

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Wednesday 30 November 2005

Session 2

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

**31<sup>st</sup> Meeting 2005, Session 2**

### CONVENER

\*Sarah Boyack (Edinburgh Central) (Lab)

### DEPUTY CONVENER

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

### COMMITTEE MEMBERS

\*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

\*Rob Gibson (Highlands and Islands) (SNP)

\*Richard Lochhead (North East Scotland) (SNP)

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Mr Alasdair Morrison (Western Isles) (Lab)

\*Nora Radcliffe (Gordon) (LD)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

### COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Trish Godman (West Renfrewshire) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)

Eleanor Scott (Highlands and Islands) (Green)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Robin Anderson (Institute of Auctioneers and Appraisers in Scotland)

Eddie Harper (Road Haulage Association)

Jackie McCreery (Scottish Rural Property and Business Association)

Andy McGowan (Quality Meat Scotland)

Nigel Miller (NFU Scotland)

George Milne (National Sheep Association in Scotland)

Professor Stuart Reid (Royal Society of Edinburgh)

### CLERK TO THE COMMITTEE

Mark Brough

### SENIOR ASSISTANT CLERK

Katherine Wright

### ASSISTANT CLERK

Christine Lambourne

### LOCATION

Committee Room 2



## Scottish Parliament

### Environment and Rural Development Committee

*Wednesday 30 November 2005*

[THE CONVENER *opened the meeting in private at 10:04*]

11:17

*Meeting continued in public.*

### Animal Health and Welfare (Scotland) Bill: Stage 1

**The Convener (Sarah Boyack):** Good morning. I welcome members of the public and press to our meeting and remind everybody to turn their mobile phones to silent. We have received no apologies.

Agenda item 1 is the second of six planned evidence sessions for our stage 1 consideration of the Animal Health and Welfare (Scotland) Bill, which was introduced to the Parliament on 5 October 2005. Our role as the lead committee is to consider the provisions of the bill and report back to the Parliament, recommending whether the general principles of the bill should be agreed to. During our evidence sessions, we are hearing from several expert witnesses and people who have an interest in the issues that are raised by the bill. There has been an open call for evidence and we have received quite a lot of submissions, which have been circulated to committee members and appear on the committee's webpage for the benefit of the public. If people are interested, that is where they will find the submissions that we have received so far.

I welcome our first panel of witnesses. Robin Anderson is the president of the Institute of Auctioneers and Appraisers in Scotland; Andy McGowan is the industry development manager of Quality Meat Scotland; George Milne is the secretary of the National Sheep Association in Scotland; and Eddie Harper is the chairman of the livestock group of the Road Haulage Association. I thank you all for being with us this morning and for giving us your written submissions in advance. That is extremely helpful.

We will examine the animal health provisions in the bill, especially whether the proposed powers are appropriate and proportionate; what they will mean for the industry; and how they will work in practice and be managed. We will not have opening statements from the witnesses; we will go straight to questions from members.

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** I have a couple of questions, which will probably be directed to our colleagues from Quality Meat Scotland and the National Sheep Association. I want to know about the powers of Scottish ministers in relation to the power of slaughter in section 1. That power seems to be extremely wide and could require animals to be slaughtered even if they had not been exposed to disease; yet, there seems to be no requirement in the bill for the veterinary authorities to be consulted by ministers. Would such a requirement—for slaughter to take place only on veterinary advice—not be a valuable addition to the bill? In practice, ministers may go to the veterinary authorities for advice but the bill does not require ministers to seek veterinary advice before they decide on slaughter. What is your view on that?

**Andy McGowan (Quality Meat Scotland):** I agree. In the case of a disease outbreak, ministers need to be able to act swiftly. Speed is of the essence in such situations—we saw that during the outbreak of foot-and-mouth disease, and we have seen it in other outbreaks that we have had. It is important to clamp down on such things immediately. That said, criticisms were made of the way in which foot-and-mouth disease was handled, some of which related to queries over who was giving guidance to the ministers and how they dealt with the matter.

I agree that it is important for independent veterinary expertise to be fed into ministers' decisions. That need not add a time delay; the ministers would have people in mind and the experts in various diseases are well known in the field. It would be a case of contacting them for the best advice. I do not feel that the minister has the expertise in all diseases to be able to make the correct decision without guidance.

**George Milne (National Sheep Association in Scotland):** Veterinary advice would be advisable and necessary, but only if time allowed. If the disease was spreading more quickly than veterinary advice could be obtained, the ministers would need to be on top of the situation—as we saw during the outbreak of foot-and-mouth disease, when there was not time to get veterinary advice ahead of decisions being made.

**Mr Brocklebank:** But are ministers the best-qualified people to make those decisions? I accept what you are saying about time, but are ministers better qualified than veterinary experts to make the decisions?

**George Milne:** No, they are not better qualified. However, if we cannot get enough vets on the ground to move quickly enough, a harsh decision has to be made. I suppose that a solution would be to get as many vets as possible to an area

where there was an outbreak, if another one should happen. However, during the outbreak of foot-and-mouth disease, every available vet was sent to the affected areas but they still could not keep ahead of the situation.

**Mr Brocklebank:** To some extent, the powers in the bill are reactive rather than proactive. Would you not prefer something to be stated more solidly in the bill about ways of preventing exotic foreign diseases from entering the United Kingdom? Would you not like to see more of that rather than a statement that, when an outbreak happens, ministers will move fast?

**George Milne:** I agree with you on that point. That is the crux of the problem. There must be enough money and enough people to police products as they enter the country. We have raised the matter often with stakeholders, but so many products are coming into the country via so many avenues—legal and illegal—that the situation cannot be policed. We would fully support what you suggest—that would be the answer.

**The Convener:** Do any of the other witnesses have a view?

**Andy McGowan:** On the threat from imported products, there is a disparity in how domestic products are treated. A good example of that is the decision whether meat that has been vaccinated against foot-and-mouth disease would be acceptable to the British consumer. That was a discussion point during the outbreak in 2001, but the fact is that we are eating vaccinated meat already—the only difference is that it is being imported.

The situation is the same regarding classical swine fever and several other notifiable diseases: we import products from countries that have those diseases and control them in their own way. We accept products from those countries, although they present a threat. The industry would like something to be done, although whether doing something is practicable within World Trade Organisation constraints is another matter. The issue could be taken a bit more seriously, instead of our concentrating on what happens within this country. The fact is that we do not have such diseases in Britain; if there is another outbreak, the disease will have come from somewhere and the most likely source will be legally imported meat.

