Trust for

Scotland estate staff went out at night and looked at the number of roe deer involved, they took out 350 roe deer from that woodland in one year. It was amazing to see the resulting response in vegetation and seedlings.

It is easy to talk about red deer, but we must not lose sight of the impact that some of the other deer species have.

Simon Hodge: I can give information on the culling activity on the national forest estate. The estate is distributed reasonably well across Scotland. Roe deer make up 40 per cent of our overall deer cull, red deer make up 40 per cent and sika deer and fallow deer make up the remainder. I confirm that, certainly in woodland in the national forest estate, roe deer are a major issue. However, their movement across the landscape is less of an issue, as they tend to be more hefted into a particular part of the landscape.

Will Boyd-Wallis: In the national park we have red deer, roe deer, sika deer, fallow deer and reindeer, which is quite unique. Anecdotally, I can say that the roe deer population seems to be expanding. It is hard to gauge how much of an impact that will have, but it is definitely something that more and more deer management groups seem to be getting more concerned about.

Sika deer are largely limited to the west and their population is also thought to be expanding, with potential impacts on hybridisation with red deer, which is a separate issue. Fallow deer are not common at all.

Reindeer are a semi-domestic herd that was introduced in the early 1950s and to date they have not been much of an issue. They are regarded as a great tourism attraction and are very popular, so I will be very careful about what I say about reindeer—especially in the run-up to Christmas.

There are concerns about the reindeer herd, particularly in estates such as Abernethy, which is trying to expand native woodland through natural regeneration. Reindeer do not limit their diet to mosses and lichens; they particularly like deciduous trees as well. There is a recognised concern about reindeer, although I do not know whether it has reached a level at which there is a need for a cull. That would be interesting for us in the park to have to contemplate.

Dr Milne: Roe deer numbers have increased a lot in the past 10 years or so, partly because we have created new woodland and also because of agricultural crops that grow in the winter and are ideal feed for them. The numbers have increased particularly in the central belt, where we have created more woodland.

Unless we have the culling levels that the Forestry Commission Scotland operates, the consequences of that will be that we will get more and more damage. In the private woodland sector, such levels are not often achieved. The problem will increase there.

Because numbers have increased in the central belt, the encroachment of deer into urban areas has increased, which has had negative as well as positive consequences, and the number of road traffic accidents has also increased. The legislation changed the use of panels slightly, and there is an opportunity for SNH to use panels to manage deer in those circumstances—currently they are not so well managed.

The Convener: We have a couple of supplementary questions on the issue.

Graeme Dey: This question is principally directed at SNH. You stated in your written submission that

"SNH is currently carrying out more detailed work to distinguish between red deer and other herbivore impacts".

I presume that that takes in sheep, mountain hares and so on. What can you tell us about that work?

Robbie Kernahan: As I alluded to earlier, when we undertake habitat impact assessments, we are absolutely clear about the level of offtake by herbivores and the influence that that is having on the condition of vegetation communities. However, it is less easy to attribute the impacts to different species. Our knowledge base on hare abundance, for example, is not as good as it could be because we do not have many reliable methods to estimate the abundance of mountain hare. That has been covered recently in the press. We are doing some work with the James Hutton Institute and the Game and Wildlife Conservation Trust to try to understand better what tools are available to provide better estimates of mountain hare numbers.

We are doing some work to understand the local issues associated with domestic stock and wild deer on certain sites, because they use the sites slightly differently. We therefore need to be a bit better informed about exactly what the right management measures might look like. We have talked about some of the options and rural priorities in terms of offwintering sheep or more actively shepherding stock and whether we can manipulate sheep populations in some habitats where we know the grazing requirement is a bit more complex.

Graeme Dey: In undertaking the work, are you also taking account of the impact of climate change? For example, snow levels are now much reduced compared with previous years and some

endangered plant species are being exposed because of that and are being nibbled by hares and so on. Has all that been factored into the work that you are doing?

Robbie Kernahan: Picking up on Jamie Williamson's point at last week's meeting about peatlands in the Monadhliaths, we accept that the ecology of some upland peatland habitats is very complicated. There is no doubt in my mind that a host of things significantly influences the condition of peatland habitats at a certain altitude, including wind, weather and erosion. We are trying to understand better the current herbivore impacts and the extent to which they influence the condition of a site, because we can do something about that. However, it is more difficult to try to prevent erosion and peat loss through wind and water. We are actively thinking about draining peatland systems in the Monadhliaths and reseeding some of the exposed bare peat, which is subject to many influencing factors.

The situation is complex, but we know that herbivores contribute to the poor condition of some peatlands sites and that we can actively manage that. That is not the solution to the whole problem, but it is something that is within our gift to do.

Jim Hume: I will pick up on the issue of sika deer. Obviously, they are not native to Scotland, as they are from east Asia. The word "sika" is Japanese for "deer", so translating "sika deer" gives us "deer deer".

The Convener: Oh, dear.

Jim Hume: Indeed. It is well recognised that there is a problem of an expanding population of sika in the west Highlands. It would be interesting to know whether there is a similar problem in other parts of Scotland. There was a reference earlier to hybridisation with regard to red deer. Is there any evidence that they are hybridising with roe deer?

Will Boyd-Wallis: We did some research with Josephine Pemberton of the University of Edinburgh, who has done a lot of work on sika, to assess hybridisation levels. There was some very small evidence of hybridisation with red deer, but they never hybridise with roe deer ever.

It is hard to gauge whether sika numbers are an increasing problem. Anecdotally, it seems that more sika are being found in other areas of the national park, predominantly to the west of the River Spey. It is probably better for Robbie Kernahan to comment on whether they are an increasing problem across Scotland.

The Convener: Mr Hodge wants to make a point.

Simon Hodge: I have two points to mention in response to the question about how we establish whether impacts are from red deer or other species. First, we can often find evidence in woodland conditions of what is doing the damaging from the nature of the damage. Secondly, when we undertake density assessments—I will not go into the sordid details—we look at dung counts, because clever people can tell what has produced the dung. We therefore collect information on what herbivores are in an area.

11:15

Robbie Kernahan: Sika continue to expand their range and have done so for the past 50 or so years. The issue for us is, "Well, so what?", because they are here to stay and are well established and naturalised. Indeed, we know that, in some parts of the country, they are actively managed for sport because a day's stalking of a sika stag can attract more money than a day's stalking of a red deer stag, given that that opportunity is not afforded in other European countries. There are therefore even tensions about the number of sika when woodland objectives are being pursued in places that perhaps neighbour some national forest estate properties.

