

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Wednesday 11 May 2005

Session 2

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### 13<sup>th</sup> Meeting 2005, Session 2

#### CONVENER

\*Sarah Boyack (Edinburgh Central) (Lab)

#### DEPUTY CONVENER

\*Mr Mark Ruskell (Mid Scotland and Fife) (Green)

#### COMMITTEE MEMBERS

\*Rob Gibson (Highlands and Islands) (SNP)  
Karen Gillon (Clydesdale) (Lab)  
\*Alex Johnstone (North East Scotland) (Con)  
\*Richard Lochhead (North East Scotland) (SNP)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*Mr Alasdair Morrison (Western Isles) (Lab)  
\*Nora Radcliffe (Gordon) (LD)

#### COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)  
Janis Hughes (Glasgow Rutherglen) (Lab)  
Jim Mather (Highlands and Islands) (SNP)  
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)  
Eleanor Scott (Highlands and Islands) (Green)

\*attended

#### THE FOLLOWING ALSO ATTENDED :

Mr Brian Monteith (Mid Scotland and Fife) (Con)

#### THE FOLLOWING GAVE EVIDENCE:

Dr Bill Band (Scottish Natural Heritage)  
Amanda Chisholm (Historic Scotland)  
Neil Deasley (Scottish Environment Protection Agency)

#### CLERK TO THE COMMITTEE

Mark Brough

#### SENIOR ASSISTANT CLERK

Katherine Wright

#### ASSISTANT CLERK

Christine Lambourne

#### LOCATION

Committee Room 4



# Scottish Parliament

## Environment and Rural Development Committee

*Wednesday 11 May 2005*

[THE CONVENER *opened the meeting at 09:45*]

### Environmental Assessment (Scotland) Bill: Stage 1

**The Convener (Sarah Boyack):** I welcome committee members, members of the public, the press and our colleague Brian Monteith, who I understand wishes to discuss an issue with us later. I remind everybody to turn off their phones. We have received apologies from Karen Gillon, who will not be with us this morning.

Item 1 is our third evidence session for stage 1 of the Environmental Assessment (Scotland) Bill. Our panel consists of representatives from the consultation authorities that are identified in the bill. I welcome Amanda Chisholm, the strategic environmental assessment team leader with Historic Scotland; Dr Bill Band, a national strategy manager at Scottish Natural Heritage; and Neil Deasley, the principal policy officer of the Scottish Environment Protection Agency. Thank you all for your written evidence, which has been useful. We have been able to reflect on it and other submissions to our inquiry. We will move straight to questions.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** Good morning, everybody. I will start with Neil Deasley from SEPA. In your submission, you describe the functions that will be needed for a strategic environmental assessment gateway. What detail should be in the bill on an SEA gateway?

**Neil Deasley (Scottish Environment Protection Agency):** Not necessarily any. We comment in our evidence that there may be a case for a statutory gateway, but we also acknowledge that there may be difficulties with setting out the gateway and some of its activities in statute, because, for example, that might hinder the evolution of the gateway. We are very much at the early stages of understanding how SEA will work and the processes associated with it, so our thinking is likely to evolve and, indeed, the gateway may well need to evolve. There are pros and cons to writing the gateway into statute.

**Mr Ruskell:** What do you see as the minimum requirement for the bill? You are saying that legislation should not be inelegant or put too many conditions on a body that will change over time,

but do you see any role for defining an SEA gateway in the bill?

**Neil Deasley:** We have identified a number of tasks that need to be undertaken in order to ensure that SEA in Scotland is successful and effective. We have identified that the gateway is an appropriate place for some of those tasks to rest. The merits and demerits of writing into the bill the gateway and some of its activities is a matter for discussion. The gateway is needed right now, but it might be less necessary in the long term, so perhaps at this stage it does not require to be legislated for in the bill.

**Mr Ruskell:** I want to follow up by asking Bill Band about community planning. We have had community planning legislation in recent years and a community planning gateway was set up as a result, although not by statute. What is your experience of that gateway?

**Dr Bill Band (Scottish Natural Heritage):** We do not have a great deal of experience of working with that gateway yet. We are comfortable that an SEA gateway will be a good co-ordinating influence. People will know exactly where to go in order to get advice and manage the process. The same things will apply to SEA as have applied to community planning.