**The Convener:** A queue of colleagues want to come in. I will take them in the order in which I spotted them.

**Maureen Macmillan (Highlands and Islands) (Lab):** I have a question on biosecurity codes. The Quality Meat Scotland submission states:

“A generic Code will not work”.

Could you explain the different codes that would be needed and how the bill can make them work?

**Andy McGowan:** Different codes are needed because biosecurity codes lay out guidance on procedures that should be followed to minimise the spread of disease. If a disease is spread by airborne transmission, far more intensive precautions need to be taken, because the disease could spread for kilometres, as we saw with foot-and-mouth disease. Other diseases—avian flu is a good example—are caught by direct contact, so provided that direct contact with the infected material is stopped, the disease will not spread and the 3km zones that we see with airborne diseases will not be required.

It is not possible to have a generic biosecurity code, because such a code would be either too lax or too harsh in dealing with specific diseases. That said, if contingency plans for the various diseases are being drawn up—which they are—and consulted upon, it would be possible to draw up a biosecurity code for those diseases. It is unlikely that exotic surprises will come out of nowhere. The plans could then be consulted on as part of the normal consultation process for the contingency plan, resulting in an industry view and a workable biosecurity plan that could be implemented quickly in the event of a disease outbreak.

**Maureen Macmillan:** Has the existing statutory biosecurity code improved biosecurity on farms?

**Andy McGowan:** It has certainly raised awareness and broadened it out from a simplistic understanding of biosecurity as the pail of disinfectant at the end of the road. It has brought in the fact that probably the biggest threat to any farm is not the vet or the vehicles, but other animals that come on to the farm.

That said, the code is too broad and is about 40 pages long; there is probably no farm in the country that could comply with absolutely everything in it. Elements of the code are useful for guidance, and it would make a good base for a new code, but it would need to be narrowed down. In the real world, it would not be possible to use that code if statutory powers were added. Codes need to concentrate on the serious risk factors for each disease.

**George Milne:** On the practical side, I go to a lot of farms and the biosecurity standard has risen significantly since foot-and-mouth. We are lucky that we have new health plans in Scotland, which 4,000 livestock farmers signed up to in one year. Those health plans address biosecurity. They are all about keeping bought-in animals isolated on the farm for at least 21 days, doing blood tests on them and taking other measures. That will add to the standard of biosecurity. A lot of people have the impression that biosecurity is about

disinfectant, but much more than that is involved. Farmers' awareness has increased. The markets have stepped up their standards.

**Robin Anderson (Institute of Auctioneers and Appraisers in Scotland):** Since 2001, biosecurity standards in marts have increased. The process is on-going. Traceability has also improved, which is all part of it. However, I agree with Andy McGowan that it will be impossible to produce one biosecurity code to cover everything. Specific codes are required for specific purposes.

11:30

**Maureen Macmillan:** You are talking about everyday biosecurity, but are you happy for the minister to step in and make more stringent regulations if there is an outbreak of an animal disease?

**George Milne:** We would support the minister in that, because it would be for the benefit of the whole agricultural community.

**Robin Anderson:** One problem with the most recent outbreak of foot-and-mouth disease was that action was not taken quickly enough. The period between the disease being found and movements being stopped, for example, was far too long.

**Maureen Macmillan:** I have mixed feelings about what you say. I know of an estate in Skye on which there was, I think, only one animal—a red deer. However, the whole place was closed down for biosecurity reasons. The landlord probably had other reasons for closing the place down, but biosecurity reasons were used as an excuse. Should there not be flexibility?

**Eddie Harper (Road Haulage Association):** On the transport side, the foot-and-mouth disease outbreak proved to us that the British isles is a small place. Our infrastructure means that we can move from one end of the country to the other in a short time. An immediate standstill should occur. I agree with Andy McGowan. There are individual diseases for which recommended codes are needed, but somebody should decide that there should be a standstill when there is an outbreak of a disease until we know which disease it is.

**Richard Lochhead (North East Scotland) (SNP):** On the theme of preventing diseases from arriving in Scotland in the first place, I was interested in the responses to a question that Ted Brocklebank asked. Could more have been done in the past five years to make us feel more secure than we currently feel?

**George Milne:** Yes. More could and should have been done. Most of us were heavily involved around the stakeholder table and we all pushed for other measures to be put in place at airports. An

announcement that an extra couple of dogs will help with inspections will not make a great deal of difference. Posters went up, for example, but we thought that more could have been done at the time. The issue was often raised.

**Richard Lochhead:** I want to clarify matters. As we speak, does much more still need to be done?

**George Milne:** Yes. The industry would appreciate that and would benefit from it. I do not know what everyone else thinks.

**Andy McGowan:** I would contrast the procedures that were in place at airports and ports—those procedures were probably the most visible—with what happened in Northern Ireland and the Republic of Ireland. If one visits those places, one is struck by the much higher profile that is given to the threat of disease on that island. There are lessons to be learned. We will never stop the disease completely, because there are illegal routes and trade rules mean that some meat cannot legally be prevented from coming in when it is being processed. The threat will therefore always exist and there will be a limit to what the Government can do to stop it, but there are lessons that could probably be learned from the island of Ireland about raising the awareness of members of the general public when they travel.

**Richard Lochhead:** Can you give us any illustrations that would highlight the differences in approach between Scotland and Ireland, for example?

**Andy McGowan:** It might seem like a small point, but the size of posters could be considered. I think that the posters that are normally used in the United Kingdom are A3. However, I remember getting off a flight in Cork about two years after the foot-and-mouth disease outbreak and seeing a poster that covered a wall of the airport. The posters there are so big that they cannot be ignored, but they do not cost a great deal of money. Such posters may spoil the aesthetics of the airport, but we should ask where the priority lies.

**Eddie Harper:** Andy McGowan is right. Many people have forgotten what happened in 2001 and are not aware of the threat when they come back into the country. Therefore, it can only be good for the industry if there are more posters and more information about the disease still being a threat.

**Richard Lochhead:** I have a brief final question, which Quality Meat Scotland could perhaps answer. Do you have any comment to make on the quality of vaccinated meat compared with that of meat that has not been vaccinated?

**Andy McGowan:** There is probably no difference in the impact on human health. None of the vaccines will be approved for use on animals

unless the testing procedures show that it poses no threat to human health. I do not believe that there will be a risk to human health. Moreover, there is unlikely to be a discernible difference in quality. The vaccines present a risk to animal health, because no vaccination programme is 100 per cent effective.