Sika deer interbreed with red deer and we know that introgression takes place. We tend to find that, past the first generation, they are very red-like or very sika-like deer, so physically it is impossible to tell that they are the result of interbreeding. However, we know that the Scottish red deer is genetically isolated from the rest of the populations around Europe, so we have strengthened the protection on the refugia islands on the west coast. In the parts of the country where sika deer have not managed to establish and where there is collective recognition that we do not want them, we are encouraging people actively and adaptively to focus on pioneering stags. There are certain peninsulas in the north-west where sika are not established yet and quite a lot of owners are keen to see that they are not.

The Convener: The next questions are on the current approach to deer management.

Alex Fergusson: I want to deal with the code of practice, which is the nub of much of the debate. The code has been in action for only about 18 months, following consultation after the passing of the WANE bill. I invite comment on the effectiveness and implementation of the code of practice. How is that going to be assessed? Is it too soon to do so? If not, how is it being assessed?

Robbie Kernahan: As you know, we produced the code as a result of the duty that was placed on us following the passage of the WANE bill. The code provides a framework to promote more

appropriate behaviours for all deer managers. I note that Mike Daniels almost dismissed the code as a bit of a red herring when he gave evidence at last week's meeting. From our point of view, the code places very firmly a responsibility on all landowners actively to think about how they engage with and manage deer and whether that requires collaboration. The code is certainly not a red herring from our point of view.

I take on board the fact that the code does not force people to do what might be necessary, but it sets the standard of behaviour that we would expect anybody with deer and land to aspire to. The code does not prescribe where the balance lies with regard to the public interest, which is perhaps where some of the potential criticism lies, nor does it prescribe a more direct approach to conflict resolution. Again, though, we are tasked with that to a certain extent.

On how well the code has been received, there is definitely greater awareness now of the expectations on landowners and greater recognition of that responsibility. In many circumstances, the responsibility is not a legal one but more of a moral and social one for safeguarding deer welfare and managing deer sustainably as an economic resource and minimising the negative impact on the public interest.

I reinforce the fact that this is the first time that we have managed to articulate clearly what we mean by the public interest. As I said earlier, greater expectations have been placed on land managers for ecosystem services and carbon sequestration. We have articulated that in the code for the first time, but it is still relatively new, so it is taking some time for deer managers to get their heads around it.

We are tasked with monitoring compliance with the code. At the moment, where things flare up, whether on a designated site or within a DMG where people are struggling to reconcile their differences, the code is the first port of call for us and we ask how they are behaving in response to the framework that we have set out. We have not really taken a step back strategically to think about what a review of the code might include. However, I think that it will be informed by how we respond to certain pieces of casework.

Alex Fergusson: Can you confirm that your asking the question, "How are you behaving?" applies equally to private land managers and owners and to public bodies?

Robbie Kernahan: Absolutely. The code is aimed specifically at all managers of land on which deer may be present.

Alex Fergusson: We heard evidence last week—to which you have just referred—to suggest that the code does not really apply to private land managers. Is that the case?

Robbie Kernahan: The code attributes a bit more direction to public bodies, which are expected to follow what it contains and are directed to do so. However, the code has been designed to ensure that all deer managers follow it. If they do not, that puts them at greater risk of regulation, although much of that would be dictated by the impact that has resulted and by what our focus was in the first place.

Alex Fergusson: We have heard that, although there are some very effective deer management groups, some are still being set up and others are even further behind. How do you seek to ensure that all of them come up with plans that are regularly monitored and updated and that adhere to the code of practice? Without that work there would undoubtedly be more regulation, and as one who is keen to avoid regulation wherever possible I would like to know how you try to bring that work about.

Robbie Kernahan: Our job is to support the industry as best we can by providing advice. We have the vision, as outlined in "Scotland's Wild Deer: A National Approach"; the code, which is about guiding behaviours; and best practice guidance, which concerns the practical implementation of those things. We regularly attend deer management groups and ask staff to go along and provide support, guidance and a steer, as necessary. Some of that support is well received and some of it is absolutely necessary.

Going back to my earlier point, the ability of DMGs to develop the right infrastructure and their ability to respond and adapt and to reconcile some of the difficulties is perhaps where we are struggling just now. All that we are really doing is responding to issues as and when they arise, where the public interest is being significantly compromised, and intervening accordingly. We are not doing that throughout the country and we do not necessarily need to, provided that people step up and follow some of the behaviours that we expect from them.

Alex Fergusson: Do you think that they are beginning to do so? We heard from Richard Cooke last week that deer management groups—and private landowners in particular—are realising that we live in a different environment from the one in which we lived 50 years ago and that opinion is slowly changing. How do you react to that?

Robbie Kernahan: My reaction is that we should be realistic. Many deer management groups meet only twice a year, so they may have had three meetings since the code was published. I am not saying that they need to meet more often,

but in reality that is how they are currently structured.

When people think about putting together plans and getting actively involved in resolving some of the difficulties, they may need to revisit how frequently they meet or how they delegate tasks, and they may need to convene groups between annual general meetings. The penny has now dropped that they need to get their house in order—we touched on the acceptability of the timescale for that last week.

As Will Boyd-Wallis said, we are tasked with supporting the system. I am sure that we can do that better, but the resources that are available to us are limited. Three years ago, when the Deer Commission for Scotland merged with SNH as a result of public sector reform, we specifically started to put our efforts into things other than just deer. I have no doubt that the staff resource and time that go into providing support to deer management groups have changed, partly as a result of the merger and partly due to increasing pressure on public funds. We perhaps need to do a little bit more to support that system better.

Will Boyd-Wallis: A deer management plan is only any good if it is used. We have worked closely with a number of deer management groups in the park, and one in particular—the Cairngorms Speyside deer management group—has been at the forefront of trying different methods of deer management planning. About six or seven years ago, it spent £13,000 on getting a contractor to help to pull together a plan, which was very detailed and gave as much information as anyone could possibly want. However, a number of deer managers in the group were happy to admit, after five or six years, that the plan had hardly come off the shelf. They were pleased that they had gone to the effort of producing it, though, and in many ways the process of developing a plan and talking and thinking about what goes into it is almost as important as the end product. However, the fact that it sat on the shelf was not good, and it was perhaps seen as money wasted. I think that the money came out of the DMG's own pockets—I cannot remember. SNH may have helped to support it.