**Mr Ruskell:** Do we need a statutory requirement for the gateway?

**Dr Band:** No. I endorse what Neil Deasley said: we do not see a need for the gateway to be enshrined in legislation. However, the gateway ought to fulfil several important functions. First, it should have the administrative function of keeping a register of the screening, scoping and environmental reports that go in and out. Secondly, it should be a centre for best-practice guidance, to provide help to all the responsible authorities that are carrying out SEA. Thirdly, it should provide a point of reference and give interpretation of the guidance when difficult issues emerge. Those core activities of the gateway will be essential in the early years.

**Mr Ruskell:** Are your organisations, as consultation bodies, concerned that if we do not establish an SEA gateway in statute, in a year or two we could have no co-ordinating body?

**Dr Band:** That is a concern, but the downside of putting the gateway in legislation would be that we would foreclose the possibility of review after several years. At present, we accept that the gateway has a valuable role and that it should persist, at least for the first three years. Beyond that, if responsible authorities become comfortable with the process of SEA, the need for the gateway may dissipate.

**Neil Deasley:** I broadly agree with that. SEPA suggests that the way in which the legislation as a whole is working should be reviewed two to three years into the process. One issue that could be factored into the review is the role of the gateway and the way in which it works.

**The Convener:** Monitoring is a major issue, given that we will move from the present situation to the situation under the bill. All the witnesses mentioned in their written submissions that they are not against pre-screening in principle, but that it should be properly recorded, monitored and carried out through the gateway. Is that a reasonable balance? Some of our witnesses have said that they do not agree with pre-screening; others have said that it is essential. If we have pre-screening, how will we guarantee that it is not used as a get-out clause by people who do not want to do the SEA?

**Dr Band:** We support pre-screening, which is an essential measure to avoid plans that do not need to undergo the SEA process becoming bogged down in bureaucracy. Pre-screening will be valuable in keeping the process manageable. We endorse the view of other respondents that it would be helpful if a register were kept of organisations and plans that have gone through pre-screening and been judged not to be appropriate for SEA. That would be helpful and would make the process more transparent, because the public would be aware of the plans that had missed out in that way.

**Neil Deasley:** Again, I agree. We support the principle of pre-screening. However, the issue for us is transparency, which is a key part of the bill. The SEA process will be transparent, but pre-screening will be less so, in that it will happen without the need for the decisions that are made to be captured in some form. We need a simple registration process. A record that states that responsible authority X has judged that plan Y will have no or minimal effect, along with a simple justification for the decision, should be sent to the gateway. That would allow periodic review of the pre-screening process and of consistency and robustness in decision making.

**The Convener:** The Historic Scotland submission mentions the experience in Canada, where pre-screening is carried out, but with registration. Will you say a bit more about that, Amanda?

**Amanda Chisholm (Historic Scotland):** The register in Canada is for environmental impact assessment projects, screenings and other kinds of environmental assessment. The principle is the same, however. When a federal agency has a project, it puts it through a screening process that is a bit more detailed than ours is. The details of the project are then put on to the public register,

which can be interrogated on the website. The information is there for people to see. The website is fairly easy to use; I have used it from here.

**Richard Lochhead (North East Scotland) (SNP):** Just on that point, I think that transparency over pre-screening is a good idea, as I am sure many people will agree. However, what happens if other independent bodies look at the register and disagree about the projects that will not go through the process as a result of the screening? Should those bodies be allowed to challenge and question the decision, especially as that could hold up the process for another few weeks or months? In other words, what is the purpose of having a register in this country if people cannot challenge and question the decisions?

**Amanda Chisholm:** The bill provides powers for ministers to make determinations. We see those powers as the vehicle for challenging the decision-making process.

**Neil Deasley:** The plans are public; they will not be kept secret. At some point, people will know that a plan exists and that a pre-screening decision has been made. As Amanda Chisholm says, the bill makes provision for ministers to ensure, if the process has not been undertaken properly, that the plan is put forward for screening. I do not see that there is an issue in that respect.

**The Convener:** I was about to move on, but I see that Maureen Macmillan has a question.

**Maureen Macmillan (Highlands and Islands) (Lab):** Not on this subject, convener, but on a different issue. What are our witnesses' views on how SEA relates to or measures up to our aspirations for sustainability and sustainable development? Some witnesses have said that they are worried that SEA will skew the delivery of sustainability. They feel that, by putting too much emphasis on the environmental side of the equation, it could have a detrimental effect on the socioeconomic arguments that are made in favour of a development or strategy. Does the SEA process give too much weight to the environment? Will it affect the aspirations of those in the socioeconomic field?