**Elaine Smith (Coatbridge and Chryston) (Lab):** In its submission, Quality Meat Scotland talks about the issue of mutilations. I was guilty of thinking that tail docking affected only dogs, so I was interested to read what you said on that point:

"Tail docking is a preventative measure against fly strike and castration avoids unwanted pregnancies amongst stock destined for slaughter and poor meat eating quality."

You seem to suggest that the practices should be allowed to continue, although you say that you

"support a requirement for veterinary input".

What part of the bill needs to be amended to cover that point?

**Andy McGowan:** I was highlighting the fact that it is easy to say that these so-called mutilations should not be carried out. However, a number of them have become standing farming practices in the long term, because they prevent more serious problems down the line. Without them, animals would face the risk of death, rather than short-term pain. We are talking about appropriate farming practices that are accepted across the board. However, there are ways in which more scrutiny could be provided of how they are carried out. In the pig sector, if tail docking is to be carried out a vet must provide the farmer with authorisation. He must say that there is no viable alternative to tail docking on the farm and that if tail docking is stopped the animals are likely to get tail-biting problems and to risk death. After discussion, a vet can approve tail docking as the most effective control measure. That is not a particularly onerous imposition on the industry.

**Elaine Smith:** Is blanket authorisation issued to whole farms, or is authorisation granted separately for each animal? Would tail docking continue to be standard practice, with the only change being that vets would have to be involved? In your opinion, does the bill allow for that?

**Andy McGowan:** Every farm has a vet associated with it. Health plans are gradually becoming more widely used, which means that vets are providing annual MOTs of farms. It would not be particularly onerous for the industry if those included a discussion of whether it is appropriate for certain practices to continue. The system is already in place in the pig sector, where it does not cause a huge problem. Potentially, there is more intense veterinary contact with the pig sector than with other, more extensive systems, but I do not believe that it would be impossible to deliver such an arrangement.

**George Milne:** It is essential that tail docking and castration are allowed to continue in the sheep industry. The result of not castrating animals and not removing their tails would be huge stress and welfare problems in later life, and the possible death of the animals with great suffering. The bill does not indicate that those practices should be stopped, but we and, possibly, QMS highlighted the point because we have been under pressure on the issues of tail docking and castration. We cannot overemphasise the importance of allowing the practices to continue.

**Elaine Smith:** Are you saying that an animal that has not been castrated or that did not have its tail docked might later suffer stress or even die? I do not understand that. Could you explain that to me a bit more?

**George Milne:** We leave male animals entire if we are using them for breeding, and they are looked after. However, if we are trying to fatten lambs, we leave the flock mixed. Castrated lambs are called wether lambs and they are mixed with ewe lambs when they are being fattened on vegetables and such before we sell them. However, if uncastrated lambs run with ewe lambs, the ewe lambs will become pregnant.

Tails can grow so long that they collect dirt and fly strike, which allows blowfly to come in. The lamb can end up with maggots in its tail. If that is not attended to, the maggots eat the sheep.

**Elaine Smith:** I understand why you might have to dock an animal's tail, but I do not see how not castrating the animals might result in their death or ill health later.

**George Milne:** Not castrating lambs would not result in their death or ill health. However, if a ewe were put in lamb at a very young age, that could result in its death. It can also affect the taste of the meat.

**Andy McGowan:** The other, and more significant, area from a welfare point of view is the fact that we might have to slaughter pregnant animals; it is by castrating lambs that we stop that becoming a significant problem. Slaughtering pregnant animals is not an appealing thing for the industry to do. It is also distressing for whoever is doing the slaughtering. We do not do that now, and no one wants to start doing it.

**The Convener:** You say in your written submissions that you seek clarification from the minister about the scope and intent of the bill with regard to those issues. That is the sense that I take from the concerns that are voiced in your submissions.

**Andy McGowan:** I was unsure from my reading of the bill whether some of the farming practices that we have been discussing are included under section 18 on mutilation.



**The Convener:** Therefore, we are seeking clarification of what the bill proposes and why. We should be able to get that from the minister when he comes before the committee.

**Elaine Smith:** The Road Haulage Association's submission says that it would like clarification about whether the horse is classed as an agricultural animal. Could you expand on that?

**Eddie Harper:** We have problems with horses in some circles, as horses are classed as an agricultural animal in Europe. We have problems in the Animal Health and Welfare (Scotland) Bill—and in the transport legislation, come to that—about how the horse is classified. In Europe it is classified as a farm animal, but in Scotland it is not. The bill should specify where the horse stands: is it classified separately or as a farm animal?

**Elaine Smith:** What specific problems does that cause you?

**Eddie Harper:** It causes us many problems in transport, as horses are exempt from some of the transport and other regulations in which we are involved. Therefore, it would be far better if horses were classified and we knew exactly where they stood.

**The Convener:** We are checking the "Memorandum on Delegated Powers" for the Animal Health and Welfare (Scotland) Bill, which clarifies that the regulations will preserve the position on farm practices that obtained before the enactment of the bill and lists a number of farm practices that the bill is not intended to outlaw. That seems to cover most of the concerns that have been raised today. We will return to that issue with the minister. However, the memorandum, which explains policy intent, contains coverage on farm practices that might go some way towards allaying your concerns.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** You said that much of the meat that comes from abroad has been vaccinated. However, I understand that much of our meat in Scotland also comes from vaccinated animals. Is that the case?

**Andy McGowan:** Yes. There is a difference between the consumer's perception and reality. Very little meat that is produced anywhere in the world has not been vaccinated against something or other.

The bill focuses predominantly on list A or notifiable diseases, which we do not vaccinate against. However, British consumers of pork will eat meat from animals that have been vaccinated against enzootic pneumonia and various other diseases. As long as the withdrawal period is maintained and the vaccination is used according

to the manufacturer's guidance, it will present no threat to human health. By the same token, a foot-and-mouth disease vaccine will not pose a threat to human health if it is used according to the manufacturer's guidelines.

11:45

**Mr Ruskell:** NFU Scotland suggests that the Scottish Executive Environment and Rural Affairs Department should improve the protocol on introducing vaccinated meat into the food supply chain. How could that area be improved?

**Andy McGowan:** During the foot-and-mouth outbreak, difficulties arose because of consumers' perceptions, the way in which the situation was being publicised and the fact that the supermarkets, with their canny view of what their customers would accept, knew that they would suffer because people would link that publicity with the product that they were trying to sell. As a result, the supermarkets indicated that they were not terribly keen on selling vaccinated meat. Part of the problem was that the animals would be kept alive and there would be no market for them. However, scientific evidence suggests that vaccination medicine does not present any risk to human health.