After that, the DMG tried to be more pragmatic. You will see from our submission that we helped it to produce maps on its aspirations for deer management. Early on in the discussions about that, the DMG talked about its plan as being map based and dynamic. In recent years, there has been quite a quick turnover in the ownership of estates in the national park, so the maps need to be dynamic. A plan that was written five years ago will go out of date quite soon. The maps have been extremely useful in—as members will see in their papers—clearly representing visually what each deer manager, deer management unit and estate ownership wants to see on the ground.

As we say in our written submission, the maps are very crude and talk about densities rather than impacts on the ground, as we have discussed. However, they give an overall impression of what people want to see on the ground. They therefore open up the discussion and you can see quite quickly and readily where there are pressure points. The benefit of that is that everybody around the table in a deer management group knows where the pressure points are. Quite often, a DMG does not get to the nub of the issue and say, "What are we going to do about this?" The maps, however, have made it very obvious. I believe that the maps will help some of those dialogues by providing a pragmatic approach to deer management planning that is dynamic and, hopefully, useful.

Dr Milne: The code is an anodyne document that does not provide much information that was not there before. It may put all the information in one place, but I do not think that it is very helpful.

When I was first involved in discussing the code, it was going to be a much sharper and more detailed document that would lay out precisely what deer management groups needed to do. However, it does not do that. It has flowcharts and looks nice but, in my view, it does not amount to a row of beans. It does not tackle the issues about conflict resolution that Robbie Kernahan mentioned.

In its evidence, the ADMG said that the code was having a big impact and would have a major effect in the future. I have lived with the ADMG for the past 15 years, and every four or five years, when it feels that there is pressure from environmental organisations, it starts to say that. I am not convinced that the code will have much impact, first because it is not a very good document and secondly because there is no clout attached to it. There is the long-term possibility that SNH might take some action but, as Robbie Kernahan said, the number of SNH staff who are involved in deer has dropped by roughly a third compared to the number of staff in the DCS. How will SNH be able to do all the things that it does and have any impact? Non-designated sites, in particular, will be the last to receive any attention—[*Interruption*.]

The Convener: If anybody has a mobile phone or other electronic device switched on, it should be switched off. That applies especially to the people in the public gallery, who may not have heard me say that earlier.

Alex, have you finished with that line of questions?

Alex Fergusson: I will come back to openness and accountability later.

Angus MacDonald: The issues of regulation and the code of practice have been mentioned, and Robbie Kernahan said that deer management groups

"need to get their house in order".

We have heard of problems with deer management groups implementing their own plans, and we heard evidence last week that it could take between five and 10 years to have all deer management plans in place. Is there an argument for a licensing regime to help to concentrate the minds of those who have failed to date to come up with a deer management plan or have failed to follow their own plans that are already in place?

I just thought that I would throw that in.

The Convener: I am not sure whether you have thrown in a stone or a hand grenade. [*Laughter*.]

Dr Milne: Will you define more precisely what you mean by a licensing arrangement?

Angus MacDonald: Perhaps each estate should be licensed and, if it does not conform to its own deer management plan, the licence should be revoked.

Dr Milne: A licence to do what? The estates do not own the deer. The deer can only be shot if they are on their land and, as far as I understand it, you cannot remove that right.

11:30

The Convener: Would it not be possible to remove that right if the status of deer were changed from being nobody's property to being communal property?

Dr Milne: Absolutely, and that is one option that should be considered. If the voluntary system does not work, or a duty is not placed in order to make it work, the only route forward would be to change the definition of deer.

Robbie Kernahan: Having come not all that long ago from a discussion about an opportunity to review the deer legislation, it would be only fair for SNH to say that the current legislation can provide the basis for a modern approach to the management of wild deer, but our challenge is to implement it in a way that is balanced and proportionate to the public interest.

We have a balance between standards and incentives in statutory and regulatory solutions. We are keen to get the right blend and, in doing so, be clear about where the balance of cost resides. I would be slightly nervous that a highly regulated system may well cost the taxpayer more money than the current system.

Will Boyd-Wallis: An issue with that idea is how you would judge whether an estate or a deer manager is conforming to and achieving the licence requirements. On paper, that sounds simple—they either are or are not achieving what they should be—but in practice such a system would no doubt lead to legal disputes and who knows what. I imagine that it would become difficult to gauge. It is hard enough at the moment to prove whether a site is in favourable condition, in order to decide on section 7 agreements and suchlike, so I imagine that such an arrangement would have similar trials.

Graeme Dey: In written evidence, Dr Milne suggested that no advisory panels have been deployed since the introduction of the WANE act. Why is that the case? Would such panels not be a good means of mediating disputes and providing direction on balancing conflicting objectives?

Robbie Kernahan: We have had the ability to appoint panels since 1996. We have used that ability on a number of circumstances—certainly before the DCS and SNH merger—to pull together relevant expertise, involving Transport Scotland, community councils and deer managers to look specifically at road traffic accidents. All three of the panels were hugely helpful in putting together a package of advice to the Deer Commission in dealing with specific circumstances, such as how best to raise driver awareness, manage roadside vegetation and monitor driver speed, as well as influencing deer management prescription.

Ultimately, those panels were tasked only with providing additional advice to SNH. In our submissions at the time of legislative change, we were looking for the panels to have a little more substance so that, rather than just provide advice to SNH, they might have powers to put together a plan and for that plan to be implemented.

I do not doubt that, in certain circumstances, we can and perhaps should think about additional support, facilitation and mediation for some of the difficult land-use interests, not only in the uplands but for a variety of situations.

We have used facilitation by bringing in consultants and mediating between landowners and ourselves to reach a solution in situations that might otherwise have resulted in section 7 agreements. For three years, we have not formally used panels under section 4, but there is no reason why we cannot. Indeed, I suspect that we will need to do that where we find intractable situations and SNH is not seen as sufficiently independent to negotiate a solution.

Nigel Don: I want to pick up what Will Boyd-Wallis said about maps. I never cease to be

amazed that people discover maps at some point in life, because it seems to me that anything to do with the land should always be mapped—you can quite literally see what you are doing.