**Dr Band:** SNH's standpoint on the issue is simple: we are highly supportive of sustainable development. We have nothing against sustainability appraisal—indeed, we support it. The three pillars of sustainable development are economic, social and environmental. It is rare for a plan, programme or project to fall into the category of win-win-win across all three—a balance often has to be found. There is always a danger that someone will draw a line under the headings too early in the process to tally the net balance and benefit. We see SEA as a means of ensuring that the environmental dimension is properly assessed

and with due rigour. We would be happy for equal rigour to be applied to the social and economic benefits. We see SEA as a part of the sustainability appraisal process.

**Neil Deasley:** The environmental considerations of plans and programmes are perhaps often the least understood. SEA provides decision makers with the information that will help them with their plans and with the decision making once the plan has been prepared and is being implemented. SEA makes an important contribution to sustainable development in that respect. It provides information and ensures that decisions are made in an informed and—to pick up on a word that we have used already once or twice this morning—transparent way.

**Amanda Chisholm:** As Neil Deasley said, the purpose of SEA is to bring the environmental information in front of the decision makers. There is nothing in the SEA process or in the bill—or even in the regulations—that says, “You must give more weight to the environment.” The same process has occurred in the environmental impact assessment discipline. When environmental information on the impact of projects has been presented, decision makers have taken that information into account and perhaps some of their decisions were better for the environment even if, in some cases, those decisions resulted from the force of legal challenge.

People have made reference in previous evidence to more weight being given to environment—in the Scottish transport appraisal guidance, for example—but that is not the case. The guidance does not say how to apply weights to the five different factors, of which environment is only one. The question is about bringing environment into the equation. I am sure that other witnesses have already told you that, in the past, social and economic factors have been seen to outweigh environmental factors. We see the SEA process as a way of mainstreaming the environment. From Historic Scotland’s point of view, that means mainstreaming historic environment issues for public sector activities.

10:00

**Maureen Macmillan:** You are saying that the process does not pre-empt decisions but merely informs them.

**Amanda Chisholm:** It informs decisions. There is nothing that says to a decision maker, “You must make the decision that is best for the environment,” because that might not be best from an economic or social point of view. All those considerations have to be balanced.

**The Convener:** Let us move on to the implementation issue. Quite a few of the people

who have given evidence to the committee over the past few weeks clearly have concerns about moving from the current regulations to the new legislation. Indeed, you all reflect on that issue in your written evidence and talk about the need for effective guidance. SEPA’s evidence mentions the Scottish Executive and Convention of Scottish Local Authorities pathfinder project. We got the strong impression from COSLA that there was very little joint working going on and that it was concerned about resources and about its ability to implement the proposals. Could you say more about the purpose of the pathfinder project and the extent to which, with guidance, it will help to gear people up and enable them to implement fairly effective training processes that will allow people to engage with the requirements of the bill?

**Neil Deasley:** SEPA, along with the rest of the consultation authorities, has been invited to become part of the pathfinder project. We welcome that and are committed to becoming part of the project. I understand that the project will examine various case studies involving responsible authorities, to assess the way in which SEA processes are working and to draw some conclusions from that. That will help us to learn. As I said, we are very much in the early stages of implementing SEA through the regulations at the moment, so we are down at the bottom of the learning curve and have lots of experience to gather. The project, which will involve responsible authorities in examining case studies and assessing the interaction with the consultation authorities, will be incredibly useful to everybody involved. We very much support that approach.

**The Convener:** I would like to ask Bill Band from SNH about that. Dr Band, you talk about the need for SEA to permeate working practices across organisations and to be embedded in them. At the start of your submission, you also talk about trying to achieve benefits with the minimum of bureaucracy and delay. Could you say a little about how we move to carrying out SEA in a way that does not add to delays or create bureaucracy?

**Dr Band:** SNH is implementing action on SEA in a fairly devolved manner. We are providing support for our area staff to work with those responsible authorities that are developing plans. That is an important part of the process and we are now in the capacity-building stage, which will last at least a year and probably two years into the whole SEA process. We hope that, at the end of that period, most responsible authorities will have a good understanding not only of the requirements of SEA, but of how best to go about the process. We are keen that the whole process should focus on significant environmental effects and should not get bogged down in looking at peripheral effects that, at the end of the day, are unimportant. We

want the process to be focused on those effects that are judged to be significant.

**The Convener:** You say that the process is internally devolved. Am I right in thinking, therefore, that you are doing that across the country with every local authority and that no part of Scotland will miss out on that joint-working and guidance approach?