Putting protocols in place would be useful, if it allowed three-way discussions involving Government, the retail sector—by which I mean not just supermarkets but butchers, restaurants and so on—and the agriculture industry to secure everyone's acceptance of the approach. However, although everyone may well be happy to sign up to such a protocol when there is no outbreak, things can change rapidly when consumers see the headlines.

**Mr Ruskell:** Have you detected a shift in the attitude of the four major supermarket retailers towards vaccination since 2001?

**Andy McGowan:** Not compared with their previous position. After all, they are selling the same range of products as they did before. At the time, foot-and-mouth disease presented a specific challenge, because it was associated with the way in which carcasses were disposed of. The issue was so high profile that there were concerns about whether humans could catch the disease. However, after the outbreak, the supermarkets quickly reverted to their default position, which was to keep open the maximum range of supply options and therefore to get the cheapest price.

**The Convener:** It would be quite useful to wrap up on this question. Last week, when we asked veterinary and scientific experts similar questions about the potential use of vaccination to try to eliminate BSE or similar diseases, they told us that no one vaccine would do the job and that different

diseases were cropping up all the time. Does the bill's combination of ministerial powers and measures on vaccination and slaughtering provide enough of a preventive element either to eliminate diseases in animals or to reduce the likelihood of such diseases?

**Andy McGowan:** From my point of view, yes. The important issue is to keep the options open. As there are no outbreaks at the moment, we have time to deal with the matter. Novel diseases that have never been seen in this country will emerge and it might be more difficult to deal with them. However, we still have the usual suspects—over the past 10 years, we have had outbreaks of classical swine fever and foot-and-mouth disease, for example.

If a disease has an effective vaccine, it should be possible to use guidance from the scientific community to include a vaccination policy in any contingency plan. If an effective vaccine for a disease has not yet been developed, a different solution will have to be reached. However, that can be addressed in a calm, structured way when there is no outbreak. The resulting plan can be consulted on to ensure that industry and all other interested parties are happy and it can be put on the shelf and updated as things develop.

**Nora Radcliffe (Gordon) (LD):** I would like to ask for the panel's views on animal gatherings. How do you define them? What should be included? Do you think that they should be more tightly regulated than they are? Your submissions indicate that you are in favour of the term "animal gathering" covering a wide category, but how would you define it? We would appreciate your help.

**Robin Anderson:** The most obvious animal gathering is a livestock auction market. Markets are currently heavily regulated. They are inspected by state veterinary service officials and by officials from the Scottish Society for the Prevention of Cruelty to Animals. Trading standards officers are at every sale. All movements in and out of Scotland are recorded electronically, so we know exactly what is moving in and out. The great thing about a livestock market gathering is that one knows exactly where and when it will happen and who is operating it.

A number of other gatherings are not regulated at present, but we certainly feel that they should be. Licensing is not a problem for markets. If a decision is taken to license auction markets, we would support it, although we would have to ask what purpose it would serve, as markets are already regulated. Other animal gatherings can happen at a collection centre, with farmers or companies able to bring their stock to one collection point for ease of transport or for a host of other reasons. Those centres can operate 24/7.

Nobody knows where they are, who is in charge of them or when they are happening. That is the big danger. If we license one area, we have to license all animal gatherings.

**Eddie Harper:** I agree. The markets are completely transparent, whereas a lot of other animal gatherings that take place daily are not policed at all. I am a member of the Farm Animal Welfare Council—although I am just about to fall off the edge, actually—and was heavily involved in the council's report on the matter, on which we did a lot of work. We found out that, even down at the level of village halls, there can be animal gatherings that are not recognised or policed—nobody knows that they are going on. If animals are gathered, the gathering should be licensed, known about and policed. Perhaps "policed" is not the right word, but they should certainly be controlled. Even in the haulage industry, we have hauliers who take animals back to centres to rest, feed and water them for an onward journey, but a lot of those places are not on any lists.

**Nora Radcliffe:** So there are big gaps.

**Eddie Harper:** I think that there are. We now have some serious problems in the industry, because hauliers are doing things purely for welfare purposes but are being prosecuted because the centres to which they are taking animals to rest are not official places. Our industry has a big problem with animal gatherings.

**Robin Anderson:** We must also bear in mind the fact that, although the bill covers all sorts of scenarios, including mutilations, the people who are operating in the industry are welfare minded. None of us would be in the business otherwise. The markets have been going for 150 years. If they were not welfare-supporting organisations, they would not be there. We want healthy stock, so we want to observe practices that allow the stock to be treated in an appropriate manner.

**Nora Radcliffe:** Would other members of the panel like to comment on the practicalities of identifying what constitutes a gathering?

**George Milne:** You have heard about the markets, but there are also gatherings of livestock for shows, which are fairly important to the whole agricultural community. Shows and organised tup sales that take place on grass as opposed to concrete need to be allowed to carry on. Quite a broad spectrum of events is involved, but we would certainly not support illegal gatherings of stock that are not inspected by anyone.

**Nora Radcliffe:** The issue is not that they are illegal, but that they happen. We need to find out where they happen and how we can supervise and keep a tab on them rather than necessarily constrain their taking place.

**The Convener:** I want to follow that up. I notice that Mr Anderson's submission refers to a range of gatherings that are not subject to an adequate licensing process. Does the bill deal with them effectively or are there gaps? You mention dealers in particular and say that although some parts of the process are well regulated and licensed, others involve what, in effect, are gatherings that are not licensed. Will the bill address those issues or do problems remain?

**Robin Anderson:** There are still problems because the topic is so wide. Animal gatherings are not clearly defined in the bill. Dealers are a major issue in certain areas. If one part of trading is regulated, that will be restrictive on the people who operate in that part of trading. If there is anything that they have that they do not want anyone else to see, they will take it underground by going to a dealer who will sell animals that he perhaps should not sell. If such animals were presented at a market at which they were supervised, people would not be able to get away with doing that. The control of animal gatherings should be tightened up. An attempt should be made to list all the different types of animal gathering that take place and to say how they will be supervised and who will supervise them. It is all very well to say that they will be supervised, but we need to know who will supervise them.

**The Convener:** You think that the bill should list every type of gathering so that it is clear that they are all adequately covered. You would expect the licensing remit to be extended to cover all such gatherings.

**Robin Anderson:** If that licensing remit is agreed to, I would support that.

**Eddie Harper:** We have collection centres that are already licensed. The bill should go a step further and say that all occasions on which animals are brought together should be licensed as animal gatherings.