I have, in small-scale, the "Managers' Aspirational Red Deer Densities" map that Will Boyd-Wallis referred to. I do not want to pick up on the detail of it, but I find myself thinking that it includes some high-density areas and low-density areas that are next door to each other. Clearly, there may be some significant physical features in between that are not entirely obvious to me, but there are places where that is plainly not the case. I am conscious that deer can swim, so rivers are not that much of an obstruction.

Would it be fair to say that someone selling an estate—apparently, this does happen—ought to tell a prospective purchaser about the estate's deer density so that, rather than come in with an aspiration to clear the area for some other purpose, the purchaser recognises the nature of the deer density in the area?

Will Boyd-Wallis: I thought that you were going to go in a completely different direction with that question.

Yes, there are all sorts of implications. I think that the more public the need is to balance deer management objectives, the better. Purchasers of estates should be well aware of what they are getting into. In the case of recent purchases in the national park, the purchasers were well aware of that and have embraced what they are getting into. I think that it is incumbent on purchasers to be aware of what they are taking on, but I am not sure that I can comment on whether there should be an obligation on the seller to make such things known.

Nigel Don: Forgive me, but I am not really looking for an answer on the legal issue between buyer and seller. Surely if we are trying to manage deer across the whole of Scotland, the deer density of a property ought to be a matter of public interest and public knowledge. Plainly, the southern area of the Cairngorms national park is a high deer density area, so it seems fairly reasonable to say, "Well, it might stay that way, please." Should we be saying that kind of thing at an appropriate level?

Will Boyd-Wallis: The map reflects what the individual owners want rather than how they should meet their natural heritage obligations. As regards what we might want in the national park, the map represents what the owners want and does not necessarily fit with what the wider public interest requires.

Nigel Don: That then pushes me—if the convener will forgive me—to ask about where I think we need to go. This will not happen overnight, but should we be looking at some kind of articulation of the public interest in such a way that, perhaps over a generation, we reach the point with landowners where deer are managed across Scotland in a way that is rational for all, rather than our constantly living with these disparate aspirations, which must ultimately be irreconcilable?

Will Boyd-Wallis: As I said earlier, the issue occurs where there are the extremes. As you have highlighted, the issue comes up not where there are moderate levels of deer density but where there are very high levels of deer density next to very low levels. That is where the pinch points occur and is probably the reason why we are sitting around this table.

In our submission, we mentioned the need to provide support to deer managers, which I think is the approach that we need to take. The deer debate is quite antagonistic between disparate groups, but we are looking for a positive approach to helping deer managers. Some estates might want high numbers of deer because they want a sporting cull, but I believe that there are also cases in which the numbers of deer on the ground are above and beyond what would be needed for a sporting cull.

Why do some estates keep deer numbers at that high level? Partly, that might be as a defence against what is going on in the neighbouring land, but it might also be partly a resource issue. Culling is a very difficult job, especially in remote country, where the deer may need to be dragged several kilometres to get them off the hill. We can talk about these things academically, but being out there culling hundreds of hinds in the wind and the rain in winter is a very difficult job.

When we talk about providing support for deer managers, we mean management planning and that kind of aspect. I think that deer managers should get more support on the ground. We want more men and women on the hill culling deer—that is the nub of the issue. We hear about the worry of jobs versus trees, but the reality in some areas is that an increased cull would result not in reduced jobs but in more jobs.

Sorry, I have gone off on one there.

Nigel Don: That is where I was inviting you to go. Thank you.

Simon Hodge: Let me just add a thought on that notion of support, which I think is important.

It makes sense that all landowners understand the implications of the code for their land management responsibilities and duties. One area that is possibly relatively poorly understood is what the code says about managing grazing levels to prevent damage from deer to wider biodiversity

and to ecosystems and the environment. I feel that we need to unpack what that looks like and means a bit more.

What does success look like to those who might be contemplating the purchase of an estate or to someone who is already an owner? In my experience, the issue has not necessarily been clearly understood or articulated and it is an area where there are very differing perceptions of what protecting and maintaining biodiversity in the environment looks like in different contexts.

There might be a link with the notion of support needs, because those are not issues that many landowners would necessarily understand or have an accurate ecological view on. We need to help land managers gain a common understanding of what success looks like in that part of the code.

The Convener: Dick Lyle has some questions on section 7 control agreements.

Richard Lyle (Central Scotland) (SNP): Good morning, gentlemen. I have been listening intently to the discussion and have noted a comment in one of the submissions:

"The Deer Management Group ... system is the current system of management of red deer when there is no involvement of Section 7 agreements."

In his submission, Dr Milne says:

"In 2010, ten Section 7 voluntary agreements were in place which covered over 50 estates and an area of 273,000 hectares. Since then, no Section 7 agreements have been signed which is surprising."

If I am wrong, please correct me, but I believe that this morning Robbie Kernahan said that he had recently signed a section 7 agreement. I also note with surprise that five of the 10 agreements are in the convener's constituency.

Is it being suggested that the agreements in place are not worth the paper that they are written on, or are they achieving their objectives? Are there sites where deer are known to be damaging the natural heritage but which are not covered by agreements and, if so, where are they? Finally, are there plans for any more control agreements to be put in place?

Dr Milne: Given that I wrote the submission that you referred to, I will start off.

In 2010, when the Deer Commission ended, there were nine section 7 agreements in place and one more was about to be signed. As far as I am aware, none has been signed since. I do not know what the reasons for that are, but we had to work very hard to get those agreements in place. I think that they have been very successful because they have focused land managers' minds on what they have to achieve. Because meetings on the section 7 agreements are usually chaired by a senior person—they used to be chaired by a Deer Commission commissioner—they actually work; indeed, a good example is the fact that two have already been signed off because they have done their job.

Other agreements have been extended, but I can say that in the Caenlochan section 7 agreement, which I chaired, we halved the density of deer almost down to the level at which we thought we would have some impact on the vegetation. Another agreement has been entered into because we feel we need to go even lower to get changes in that respect.

The processes are very positive. You should not get the idea that section 7 agreements are not a good idea; they are and if people work hard at them they can make them work.

Robbie Kernahan: Of the nine section 7 agreements in place just now, only one—for Mar Lodge, on which negotiations began before the Deer Commission became part of SNH—was signed post merger.