**Dr Band:** That is correct.

**The Convener:** What is Historic Scotland's perspective?

**Amanda Chisholm:** So far, we have done a lot of informal work with the responsible authorities on implementing the regulations. As Bill Band said, SEA needs to be integrated into working practices. In many instances, the planning side of the local authority already carries out environmental assessment of plans and programmes, but the people involved do not always understand the process. Sometimes our work with them involves simply explaining how they can formalise what they are, to an extent, already doing. For example, as well as consulting people on the plan, public consultations need to acknowledge that the plan includes an SEA.

As Neil Deasley said, SNH, Historic Scotland and SEPA have all been invited to join the pilot project, which I understand from our colleagues in the Scottish Executive SEA team is currently under discussion with COSLA. We have already worked with local authorities informally. For example, we worked with Highland Council on a retrospective SEA of the Wester Ross local plan so that the council could see what would be involved in its three forthcoming local plans, all of which will require SEA. It has been helpful to us to deal with some of the nuts and bolts and with the technical details that are part of the process but that one does not always anticipate. I hope that we will gain similarly useful experiences on the pilot projects.

**Alex Johnstone (North East Scotland) (Con):** Convener, I am very interested in what we have just heard. Can we receive more information on pilot projects that involve a retrospective assessment?

**The Convener:** That is partly why I asked what was meant by the pathfinder project, which has come up in evidence before. If possible, it would be useful for us to get more information on that kind of project so that we could work through it.

**Rob Gibson (Highlands and Islands) (SNP):** Continuing on the issue of resources, I want to ask whether, as previous evidence has suggested, a large amount of time, effort and money will be required to get the process running. What do the witnesses think about that? The bill's financial

memorandum suggests that, to start off with, about 350 SEAs will be carried out each year. Will there be a doorstep effect, in that people will find the process much easier once they get into it? Indeed, a few examples might go a long way towards easing people's fears about the extra work that SEAs will involve. I would like to hear from each of the witnesses on that.

**Neil Deasley:** I will kick off. It is true to say that SEA will have resource implications, but it is difficult to assess at the moment how many plans will be required. That is why the figures in the financial memorandum carry a health warning, as it were, along with a reasonably healthy margin of error. We do not quite know what the resource implications will be. However, it is also fair to say that, after the transition period of the next three years or so, and as SEA becomes much more embedded into all the processes of responsible authorities and consultation authorities, the resource implications will diminish.

The overall objective must be to embed the principles and processes of SEA within normal plan making. The challenge in front of us is to make SEA just a normal part of what we do. Once we have made that move into that way of thinking, the resource implications will become much less daunting than they might look at the moment.

**Dr Band:** I endorse that view. We need only look back to see what has happened with environmental impact assessments, which are now such a standard part of the process that everyone expects that the environmental implications of any project must be set out and taken into account in the decision-making process. Indeed, one plan that I looked at yesterday was for a project that fell below EIA thresholds, yet, to all intents and purposes, the plan contained an EIA with a full statement of environmental implications. That shows how much part of the process EIA has become. Our aim is to make SEA part of the way in which people go about developing plans.

For many years now, many local authorities have ensured that development plans include a good analysis of the environmental impacts. SEA will simply formalise some of the process surrounding that. Ultimately, SEA need not be a hugely resource-intensive addition.

There is a resource requirement for SNH. We have been dealing with a large number of responsible authorities and commenting on environmental impacts for a number of years. The bill will change the process, but not necessarily expand hugely the resource that we require. We have estimated the implication of the bill to be of the order of four additional SNH staff posts, although that is uncertain.



**Amanda Chisholm:** All the consultation authorities mentioned resources in our responses to the consultations and in our evidence to you. It is worth noting that a lot of the comments that are being made and the concerns and worries that are being raised about SEA are similar to those that were made about environmental impact assessment in 1985. On the whole, those concerns have been dealt with. As Bill Band said, the process is rigorous and a lot of authorities are already following it.

Planning departments have been performing environmental assessment, but other council departments and other responsible authorities that are not used to doing it will face more of a challenge to start off with. For example, some transport professionals already perform environmental assessment when they do STAG appraisals, because environment is one of the Government's five criteria. However, other parts of local authorities and responsible authorities will face challenges, although there will be guidance and training. As Neil Deasley said, there will be a steep learning curve for the first few years, but SEA can be integrated into people's activities, so that the environment becomes just one of the factors that they consider, along with economic, social and various other issues.