**Andy McGowan:** For about three years, we have been considering the issue as part of the auction market assurance scheme. We have sought to extend the coverage of the scheme to cope with dealers, but we have not found a way of doing that. That is not for want of trying.

Someone becomes a dealer when they quickly sell on animals that they have bought, but one cannot prove what the future intent is of someone who just happens to have collected animals from a number of different sources on their farm. Even if one suspects that they will move them on as quickly as they can and that they are operating as a dealer service, at the time at which one visits such a farm one can say only that its owner has bought in stock from a number of different sources. For three years, we have racked our

brains to find a method that would allow us to say point blank, "He is a dealer and that other guy is just a farmer."

**The Convener:** Is the issue that the bill should not just use the appropriate terminology and specify collection centres, dealers yards and agents, but describe the functions that go with those titles? That would mean that someone would not be able just to call themselves something totally different and to continue to do the same thing without having to be licensed. Is that the challenge that the bill needs to address?

**Andy McGowan:** That is the major challenge. The bill should split up the definition of animal gatherings and say that the term will cover collection centres and auction markets. Those are probably the easiest sectors to identify, but agricultural shows are a distinct activity that is carried out publicly and openly, so a decision can be made about how they will be regulated. We could list dealers in the bill, but I would be amazed if anyone could ever find a way of taking action against them; we have certainly never found a way of doing that. That is what the bill is all about—it is about giving the authorities the ability to take action against such people. It is extremely difficult to do that when, at any given moment, one cannot define whether someone is a dealer.

12:00

**Nora Radcliffe:** Perhaps we are focusing on what to call the person who brings together the animals when our real concern is the fact of bringing them together. Would it be helpful if we were to focus on the physical process of bringing together the animals? We could make that the point at which the person does or does not come within the scope of the bill.

**Andy McGowan:** We have to consider the widespread practice of store producers selling on their animals to finishers. As the nature of the finisher's operation tends to be on the large scale, their animals are collected in from 10 or 20 different sources and often bought from auction markets. Finishers tend to keep their animals for a year, whereas a dealer may keep them only for the minimum time that he can get away with under the current standstill regulations. The question whether someone is a farmer or a dealer is a grey area.

**The Convener:** Okay. We will return to the subject with other witnesses. It was very useful to have had the issue highlighted.

**Mr Brocklebank:** Could I—

**Nora Radcliffe:** I have a follow-up—

**The Convener:** I am trying to wind up this session. I ask Nora Radcliffe and Ted Brocklebank to make their questions very swift.

**Nora Radcliffe:** I seek clarification on a point in the QMS submission about tail docking and castration. I want to pin down what is meant by

“a requirement for veterinary input ... through animal health planning”.

Do you mean that the procedure should not necessarily be carried out by a vet but that a vet is required to approve it?

**Andy McGowan:** My proposal is that, rather than carrying out the procedure, the vet should be required to approve it.

**Nora Radcliffe:** Thank you. I just wanted to be clear on the matter.

**Mr Brocklebank:** I return to the issue of the biosecurity code. I can see the sense of making it explicit in the code that a farmer or a farm manager has to keep a register of people who turn up at their farm, but what about the access takers under the Land Reform (Scotland) Act 2003 who are not covered by the bill? They can walk over any farm land and come and go as they wish, yet there is no compulsion for the fact that they were even on the farm to be listed. In fact, the farmer or landowner does not know that they are coming on to their land. How is that gap to be addressed?

**Andy McGowan:** I do not think that it is possible to do something about that in practice. Responsibility for compliance with the biosecurity code should be limited to things that the owner of the animals can affect. Legally, they cannot stop people coming on to their land. If something were to happen, the issue should rest not on the fact that the owner of the animals had allowed disease to come on to the farm, but on whether he had blatantly breached the requirements under the code.

**Mr Brocklebank:** You do not think that we could handle the issue by means of amending the bill.

**George Milne:** There is a biosecurity code for walkers, which all walkers are supposed to see—it was printed on a fairly small card and lists the basic rules to which walkers are supposed to abide. To be honest, the code has not been spread widely enough among walkers, cyclists and all those who like to use the countryside. You are right to say that we cannot stop those people accessing our land. We are totally at their mercy. For example, people can come on to our land and leave a sandwich lying about that causes a problem for our stock. The biosecurity code for walkers has not been pushed enough.

**The Convener:** Okay. That is helpful. I thank the panel for coming before the committee this morning and for the submissions that we received in advance of the meeting. I propose to suspend the meeting briefly to allow panel members to leave and the members of the next panel to come to the table.

12:03

*Meeting suspended.*

12:05

*On resuming—*

**The Convener:** I welcome the second panel of the morning. Nigel Miller is the chair of the livestock committee of NFU Scotland; Jackie McCreery is the legal adviser for the Scottish Rural Property and Business Association; and Professor Stuart Reid is from the Royal Society of Edinburgh and was a member of its foot-and-mouth inquiry team. I welcome you all. We hope to consider both major parts of the bill with you as witnesses. As well as animal health issues, we hope to consider the animal welfare provisions, particularly from the perspective of the land management industries. I thank you all for your written submissions, which we have all been able to read in advance of the meeting.

**Mr Ruskell:** All three written submissions express concerns about the proposed breadth of ministerial powers to slaughter animals in the event of a disease outbreak. The bill's explanatory notes say that foot-and-mouth disease can spread over 180km. What is your impression of how those powers might be used by ministers in the future? What should be the limits of those powers?

**Nigel Miller (NFU Scotland):** After the experience of 2001, it is understandable that a review of the situation should lead to an extension of ministerial powers. The existing powers did not fit well with the policy that was operated at that time, so we are not surprised about what has been proposed. The example given is extreme or extraordinary, I think. The reality is that accepting fairly draconian powers to give flexibility involves an act of faith, which I hope we will be well advised in making. The contingency plan will outline how an outbreak of FMD will be handled and I expect requirements under the bill to roll out in that format. However, we believe that operating such powers in an unfettered way outside the infected area would be totally wrong. The SVS, as well as local veterinary expertise, would have to be used and stakeholders would have to be involved. There would be no excuse for that not to happen.

**Jackie McCreery (Scottish Rural Property and Business Association):** We agree with what has been said. Our problem is not with the powers; we accept the need for an arsenal of responses that could be used in the event of an outbreak. The policy memorandum outlines the necessity for the powers and expresses the hope that they will never have to be used. However, as the bill is drafted, there will be no limit on how the powers can be used. In practice, the powers will

involve an act of faith. We assume that veterinary advice will be taken at a higher level and on the ground, but the bill does not actually state that.