I absolutely echo John Milne's point that section 7 control agreements can provide a very productive framework for dealing with difficult problems and are generally quite positive in nature. They are not easy because they require quite a lot of difficult and courageous conversations, but nevertheless those conversations take place in a largely productive forum.

As John Milne has suggested, the agreements can be resource hungry. Ensuring that we are moving forward on an evidence base that everyone is happy with takes up a lot of staff time and has a lot of financial costs.

We know that control agreements can work. We have shot 20,000 deer in Caenlochan over 10 years, which has taken the population down to where it is today, and the Beinn Dearg estate, which has 26 owners attached to it, has taken its deer population down from 13,000 to 8,000.

11:45

Section 7 agreements can deliver very difficult and yet successful outcomes, but, as I said, they take up quite a lot of staff time. I suspect that we will need to continue to sign more agreements as we move forward and new sites come to the fore. Indeed, in the past six months we have written to notify owners of our desire to sign two further agreements, which we hope to conclude before Christmas.

The Convener: Do we have an idea of where those are?

Robbie Kernahan: One of them—the Caenlochan agreement—has just come to an end.

It was in place for 10 years and ceased to exist in 2013, so we are renegotiating it. To a certain extent that is frustrating, as we have managed to secure so much. We have brought the population down to a level that should be manageable for the estates, but we are keen to ensure that we do not lose any of the momentum that we have managed to secure, so we will enter into an agreement for the next five years to ensure that the estates continue to keep numbers down to the level that is necessary to sustain progress.

The second agreement concerns Ardvar estate, which is a sporting estate; Quinag estate, which is owned by the John Muir Trust; and the North Assynt estate, which is community owned by a trust. Six months ago we wrote of our desire to secure a new agreement there. The negotiation has been particularly difficult, as you might expect, and a lot of the difficulty relates to whether or not we decide to put up a fence.

Will Boyd-Wallis: In the national park we have had experience with a number of section 7 agreements, which have proved to be worth while in bringing the issues to a head. We have seen good results, some of which have been mentioned.

Early on—and certainly with one of the agreements, which I witnessed as an observer to some of the meetings—there was understandably a lot of the pressure on the landowner who owned the land that needed better protection and deer control. Obviously, one would expect there to be pressure on the owner of the land that contains the designated habitat, but to an extent—this is just a personal observation—some of the owners from outwith the area from which deer were coming were less engaged in the process and could possibly have helped more effectively. We would have got better and quicker results if neighbouring landowners had been better engaged in seeing what part they could play in helping to bring the habitat into a more favourable condition.

Richard Lyle: In the previous committee meetings at which deer have been discussed, we have heard varying numbers mentioned. People have said variously that there are 150,000 deer or 400,000 deer. We have heard about Nigel Don's excellent formula, and people have said that we do not need to cull deer. I am on record as being against a massive cull of deer, but how do we manage the situation?

We have also heard the concerns of stalkers. I take the point about more business, and I commented last week about the need to sell more venison. I checked with my local butcher this week, and he does not sell venison, so there is an opportunity in that regard for improvement and for bringing jobs to the area.

We have four experts sitting in front of us. How do we manage the issues? How do we reach out and address people's concerns about the environment, jobs and the particular areas in question? Deer migrate into different areas, as Nigel Don said, and that is perhaps where the tensions emerge between estates and the people in those areas.

We want a good outcome for the people in the areas, the deer stalkers, the deer themselves and the estates, and for Scotland. How do we manage that?

The Convener: I ask witnesses to answer not with a thesis but in a sentence or two.

Dr Milne: The route that has been chosen is the deer management group system.

Richard Lyle: It does not work.

Dr Milne: All I am saying is that, if we are going to manage deer in Scotland, we have to do it at a local level. At the moment, that system is the deer management group system. I believe that it does not work sufficiently well because it does not take enough account of the public interest.

That is why the DCS put forward the idea of the duty, which would help that process. A duty would also help in areas in which currently we do not have designated sites. Designated sites are protected and managed in a better way.

That is a simple answer. If that does not work and we cannot get a duty in place, we will have to change the definition of deer.

Richard Lyle: With the greatest respect, I think that Angus MacDonald made a very good point on licensing earlier. I am against putting in place a licence costing £5,000 or whatever, but perhaps people should require a licence to carry out their business. If people did not work with each other—which would be hard to prove—their licence would be taken away. That may be effective.

I do not want a figure put on a licence. Some councils charge exorbitant prices so I do not want a poundage put on it; I just want a licence.

Dr Milne: I do not think that a licence would work, as I have explained. When we looked at different mechanisms, we looked at the salmon fishery boards systems, which is another way of doing things. We decided that that would not work for us.

Unless the definition of deer is changed, we believe—I believe personally and the Deer Commission for Scotland board believed at the time—that the best way forward is to put a duty on landowners and deer management groups.

Deer have to be managed collaboratively. The current system could allow that, but it needs more teeth than it has.

Graeme Dey: My layman's understanding is that the consequences of a large-scale deer cull can be quite severe and long term. Surviving beasts would be spooked and therefore considerably more difficult to stalk, with all the economic challenges that that could present.

If that is the case, why would some estates run the risk of the imposition of a section 8 measure? Is it that they do not believe that such a measure will ever be deployed—given that none has been up until now—or is that they could readily mount a successful legal challenge to such a move?

Robbie Kernahan: My starting point—picking up on Richard Lyle's point—is that the current system in Scotland allows for a blend of incentive, advice and regulation. In effect, it tries to define what safe ground looks like, on which people must stay if they do not want to be hit by a big stick. We are committed to making the voluntary system work and our experience of using section 7 control agreements demonstrates that we can secure environmental gains while balancing other land use interests and taking others with us in that process.

The situations where we cannot do that are relatively few and far between, but we are confident in the powers available to us so if we have exhausted all alternatives, the use of the section 8 power will be much easier post-WANE than it would have been beforehand, because there is an improved link between the voluntary and compulsory processes and a less-clunky appeals process. If we are challenged, it will not result in a public inquiry.

The reality is that relatively recently we have actively considered the use of the section 8 power at only one site, namely Caenlochan, where the estates were not delivering their culls as required. At the time, the DCS board was asked to consider using section 8 if the estates did not deliver their culls—which they subsequently did. The story there is that we can make the voluntary system work. Often the threat of using that compulsory and credible backstop is incentive enough to make the voluntary system deliver. We are comfortable that we can use the section 8 power if we fail to reach agreement or if we consider an agreement to be failing.