**The Convener:** I want to ask about that in detail. Schedule 2 mentions specific issues such as population, human health and transboundary effects. Do you and the responsible authorities have the expertise to deal with those issues, which are a step up from what people are dealing with at the moment?

**Amanda Chisholm:** The consultation authorities all recognise that we do not have specific expertise in human health. Neil Deasley can provide further information, because he has a research project dealing with human health. There is an overlap between some of the factors in schedule 2, particularly population and human health, which go into the social side of assessment. Those factors are still being discussed. They were identified early on as needing clarification, because they derive directly from the directive. The aspects of human health and population that need to be addressed will have to be contained in guidance; if that does not happen, we could end up doing a full health impact assessment, which is not the intention of the bill.

**The Convener:** Do you have more information on that? We are interested to know more.

**Neil Deasley:** Health is the issue to focus on. SEPA considers health to some extent as part of its regulatory activities. For example, under the Pollution Prevention and Control (Scotland) Regulations 2000, we require to take account of

health in our determination of applications for PPC licences, which we do by consulting health boards. We have limited competence in the field of health and our knowledge of it is not as all encompassing as SEA may require in certain instances.

There are two or three ways in which to take account of health. First, it will be incumbent on responsible authorities in performing SEA to ensure that they have appropriate information and advice on the issues in front of them, which might mean that they have to contact other bodies outwith the consultation authorities. There is nothing to prevent them from doing that. There is also plenty of room for guidance and advice. One of the projects that SEPA is trying to lead on concerns practical guidance for SEA practitioners on how to take account of human health in SEA decision making. That project is being run through SNIFFER—the Scotland and Northern Ireland Forum for Environmental Research. It is very much in its early stages, but we hope that it will provide guidance and information sources to the responsible authorities about where they can go for health advice. Clearly, several other bodies in the health sector may need to be brought into the process at certain stages.

10:15

**The Convener:** That sounds like a useful piece of work. Different witnesses have told us that there is no clarity about whom to approach, what is expected and into how much depth people should go when they are considering SEA, especially on health.

What happens when you carry out SEA on your own strategies? You take out a key player who has expertise in SEA. How does it work with the other two bodies when you are examining one another's work? Do you have protocols? Have you thought about how that might work in practice? I am not asking you to evaluate one another at the moment, but how will you deal practically with that so that the process is still rigorous and transparent?

**Dr Band:** We are in the very early stages of that; indeed, we have not yet identified the plans that we may use in a pilot exercise, but we hope to do that during the summer and autumn and to get one or two pilot plans through. Our intention is to farm the plans out to the other consultation bodies in the expectation that they will receive the same degree of scrutiny as plans that are produced by any other responsible body. That seems to be fair and it seems to be how it should happen. We have not yet decided how we will handle natural heritage interests internally, but we hope that any plans that we produce will have natural heritage benefits and that they will state what those benefits will be. I do not think that there is any problem in that.

**Neil Deasley:** I agree. There is an established mechanism for consulting the consultation authorities. When we are a responsible authority—which we will be for a number of our plans—we will consult SNH and Historic Scotland through those channels. As Bill Band said, we will put into place our own mechanisms for ensuring that issues that we would normally deal with, such as water and air quality, are firmly built into the process of assessment of our plan. It should be fairly straightforward.

**Amanda Chisholm:** Historic Scotland, too, is still in the process of identifying which of our plans and programmes will come forward. That should happen, as Bill Band said, this summer. I foresee some kind of internal audit trail—checks and balances—to ensure that people within Historic Scotland who suggest plans and programmes and who carry out SEA will be subject to internal scrutiny and will be able to demonstrate that, as well as passing the information on to SEPA and SNH.

**The Convener:** So, you will have run through an effective pilot project between you by the end of the summer, when we will return at stage 2 of the bill. We are keen to see that people are testing out how SEA will work and to ensure that, when guidance is required, any practical feedback can be used at the guidance stage, so that teething problems and obvious lessons can be plugged in for other authorities that are not quite as far ahead as you are.

**Dr Band:** I cannot guarantee that SNH will have been right through that process and have reached a final plan by the end of the summer, but we will certainly have identified projects and have embarked on the process. We will have been through the scoping stage and the initial stages of plan assembly.

**Mr Ruskell:** Last week, we discussed the level at which SEA applies and the level at which EIA applies. We received interesting and contrasting views from Scottish Water and the energy companies. What are your views on that? Do you see SEA applying to Scottish Water, or at the more strategic level of the stakeholders? Likewise, do you see SEA applying to the private sector energy companies that deliver a public service, or does SEA apply to supply of energy at United Kingdom level?