If such wider powers are used inappropriately, there has to be a mechanism to challenge that use afterwards. If the bill required veterinary and scientific advice to be taken before the powers were exercised, that would provide an avenue for a challenge to be made if it was felt that the powers had been used inappropriately.

**Professor Stuart Reid (Royal Society of Edinburgh):** I third that. The bill is somewhat different from the policy memorandum, which makes it clear that veterinary and scientific advice would be taken as appropriate. That is the key issue. Animal management issues, veterinary clinical issues and the basic science issues need to be taken into account before those powers are used. The issue is far less to do with distances; it is much more to do with the advice that is taken at the time of implementation.

**Mr Ruskell:** It worries me that we are talking about acts of faith. We are dealing with a piece of legislation, so we must ensure that the bill contains checks and balances. Panel members talked about veterinary powers and contingency plans. Do you think that the bill should provide checks and balances for the development of contingency plans in the event of a disease outbreak, or should there just be a general requirement for veterinary advice to be taken as part of the ministerial decision-making process? What specific checks and balances do you think should be in the bill?

**Jackie McCreery:** I am not so sure that the bill can be precise about that, because each outbreak of each disease—and indeed two outbreaks of the same disease—can be so different. We have to be flexible enough to allow advice to be taken on the spot, at the time. Contingency plans should be kept up to date and people should plan ahead for what might happen. I do not know whether other panel members would agree, but I think that in the event of an outbreak we would need flexibility. We could have something in the bill that said that ministers could exercise the powers only on the basis of up-to-date scientific and veterinary advice taken at the time.

**Professor Reid:** The idea of having a specific contingency plan for each and every disease that might arrive at our shores is probably unrealistic. However, there are generic issues that can be—and are being—addressed. We would be in danger if we considered only the example of FMD, which I know has been the focus of a lot of the discussion. Any number of diseases might arrive, some of which have been listed. If we are moving towards effective contingency planning, a sensible way forward would be to make appropriate risk

assessments of what diseases are likely to arrive, on the balance of probability.

**Mr Ruskell:** Do you think that the bill is robust enough in spelling out the process of how a contingency plan should be arrived at in the event of, and in advance of, a disease outbreak? Should it be more specific about what it requires in the process of contingency planning?

**Nigel Miller:** As has been said, it would be impossible to have the full spectrum of contingency plans for every disease. FMD has been mentioned, for which there is a contingency plan. There is also a contingency plan for BSE in sheep. Planning is under way for avian influenza. Classical swine fever is another disease for which we would expect to have contingency plans on the shelf. It would be helpful if there was a requirement for a core group of contingency plans to be maintained and updated. Such plans should cover a spectrum of issues.

The plan for FMD was designed with European moves towards vaccination in mind. It reads credibly and leaves options open, which I think is right. However, that plan is only as good as the money that is invested to back it up. At the moment, from our point of view, that money is not being invested. When there is an outbreak, the spectrum of market vaccines will not have been invested in, so certain options will not be open. If contingency plans are to be realistic, we need a commitment to invest the money to ensure that the supporting infrastructure exists. It is important that the plans are meaningful documents, rather than just paper aspirations.

**Mr Ruskell:** Perhaps we could raise that issue with the minister.

**Mr Brocklebank:** I have a question about the people responsible for animals such as baby pheasants, which are kept in cages prior to their release into the wild. When I asked this question last week, there seemed to be a clear understanding that, as long as the birds were kept in the cage, they were the responsibility of the person keeping them, but that, the minute they were out of the cage, they were free and considered to be wild birds. Section 16(5) says that a person's responsibility is not at an end once the animal has been abandoned. There seems to be a difference between abandoning a young pheasant to the wild and releasing it to the wild. Could that not be open to all kinds of misinterpretation?

**Jackie McCreery:** You make a good point. Last week, Mike Radford made similar points about definitions. We are now on to the welfare side of the bill. There is a difference of opinion between the English and Scottish legislators on whether there should be a separate offence of

abandonment. I think that it should be a clear offence to abandon an animal in circumstances where it cannot fend for itself. The issue that I have is that the wording of the bill provides scope for dispute and uncertainty. As Mike Radford probably mentioned last week, in framing criminal offences, we need to ensure that both keepers of animals and those who enforce the legislation know clearly what constitutes a criminal offence.

The uncertainty is probably caused by section 16(5), which seems to imply that anyone who has ever been responsible for an animal will still be responsible for it even if it has been abandoned. Where do we draw the line between abandonment and release? There could be dispute over whether someone who once had a wild animal in their control can ever relinquish responsibility for it. We need a bit more certainty and clarity on that. I agree with the principle that abandonment of an animal should be an offence, but the wording of section 16(5) needs to be re-examined.

12:15

**Mr Brocklebank:** Let me suggest a more mundane situation that might arise in relation to personal responsibility. If I keep hens to the best of my ability by ensuring that they are kept in a wire cage, can I be charged with a criminal offence if, despite my best efforts to look after them, a fox still gets in and kills them all?

**Jackie McCreery:** No. As I understand it, the policy intention is that you could not be so charged if you had taken all reasonable steps.

**Mr Brocklebank:** Who decides what constitutes all reasonable steps?

**Jackie McCreery:** The courts will decide. I appreciate that the drafters of the bill have an impossible job in trying to frame provisions that are clear to everyone, but the bill needs to be clear to as many people as possible. I do not think that the drafters have achieved that. Clearly, there will be scope for the courts to interpret what constitutes a reasonable step.

**The Convener:** Ted Brocklebank can bear that thought in mind as he keeps his hens. Maureen Macmillan's question is the next one on my list.

**Maureen Macmillan:** I want to ask about biosecurity codes, which are dealt with in the written evidence that panel members provided. Do biosecurity codes need to be statutory? Should failure to comply be an offence?

**Nigel Miller:** The committee has obviously heard quite a bit about biosecurity codes, so the issue has been fairly well covered. Our view is that biosecurity codes are useful and should cover specific systems. We believe that the codes should probably be advisory, but that they may

need to be made mandatory in disease situations. It might be appropriate to make it a criminal offence not to comply with a code during a disease situation, but biosecurity codes should otherwise be advisory.

**Professor Reid:** The Royal Society of Edinburgh's point of view is that the increase in hobby farming and in the numbers of animals that are kept on non-agricultural land should probably be taken into consideration in biosecurity legislation. That is especially important during a disease outbreak.