The ecological evidence base is the same: we need to be clear that damage is occurring as a result of deer. The only real risks that change in all that are reputational and political risks. The risks on the ground—in other words, the evidence base—are the same.

I said that in the past six months we notified our desire to secure two new voluntary agreements. We may fail to reach agreement in one of those situations, so we will ask Paul Wheelhouse to sanction the use of the section 8 power for the first time. That would send a strong message to an environmental non-Governmental organisation, a private sporting estate and a community-owned estate that if they cannot make the voluntary system work, the Government is willing to step in and find that best blend.

Dr Milne: The voluntary system with section 7 agreements can be made to work. Those agreements relate to designated sites, but the system does not deal with all the other areas of Scotland and all the other deer management groups.

Claire Baker (Mid Scotland and Fife) (Lab): We have covered a wide range of areas, and the question that was assigned to me to ask has already been answered, so I would like to make a few observations on the discussion.

I am hearing concerns about the impact of the Deer Commission's merger with SNH and the stretching of resources around that, and I have heard SNH talk about conflicts becoming more common and tensions arising. I think that it was Will Boyd-Wallis who said that there can be extremes in management between estates that are next to each other. From John Milne's submission, and as he has said, we might begin to look at a duty so that we can ensure that there is more clarity about where the responsibility lies.

The committee is scrutinising deer management within a wider debate around the climate change targets—we know how challenging it is for the Government to deliver on them—and the biodiversity targets. The Parliament is also engaged in a debate about land reform and the best way of working land in the public interest. That is why the committee is looking at deer management in such detail.

John Milne has been quite clear about the need for a duty. Currently, the system works on a voluntary basis. Robbie Kernahan said that there are still opportunities for the voluntary system to deliver everything that we need it to deliver. Are the panellists convinced that where we are currently is where we need to be and that more time is still needed for things to bed in? On the bigger challenges that we are trying to meet and the part that deer management will play in meeting them, do we have a robust enough system in place to get us to where we need to be within the required timescales?

Dr Milne: I would like to make a comment about climate change, as we have not talked about that. That was a good point to raise.

There are big issues ahead of us. If we are going to achieve the Scottish Government targets and increase the amount of woodland required to achieve them, there will be much more pressure on deer management than there has been in the past, otherwise we will simply not get those trees, although we will waste a lot of money trying to get them. Although the legislation has just been changed, an opportunity was missed. The role of deer management in relation to climate change is so key that something needs to be done about it, otherwise, in 10 to 20 years' time, we will regret it.

Will Boyd-Wallis: Obviously, there is significant public interest in the whole deer debate and in how deer are managed. As a result, deer managers have a very firm responsibility to manage deer in a way that is in harmony with the public interest. Many of them are doing so, but I think that some may not be. Some form of pressure or whatever needs to be put on them to ensure that the way in which they manage their deer is of benefit to habitats in the long term and of benefit to the long-term sustainability of the deer.

I see the convener looking at our deer framework. The long-term benefits of having deer in the national park and sustaining the habitats in the long term are the essence of that framework. Fundamentally, the national park's beauty and the reasons why people go to it and want to live in it are a result of how it has been managed to date by land and deer managers. To sustain that into the future, we must ensure that those habitats are not degrading.

Cases have been identified in which there are definitely improvements and habitats are recovering, but there are places in which habitats are continuing to suffer. In those instances, some form of duty needs to be placed on the deer managers to try to get them to up their game. We are not talking about mass culls or the extermination of deer by any means; rather, we are talking about bringing the deer numbers into harmony across the park.

In our submission, we say clearly that there is room in the national park—I am just talking about the park—for a wide variety of deer densities and objectives. We believe that that approach can be sustained in the park. However, as Claire Baker highlighted, we need to avoid the extremes of very high numbers and very low numbers. It is legitimate to have very low deer numbers if you want to achieve habitat regeneration, but I do not think that you have to have extremely high numbers of deer in order to sustain a sporting cull. That is the nub of the issue, I think.

12:00

Claire Baker: At the moment, the framework is a voluntary framework. Although Robbie Kernahan spoke about the section 8 power being an effective backstop, the committee heard last week that it had never really been tested, and people felt that it was not sufficient. How do you respond to those concerns?

Robbie Kernahan: I agree with everything that you have said. We know that our resources are under a bit of pressure and that some of the conflicting land management issues are not going to go away—if anything, their number will perhaps increase. The crucial question is whether we need legislative change to address that. Our position is that, for us, the current legislative framework provides sufficient incentive and credibility, but we need to be able to resource it and we need quite a strong political steer that there is an appetite for our using that regulatory framework as and when we feel the need to. Further, when we exercise the power, there will be difficult decisions about how best to balance ecological outcomes with some of the social and economic issues, which, if I am honest, we perhaps do not understand as well as we should. We need to balance those three pillars of sustainability.

Simon Hodge: I cannot comment on the need for more statutory regulation—that is for ministers to comment on. However, there are two points that I would like to make. The first is that it would be beneficial to have greater clarity about the expectations on land managers. We have already talked about the code. It says all that it needs to say—it is a good code—but it needs to be unpacked, and land managers would benefit from much more precision about what is expected and required of them, and what it will take to meet the provisions in the code.

Secondly, from a forestry and land management point of view, we have been working hard with deer management groups to try to create a more collaborative environment and to develop relationships, trust and mutual understanding with regard to the six principles that the ADMG has set out. That is a key process that we must keep moving forward. I would like there to be an environment that allows that collaboration and consensus building to continue, because they are starting to bear fruit.

Robbie Kernahan: There are ways to address the current concerns. The WDNA—"Scotland's Wild Deer: a National Approach"—which is the Government strategy for wild deer, is due a review, and we have begun to think about that process. One of the outcomes from that will need to be a clearer steer with regard to the weight that we give to the importance of recognising the role that ecosystem health plays in underpinning

sustainable economic growth. At the moment, that is one thing that the strategy does not do. It tries to be all things to all men, but if we want to be clear about where the priorities are with regard to delivering the best benefit for Scotland, we need to think about how we prioritise the measures in the document. That is something that we can take forward, and it would be useful to get some feedback from the committee on that point.