**Dr Band:** There are provisions in the bill for ministers to identify any body that should undertake SEA. We would encourage that to happen in appropriate circumstances. Many private sector entities may well develop plans on a UK basis—or, at least, on a wider basis than a Scotland-wide basis—which would enable them to fall outwith the compass of the bill. However, if a plan was developed for Scotland, I would encourage use of that power.

As to the distinction between SEA and EIA, an important difference must be borne in mind. EIA is used in conjunction with a consent process, such that the EIA forms the material on which the decision maker makes a decision. With SEA, by contrast, the decision on what the final plan will be is made by the promoter of the plan. We must take care that we do not let the provisions under the EIA procedures—whereby it is a requirement that alternative options be considered as part of a project—slip into a process of SEA, which is then taken outwith the consent authority's hands. That is my only concern; however, if that is made clear in guidance, it will not be a problem.

**Neil Deasley:** I do not know how much more I can add to that. It is the role of the responsible authorities to determine whether their plan or programme qualifies under the regulations or, in the future, under the bill as enacted. The role of the consultation authorities is to provide at various stages views on whether, for example, a plan or programme may have significant environmental effects. The decision as to whether a plan or programme would qualify is for the responsible authority to determine.

Bill Band outlined some quite detailed issues around the relationship between SEA and EIA. More generally, as we develop experience with SEA over the coming two years, we will learn how the interface between the strategic process and the more project-based process works. It is perhaps a wee bit early to judge how that might work; we will learn from experience.

**Amanda Chisholm:** The issue of hierarchy has been recognised. It is a matter of environmental assessment of the plans and programmes being applied at the appropriate levels, starting at the top and gradually filtering down. That is an issue that I raised in my written submission and which has been raised in discussions with us by some of the responsible authorities. In the planning process, for example, a structure plan will set the parameters for a local plan. Some of the responsible authorities that are implementing local plans are concerned that the structure plan within which they are working has not yet been subjected to SEA. Up a level, some of the responsible authorities that are working at structure-plan level are saying that the national planning guidance within which they work has not yet been subject to SEA.

One advantage of widening the scope of the bill is that the policies that set those frameworks from the top down will be subject to SEA, so that SEA will eventually filter down to EIA. Hopes have been expressed that there will be some efficiency in the environmental assessment process as it proceeds from SEA to EIA. We will have to wait and see whether that transpires. EIA depends very much

on specific detailed information about a site or the location of a project, whereas SEA is much more strategic and broad brush.

**Mr Ruskell:** Further to that tiering issue, there is the issue of there being regulations that are separate from those that apply to the UK being introduced for Scotland by the bill. Do you foresee any anomalies occurring because the Scottish parts of a UK-wide plan will be treated differently or because an independent plan arises from a UK plan that applies to Scotland? I am trying to imagine specific examples of problems or anomalies that we might encounter because of those differences.

**Amanda Chisholm:** We are gaining experience through our involvement with one UK-wide plan—the strategy for the Nuclear Decommissioning Agency. However, there may be challenges ahead, where plans have much wider coverage in Scotland.

**Mr Ruskell:** Are there any other views on that? The example of the NDA is interesting.

**Dr Band:** There may well be gaps. UK plans that have an environmental effect in Scotland but which do not come under the UK regulations might not fall under the bill, because they do not apply purely to Scotland. We cannot do anything about that, but I hope that the passage of the bill will show leadership and that the UK will eventually follow.

**Mr Ruskell:** Do you have any examples in mind?

**Dr Band:** One of our interests is energy. I know that, at the committee's previous meeting, there was discussion of transmission infrastructure. The Department of Trade and Industry is the leader on transmission infrastructure. There is a danger that plans will evolve at UK level that will not be subject to SEA—because it is not mandatory under the UK regulations—and which do not apply wholly to Scotland, so they will not fall under the bill.

**Mr Ruskell:** I presume that such plans would not fall under the remit of a private body that undertakes public duties, such as Scottish and Southern Energy.

**Dr Band:** They might—it depends on the level of the plan. A national plan might be led by the DTI, or the National Grid Company might develop the overall plan for transmission.

**The Convener:** That takes us to the SEA-EIA split. At some point, plans will end up undergoing EIA, even if they have not undergone SEA. It would be useful to monitor the process to check that it works, but as I understand the system, there should be an assessment at some point. The issue comes back to Amanda Chisholm's point that the assessment should be made at as high a

level as possible so that everything that flows from the analysis takes on board the environmental impact.