**Jackie McCreery:** I agree. The bill will replace the existing biosecurity code for farms—which is necessary because the act under which that code was introduced will be repealed—but it will also impose criminal sanctions for breach of some provisions in the code. That is a departure that needs to be considered carefully.

From my examination of the sample biosecurity code in the bill's accompanying documents, I am not convinced that the criminal sanctions are proportionate. For example, if a farmer fails to record the names of all visitors to his farm, he will contravene a condition of which breach will constitute a criminal offence. However, in practice, a farm could receive many grain lorries at harvest time, in addition to lorries that provide feed to animals and various salespersons. A farmer might hope to achieve best practice by recording the name of every visitor, but that may not be practical in all circumstances, so to make non-compliance with that condition a criminal offence will be disproportionate. The content of the code needs to be examined very carefully.

**Nigel Miller:** We saw practical examples of the difficulties that can arise during the most recent outbreak of foot-and-mouth disease. For example, although guidance stated sensibly and reasonably that no animal should be on a public road, it was necessary to continue to keep stock in unfenced areas in large parts of Dumfries and Galloway. A critical element in the working of the system was that animals were kept in areas that are used for wintering, but those animals were continually in contravention of the code. In addition, for reasons of animal welfare, people might need to bend the rules when they do not have time to obtain the relevant licence. It would probably be an error to criminalise actions without thinking about them.

**Maureen Macmillan:** The last time we experienced foot-and-mouth disease, some people thought that there was an overreaction and that the biosecurity of farms and estates impinged on other rural businesses, for example in tourism. Many tourism businesses almost went to the wall because people could not get access to the countryside, which sometimes actually had few animals on it. Where is the balance?

**Nigel Miller:** There has to be a balance, but when an outbreak is identified initially, virtually all areas have to be closed down. At that stage, one is not exactly sure of the limits of the outbreak, how the disease has moved and where it is going. Until that assessment has been made, it is essential to close everything down. A big lesson from 2001 is that delays or a selective approach mean that we may pay heavily later. Once it has been established where the disease is and a control programme is under way, it makes sense to say that such zones are low risk and that certain types of access are therefore acceptable. The process must be carried out like that and it must be controlled. In some cases, that process may unroll fairly quickly, but in others it may take longer: that is the reality of disease control. There is unfortunately a cost in avoiding the impact of widespread disease in the countryside.

**Professor Reid:** The Royal Society of Edinburgh wrote a report on foot-and-mouth disease, on which Nigel Miller has just made similar points. When the disease is identified, there needs to be a limited shutdown period until the extent and nature of the outbreak is understood. It is clear that implementation thereafter of intervention must consider all aspects of rural—and urban—economies. We accept that during the last outbreak there was significant economic loss throughout the country, and not just in the rural community.

**Jackie McCreery:** Land managers and visitors should be given assistance and advice about when it is and is not safe to visit the countryside. Professor Reid said that there would be an initial shutdown, but perhaps advice could be given as to when it is safe to open up again.

**Rob Gibson (Highlands and Islands) (SNP):** How might the bill affect activities that involve the welfare of wild animals? At the previous committee meeting, I asked witnesses about the phrase

“under the control of man”,

particularly in relation to deer. Where does the bill fall in that respect?

**Jackie McCreery:** The general definition of protected animals is too vague for legislation that creates criminal offences. Definition is difficult. What does it mean to be

“under the control of man”?

Does it entail some sort of dependency on man, or does the animal have to be within man’s physical control? There is a difference between being in control of and being responsible for an animal. The fact that we are discussing the matter means that it is not clear in the bill. There is certainly a case for the bill’s drafting to be made clearer, but there is also a case for the accompanying

guidance to be clear for the benefit of the courts, which will no doubt have to interpret the provisions. I agree that the meaning of the phrase is unclear.

**Rob Gibson:** I want to be a bit more specific about feeding of deer in winter. That practice keeps them alive for commercial purposes more than for their welfare. The natural turnover of deer means that the weakest die in winter. The question of being under the control of man seems to be strengthened in relation to deer in that respect.

**Jackie McCreery:** There are different opinions about whether such deer are under the control of man or whether their survival is assisted by man. A similar example might be people who feed birds in their gardens: they help birds to survive the winter because the birds come to rely on the bird feed. The same applies to pheasant or deer. At issue is the level of dependency on man and the point at which that becomes control. All those questions should be addressed in the bill, which is not clear enough in that respect.

**Rob Gibson:** It is not likely that people feed the birds in their gardens for commercial purposes, but there is such intent when it comes to feeding deer.

In your written evidence, you say:

“the Executive has stated there is no policy intention to affect country sports, and shooting in particular, through this Bill.”

However, you also say that treatment of wild animals must be dealt with more clearly. Will you expand on that?

**Jackie McCreery:** It has been made clear that the intention of part 2 is that it will not cover wild animals, although we were uncertain about whether it could be argued that it covers a wild animal that was once under the control of man. As I interpret it, the bill does not cover the example that Rob Gibson gave. If the policy intention is that the bill would cover treatment of wild animals, the draftsmen could have made that clearer because that would have a knock-on effect on legitimate sporting activities. At the moment, there is room for dispute.

**Professor Reid:** From a scientific point of view, the term “animal” requires further definition. The bill applies to both vertebrates and invertebrates, but in this case we are talking only about vertebrates—invertebrates are excluded. We may also run into problems in respect of the term “protected animal”. Application of the bill as it stands would imply that rabbits are protected, although that is probably not intended. We must be careful that, whatever terminology is finally used, there is no confusion between the bill and the Wildlife and Countryside Act 1981, so that we

avoid the risk that acts of cruelty to animals will be covered by neither piece of legislation.

Finally, we do not think that the definitions take care of the advances that have been made in respect of foetal physiology. The bill does not allow for some issues in respect of the foetus that are covered in the Animal Scientific Procedures Act 1986. We may wish to take up those issues.

**The Convener:** We will definitely want to reflect on the issues that you have raised and to ask other witnesses about them. Your comments have been helpful.

**Nora Radcliffe:** In its submission, NFU Scotland states that further consideration needs to be given to the section on deliberate infection of animals. Would you like to expand on that point?

**Nigel Miller:** I do not think that the bill has been drafted to interfere in any way with what we are concerned about. I suspect that the provisions regarding spread of infection are about movement of notifiable diseases. No one could support that activity, so we have no problem with its being made a criminal offence. However, in some pig systems in particular, it is good practice to expose animals to bacterial infections in order to increase their resistance, to avoid the need for antibiotics or vaccines to be used and to ensure that immunity throughout the herd is strong. If the bill is badly worded, it may impinge on such good practice. We wanted to flag up that issue.