The Convener: I am sure that you will get some.

Alex Fergusson: That leads us neatly into what I wanted to ask about. Last week, we heard some quite compelling evidence. The intimidation factor has already been referred to, but we also heard evidence to the effect that some deer management groups are not open and accessible in the way that is required of most institutions these days—the institution in which we are meeting is a typical example of that approach, and has fairly high standards in that regard. I am a great believer in the idea that an increased degree of openness and accessibility—to the general public, not just to stakeholders, who should already be involved—could help enormously to build the trust that Mr Hodges has just spoken about and could also be of use with regard to conflict resolution. Do you agree? If so, how do we achieve that under a voluntary arrangement?

Will Boyd-Wallis: I agree very much that being more inclusive is important in that regard, as long as it is genuine. Where deer management groups have brought in wider interests, that inclusion has been genuine and very positive. One deer management group that I have been involved with has two levels of engagement: an owners meeting, or deer managers meeting, where people get down to the nitty-gritty of how to achieve the cull and who will work where; and another meeting involving wider interest groups. It might seem as if there is an exclusive element and a wider element, but my perception of that group is that it works reasonably well. It is extremely important that deer management groups bring in the wider interests, particularly the local community and any environmental groups that might be in the area, but it has to be genuine involvement. There are times when attempts to include other interests could be seen as paying lip service, but people are waking up to the need for such involvement.

Alex Fergusson: Could you expand on how the more reluctant deer management groups can be encouraged to go down that route under a voluntary system?

Will Boyd-Wallis: That might be a question for Robbie Kernahan. The ADMG is certainly encouraging that approach, and it would play a key role in working with deer management groups to achieve it. The ADMG itself has been under a bit of scrutiny and has been accused of not fully representing the wider interests of all deer managers, but I think that it has addressed that and is looking to be a broad church of deer managers across the country. I hope that that is reflected further down the scale in deer management groups. The ADMG has a key role, but all groups are aware that the code and how it is working will be under scrutiny for a four-year period, so many will respond to that pressure.

Robbie Kernahan: As we know, current management planning across the red deer range is usually led by local DMGs, which are predominantly, but not exclusively, made up of landowners. Among the 40 DMGs—and I have attended most of them—there is a variety of forums: some are particularly effective, inclusive and quite open, but others are less so. There are things that we can do to broaden membership or to ensure that the DMGs' constitutions refer to other land use interests, such as agriculture and forestry. Some of them already include those interests, but if they do not already have expertise in relation to local communities and natural heritage, they can think about how best to bring that in. There is also something to be said for enhancing the support that is available to DMGs, whether financial or through the state providing additional personnel, to help them to develop integrated plans that are clearer about deer management objectives and outcomes.

The question of inclusivity leads me to reflect on my experience. I have been to lots of DMGs. It is difficult to tar them all with the same brush, because we know that, in Morvern, west and south Ross and west Sutherland, there is an open-door approach—the DMGs in those areas are actively seeking as much support as they can get and want to engage with local communities. However, local communities are often not all that interested. Their position may not be reflected around the table today, as we are discussing the national interest and, at the local level, unless something is giving cause for concern, people might not have the time to get involved. That has been borne out at a number of groups.

However, openness and transparency are becoming key issues. Even if we have made progress in the past three years, that has not been well publicised, and it has certainly not been easy to source information, as Maggie Keegan pointed out at last week's committee meeting. Unless you are directly involved in those groups, it can be difficult to see where progress is—or is not—being made. DMGs have never been asked, and have probably never felt the need, to share proactively and publish their information, but the weight of expectation suggests that they must demonstrate progress in relation to the public interest. I cannot see anything other than current resource

constraints that would stop that happening. It is just about making sure that plans are published and are in the public domain, that the websites are up to date and that there is an opportunity for people to engage.

I return to the point about capacity. Quite a lot of DMGs require solid administration and leadership. It seems to be quite difficult for a DMG to take that leadership role. Richard Cooke is doing a good job, and there is a need to identify key individuals locally who have the same drive, enthusiasm, time and willingness to bring all these difficult players to the table and make it work.

Will Boyd-Wallis: There is a recent obligation on district salmon fishery boards—which I am also involved in—to have more public meetings. My recent experience of such meetings is that I do not think many members of the public—if any—turned up. However, I think that making the option available is really important.

Perhaps there could be an obligation on deer management groups to hold an AGM every year to which anyone could come along, take the floor and ask, "How are you doing this? How are you achieving that?", or say, "I've got a problem with my roses being eaten." Whatever the point is, the groups could then respond to it collectively. However, it could get quite complicated if there were too many people around the table at a deer management group meeting whose purpose is deer management. The obligation to hold an AGM or something similar could be a very positive thing for a deer management group.

Alex Fergusson: Just to wrap that up, might that be addressed through the review that you were talking about?

Robbie Kernahan: Yes. I am happy to take that forward as part of the action plan. The WDNA is reviewed annually, when we consider what actions we need to put in place to deliver the strategy, so there is already a mechanism for that. I do not want to be too flippant, but on the comparison with district salmon fishery boards, everybody wants more fish, whereas not everybody wants more deer. There is a big difference.

Alex Fergusson: I take your point, but structurally, it was a relevant issue to raise. Thank you.

Jim Hume: Has any funding for DMGs come through the Scottish rural development programme? If not, do you think that—with the reforms that are happening—there should be such funding? Would that make any real difference to how DMGs can deliver?

Robbie Kernahan: Absolutely. I have touched on my belief that the voluntary system needs sufficient support if it is to work. In the last SRDP, there was provision to draw down funding for managing deer within uplands and peatlands, but we did not receive an awful lot of applications—I think that £190,000 went out the door through 14 applications. Our problem is a cultural one. As a result of how the money was distributed, the programme could not deal with collaborative applications so it did not lend itself well to dealing with deer management groups. It was not all that helpful for planning on that basis.

Some of those challenges—certainly regarding collaborative applications—are recognised and I hope that they are being dealt with. However, there were even difficulties to do with how the scheme worked. For example, if money was needed to support the management of section 7 control agreements, there might be upfront costs for the capital outlay, which some estates would not be able to meet. Therefore, there are problems with some of the previous incentive schemes. Some of that is about culture—about estates seeking money from the public purse—which we can address, but some of it is about ensuring that any scheme is fit for purpose and that it provides the flexibility that we need.