What is your view of the exclusion of financial or budgetary plans? There are two arguments. One is that, if there is an amount of money to spend, the issue is whether we spend it as wisely as possible. The other view is that we might get different outcomes depending on where the money goes. Do the witnesses have a view on that? I know that the question is difficult.

**Neil Deasley:** The issue is when it is most meaningful to do the SEA. It may be extremely challenging to do an SEA of a single high-level budgetary figure or decision, whereas it is perhaps more meaningful and appropriate to assess the plan, programme or strategy that is put in place to action that financial decision or, if you like, the policies, proposals and actions that deliver the financial decision. We must consider the most meaningful point at which to conduct SEA if we are to provide information to the decision maker and influence the decision and the plan that flows from it. It may be challenging to carry out SEA of a financial decision or plan. However, once we are working with SEA, are comfortable with the practices and procedures and we have best practice, we might find that easier.

**Amanda Chisholm:** I agree with Neil Deasley. I have been thinking about the issue a lot since it was raised in previous evidence sessions. It depends on how we define the terms, which came to us from the SEA directive. So far, the guidance on what the terms mean has not been terrifically helpful, because they are designed for all the member states. How, practically, could we carry out an SEA of a purely financial plan to allocate £X million to an organisation? However, a more meaningful SEA could be carried out of a programme of allocating funds to particular projects. As Neil Deasley said, the issue is where the assessment will be most meaningful. The key question that has to be asked is whether it can be said that significant environmental effects will result from the plan or programme. The point of the process is to focus resources on the plans and programmes that will have the most significant environmental effects.

10:30

**Dr Band:** I endorse that. The ideal would be to have the plan or programme and the statement of aims and objectives as one document that is subject to SEA. If a financial plan that sets out how the plan or programme is to be implemented comes forward subsequently, I see no added value in conducting SEA of that document. In practice, many plans and programmes include a bit of both. In principle, if they cover the aims and

objectives, they should be subject to SEA. The last thing we want to see is a fully fledged plan or programme that purports to be a financial plan by dint of its having a table of financial figures at the back of the document.

**The Convener:** Right. So, the pre-screening process is important. We will return to that. As no member is desperate to ask another question, I thank our three witnesses for answering all our questions and for the submissions that we received in advance of the meeting. The panel can now stand down.

At our next meeting, we will take evidence from the Minister for Environment and Rural Development and from the Minister for Communities. I have discussed with the clerks whether it might be useful, before we hear from the ministers, to review the evidence that we have received so far. The reason for doing so is partly because of the pretty tight timetable that we have to get through before the summer. It is also because the issue of reflecting on evidence as opposed to simply putting it immediately into report format was covered in the questioning training that some members have undertaken. For those reasons, would members be prepared at our meeting next week to take a look in private at the evidence that we have received thus far?

**Members** *indicated agreement.*

## Annual Report

10:32

**The Convener:** We move to item 2, which is consideration of our committee annual report. Members have a draft copy of the report, which is laid out according to a format that was approved by the Conveners Group and which the clerks have had to follow. There is a length and content limit and I understand that we are one word within the length limit. If any member has one word that they want to add, they can do so, but I will not look kindly on any such suggestions.

**Alex Johnstone:** As when dealing with budgets, if anyone wants to add two words, they have also to nominate the word they would like to have removed.

**The Convener:** Exactly. Members might wish to consider whether they would like to do that.

In order to meet the publication deadline, we have to sign off the report today. I found the report quite useful; it reminds us of the huge amount of work that we have done as a team over the past year, particularly given the fact that some members are on more than one committee. It will give external organisations a good record of what we have done over the year. Having read the draft report, does any member have a comment, change or other suggestion to make?

I will take members' silence on the matter as a sign of their complete assent. Are we agreed that the report should go forward for publication?

**Members** *indicated agreement.*

## Subordinate Legislation

### **Plant Health (Import Inspection Fees) (Scotland) Regulations 2005 (SSI 2005/216)**

### **Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005 (SSI 2005/218)**

10:33

**The Convener:** We have four instruments to consider today under the negative procedure. We will take the first two instruments together, as the Subordinate Legislation Committee has drawn our attention to points on both of them. Members have a copy of an extract from that committee's 16<sup>th</sup> report. I understand that, at its meeting of 10 May, the Subordinate Legislation Committee considered a letter that it received from the Executive on the first instrument, SSI 2005/216. The clerk will update us on whether there is anything of significance that we need to know about the instrument.