Jim Hume: What about LEADER? That may have been a more appropriate funding source for collaborative applications. Is there any history of DMGs getting such funding?

Robbie Kernahan: Most of the thinking was about trying to get funding through rural priorities, but we need to ensure that there is a mechanism that allows agents to act on behalf of collaborative groups. I was not aware of DMGs getting anything through LEADER. If you are asking about the best tool for the job, the important thing is that we have a mechanism that funds both planning and reviewing progress, and delivering plans.

The Convener: Let us turn this right round the other way. Before 1996 or thereabouts, there were sporting rates, which landowners paid for shooting and fishing. The Conservatives abolished those rates around that time. Some of that money, were it available, might be the kind of thing that the public purse could use. However, surely there is a need for a duty to encourage land managers to devote more resources to their own management, as John Milne suggested in his submission.

Dr Milne: Obviously, I agree with that comment. [*Laughter*.] I am keen on the idea of a duty. It will not affect the good deer management groups—it will not be an issue for them—because they already fulfil all the requirements. The duty would deal with the rest of the groups and ensure that everyone operated in a uniform manner to deliver for the Scottish people.

As well as being chairman of the Deer Commission for seven years, I was vice-chairman

for six years, so I have had 13 years' experience of trying to make the voluntary system work. We have had successes and failures. Given the resources that are available from the Government for deer management, making the voluntary system work is not on. Therefore, we should transfer those resources to the land managers and give them a duty to put more money into deer management. They are getting all the benefits—they have the right to shoot deer—so why should they not pay a bit more to manage the deer appropriately?

12:15

Will Boyd-Wallis: There is considerable logic to what John Milne says, particularly in relation to the cost to the public of managing deer and the resources that have gone into assisting deer management groups. There is a certain onus on deer managers to share that cost. They have paid for the privilege of owning the land, which gives them certain rights, but they have a responsibility that has an impact on neighbours and on the public interest. There is a strong logic to what John Milne said about a public duty on deer managers.

The Convener: I want us to think a little more widely about the future of deer management. We have touched on the review of "Scotland's Wild Deer: A National Approach" that is to take place soon, but we will have to consider alternatives, some of which we have discussed. We have not talked about the management of deer in other European countries. We have had evidence that shows that the density of the deer population is far lower in many other countries than it is here—for example, the density of the deer population is about 10 times greater here than it is in Norway. Given that, should we be looking to other countries as part of the review?

Dr Milne: The Deer Commission looked at other European countries. One of the big issues in those countries is who owns the deer. That makes the situation there different, so it is difficult to transpose what happens in other European countries to here. In addition, most other European countries have a much higher proportion of woodland, so the issues are slightly different.

We have a unique resource—at least, in relation to our Highlands—that is not found anywhere else, and the way in which we consider deer from a legal point of view is different. Therefore, I do not think that looking to other countries would necessarily be all that useful, although it might be useful if consideration were to be given to changing the way in which deer are viewed legally.

Robbie Kernahan: To pick up on John Milne's point, Scotland is unique in comparison with other European countries. Whether that is a good or bad thing is a matter of opinion. In 2010, we undertook a review of how other European countries license hunting and of the role of regional authorities or the state in how parts of that process are managed. If it would help the committee to see that report, which I looked at just a few days ago, I would be happy to send it on.

The Convener: That would be helpful. Did the report make any particular point that we should note in the context of the question that I asked?

Robbie Kernahan: No, other than to mention that there are four or five models that it would be possible to point to. One of them involves full state control of who has the rights and responsibilities and how they are delegated to hunters, in contrast to the Scottish model, in which state control in the form of management of the common resource is largely absent. Those are opposite ends of the spectrum, and there are a few examples in between.

The Convener: I made the point to the two panels at last week's meeting that it has taken a long time to get a handle on the deer management systems that we require for today's conditions, even though people have been writing about the matter for a long while. Sir John Lister-Kaye's paper "Ill Fares the Land", which was published in the mid-1990s, says that

"a land ethic needs to require all sporting estate owners to sign up to an absolute minimum of 15% (but ideally much more) of their hill unit, dedicated to natural restoration for 25 years."

If some of those ideas from 1994 had been applied, next year would have been the 20th anniversary of doing so and we might have been a good deal closer to some of the goals of having a more balanced ecosystem. Should we learn any lessons from what was said then?

Simon Hodge: We have the United Kingdom woodland assurance scheme, which is the basis for internationally recognised certification of sustainable forestry. The proportion of the land that is required to be managed principally for the environment and biodiversity is—uncannily—exactly the same figure of 15 per cent. The idea and approach are therefore well embedded in the notion of sustainable forest management.

Will Boyd-Wallis: We referred in our submission to a document produced in 1992 by the Cairngorms partnership called "Common Sense and Sustainability: A Partnership for the Cairngorms", which was a report to the then Secretary of State for Scotland. The report covered a huge range of issues—it was a bit like our national park plan in that respect—with a lot

about the high priority for deer management to be undertaken to restore native habitats. I would not say that that has not happened at all, as there has been a hell of a lot of progress in the national park in the 11 years—I mean 21 years; my maths has never been good—since the report was written, but the fact that we are sitting round this table indicates that the issue is still not resolved. There are lessons to be learned from the past and we need to be aware that those things were said 20 years ago.

The Convener: I understand that there was, not to put too fine a point on it, a very negative reaction to the paper at the time.

Alex Fergusson: I am sorry that I always seem to come to Robbie Kernahan for an answer. Can you put a figure on how much land has come under environmental designation in the past 20 years?

Robbie Kernahan: We have 1.5 million hectares of designated land, which is about 18 per cent of the country.

The Convener: As there are no further questions, I thank the panel for a hugely useful session. We have a lot of material to chew over, and we look forward to contributing positively to the debate. I ask for the public gallery to be cleared before we move into private to consider items on the Scottish Government's draft Scottish climate change adaptation programme and behaviour change and on the proposed draft Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014.

At our next meeting, the committee will hold an evidence session with the minister on the wildlife crime report and will consider a revised draft Scottish climate change adaptation programme and behaviour change letter, a petition on managing geese populations and two Scottish statutory instruments.

12:23

Meeting continued in private until 12:53.

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