**Mark Brough (Clerk):** The Subordinate Legislation Committee has nothing further to report, but is examining issues arising from the instrument that may affect future similar instruments.

**The Convener:** Right. Having read the report, I was struck by the fact that, although the comments were detailed, there was nothing of note in policy terms. From the detail of some of the comments, I wonder how worried members of the Subordinate Legislation Committee should be about both instruments, but that is for them to decide. As no member has a comment to make on the first two instruments, are members happy to make no recommendation for annulment on either instrument? Is that agreed?

**Members** *indicated agreement.*

### **Horse Passports (Scotland) Regulations 2005 (SSI 2005/223)**

### **Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005 (SSI 2005/225)**

**The Convener:** We will have the opportunity to return to the next two sets of regulations next week, but I put them on today's agenda as well.

For some time now, we have tracked the development of the land management contracts as part of our consideration of common agricultural policy reform. I put the Land Management Contracts (Menu Scheme) (Scotland) Regulations

2005 on today's agenda to afford members the chance to raise any issues and concerns and to seek any clarification before we consider the regulations next week.

I understand that Brian Monteith has lodged a motion to annul the Horse Passports (Scotland) Regulations 2005, which we will consider formally at next week's meeting, to which the minister has been invited. Again, if members have questions for clarification or if they seek responses on any other issues before we hear from the minister next week, it would be good to hear them now. However, the formal debate on the motion to annul will definitely take place next week.

Do members wish to raise any points on either set of regulations at this stage? Let us be orderly and consider the land management contracts first.

**Alex Johnstone:** A number of people have contacted me with concerns about some of the details of the land management contracts. I seek clarification on the nature of the regulations and on whether separate regulations will be introduced next year. I am happy for the regulations that are before us to come into force for the current year, but I will be concerned if the provisions that cause concern are preserved beyond the first year of the process. I am interested in knowing what procedure will be put in place for year 2 of the land management contracts.

**The Convener:** We will take up that point with the minister. The land management contracts basically represent CAP reform stage 1, which is almost a steady-state process. However, things will become more creative at the next level—level 3—under which more proactive environmental projects will start to come through. I think that my interpretation is correct and that no huge changes will be made under the Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005.

**Mr Ruskell:** Like Alex Johnstone, I want to know how the scheme will develop over the next couple of years. In particular, I want to know how stakeholders from all sectors will be involved in its development.

I also have concerns about how organic agriculture will be phased into tier 3 and how that will fit in with the organic action plan. I want the opportunity to ask the minister whether quality assurance schemes will deliver good value for taxpayers' money. As well as those specific questions, I seek clarity from the minister on how the general programme will be rolled out towards 2007.

**The Convener:** We will put all those questions on land management contracts to the minister before our meeting next week. We do not necessarily need to hear from the minister before

we decide on the instrument next week, so we can ask for answers to all those questions beforehand.

For the Horse Passports (Scotland) Regulations 2005, the minister will be required to attend our meeting next week. Do members have any issues that they want to raise before then?

**Nora Radcliffe (Gordon) (LD):** I want to ask about one small detail. Why do some passport-issuing organisations require applicants to fill in a wee chart for the horse, whereas others do not?

**The Convener:** Okay. Do members have any other questions? Brian Monteith is here. Does he want to flag up any issues this week? I know that he has lodged a motion to annul, so I do not ask him to reveal the entire speech that he will deliver next week.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I thank the convener for inviting me to speak, but I am content to wait for the debate with the minister next week. However, I will be happy to go through the issues before then with any committee members, or members of the public who are watching or listening to the webcast of today's meeting.

**Maureen Macmillan:** Before I read the regulations, I had not realised that they were about horses for eating. How much trade is there between this country and Europe in horse flesh for human consumption?

**The Convener:** We can put that question to the minister. I am conscious of having read in the weekend newspapers about illegal imports from west Africa of horse meat for consumption, so there is clearly an issue with how the trade is regulated properly. However, after that advert from Brian Monteith, it sounds like we will be able to address all the issues at length next week.

I thank colleagues. The final item on our agenda is our climate change inquiry, which will be considered in private. Before that, the next item on our agenda is our inquiry into rural development, which we will also consider in private. Therefore, I invite colleagues from other committees, the official report and broadcasting staff, the public, the press and everyone else to leave the room.

10:40

*Meeting continued in private until 11:24.*

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