**Nora Radcliffe:** Would it be helpful for the bill to list the infections, for the sake of clarity?

**Nigel Miller:** Even two or three words would be sufficient to pin down the notifiable diseases that we think the Executive is trying to target.

**Nora Radcliffe:** I wanted to ask about giving of animals as prizes. You say that in general you are happy with the relevant provisions, but that some exemptions should be granted. You are drawing lines in the sand. How widespread is the practice of giving animals as prizes? Would it be a real hardship for people to be prevented from doing that?

12:30

**Nigel Miller:** That is a social question. What is hardship? I guess that the question relates to giving away goldfish at fairs and so on. I understand why people are uncomfortable about that. We suggest that it is reasonably common in the agricultural community to offer high-value animals as prizes—perhaps a pedigree heifer that might be worth £1,000 or several thousand pounds—at charity events that seek to raise money for cancer relief or something. The people involved are farmers and the animal would be moved to another farm and managed pretty

expertly. Unfortunately it seems that such charity events will be affected by a reasonably sensible bill. One could target the problem according to the value of the animal—if the animal is of a certain value, one can be sure that it will be well cared for.

**Nora Radcliffe:** Does anyone want to add anything on the knotty problem of defining animal gatherings?

**Nigel Miller:** I am not up to giving a perfect definition of animal gatherings, but I sympathise with the option to present a bit of a shop window for the industry in that regard to show that it is highly regulated and does things right. Other gatherings are outwith that regulation; it would be useful to know where and when they happen.

The other side of the coin is that many dealers provide a valuable service, especially in the Highlands and Islands. It is essential that they get different animals from small farms or crofts together into lots so that they can be moved southwards, to feeders or on to a ferry. It is a necessary process.

We must make sure that regulation is not based on the biosecurity and regulatory levels that are required in a market because the gatherings are seasonal events that take place perhaps only once or twice a year in fairs and so on. There is no way we should underpin those events with the same requirements as a market that operates regularly. I plead that any regulation that flows from the bill be done sensitively to ensure that gatherings that are important to communities can still take place. That stretches to markets such as the one at Lairg, which are mostly on grass and turf, but which are vital not just to the economy, but to the social fabric of Sutherland. Markets such as it need to survive, so there must be flexibility in regulation.

**Nora Radcliffe:** We all accept that—nobody wants to do anything to constrain such markets and events, but we need to pick up on risks.

**Nigel Miller:** There are good reasons to ensure that people are aware of where and when such animal gatherings take place. I think that seasonal gatherings should be subject to notification rather than a licensing procedure.

**Jackie McCreery:** It was suggested by the previous panel that there could be a list of the types of animal gatherings that we are talking about, but I do not think that is necessary. The bill is quite wide—it defines animal gatherings as any occasion when “animals are brought together” and gives specific exemptions, such as to allow common grazings in crofting areas. I agree with previous comments that the important thing is to notify where and when such gatherings happen.

**The Convener:** I have a final question that follows on from Mark Ruskell’s question; it is for



Stuart Reid and Nigel Miller in particular. I would like to get a sense from you about the costs and benefits of vaccination versus slaughter, particularly with the resumption of trade after the previous outbreak of foot-and-mouth disease. Have we got the bill right in that regard?

**Professor Reid:** From the point of view of the generalities, the bill is right. I try to avoid using FMD as the sole example, but other outbreaks of FMD took place contemporaneously with the outbreak in the UK in 2001, for example in Uruguay, where vaccination was used to control an outbreak of similar size to that which occurred in the UK. The cost of implementing that vaccination scheme was in the region of \$14 million, which compares favourably with the cost of the outbreak in the UK.

Our comments should also be directed towards contingency planning. We live in a dynamic situation; contingency plans should not be regarded as static documents, so they need to be updated in the light of current scientific evidence. One of the problems with the 2001 outbreak was that less attention had perhaps been paid to recommendations from the previous large FMD outbreak in the UK. The science has moved on significantly and other options such as vaccination are available.

Although vaccines were available during the 2001 epidemic, it is not clear exactly how the science now sits. Invocation of vaccination would depend on the nature of the vaccine, the ability to distinguish between vaccinated animals and naturally infected animals, and whether we were vaccinating before culling the animals or vaccinating them to live. Until that can be established clearly for whatever disease we are talking about, it has to remain an open issue.

**The Convener:** It comes back to the contingency issue. We have to run through the options, do a bit of forward planning and constantly review our options in the light of available scientific evidence and the potential for different types of vaccine to manage different types of disease.

**Professor Reid:** Yes. Just for clarity, scientific evidence would include veterinary, clinical and animal management advice and evidence, as well as what some people might construe as basic scientific evidence.

**The Convener:** Are we putting in sufficient resources for the state veterinary service to carry out contingency planning or are there areas that could be strengthened?

**Professor Reid:** There are issues that remain unaddressed. Whether we could ever have a state veterinary service that is strong enough to cope with all disease situations as they arise is a moot

point, but contingency planning must be a significant event in any cycle. That would include consideration of the human resources that are available at a given time for a given disease situation.

To bring the debate a little more up to date, we are aware of an incipient threat from avian influenza. In dealing with that threat, I would like to think that we would address the scientific as well as the human-resource issues, were the disease ever to reach our shores.

**Nigel Miller:** A good example of the figures was given, which backs up one's intuitive view that a vaccinate-to-live policy would be less costly to operate than a slaughter policy. We have made it fairly clear that we do not favour a vaccinate-to-slaughter policy. Logistically it may be important, and it might be used in some circumstances, but it holds little interest for us, and our members would certainly not support it. It does not really save money in the end, either.

We are interested in considering a vaccinate-to-live policy, which has been touched on. We are not in a disease situation so the contingency planning process gives us an excellent opportunity to get this right—this is the only time we can do that. Part of it is to do with the science, which has been touched on. We need marker vaccines so that we can distinguish between a vaccinated animal and a naturally infected animal. That technology is available; however, FMD is a small virus and, having spoken to scientists, I do not think that the full spectrum of vaccines is available. There is probably a need for a scientific group that knows about the issue—not Toytown politicians like me—to monitor what Europe is doing to develop such vaccines, and for a bank that European Community members can draw on. That bank would change constantly as the threat changes. On-going investment is needed, and my concern is that no such process is happening. Although we now have a political framework in which to use the vaccines, we have probably not got enough tools to do the job.

The marketing issue was touched on. In a non-disease situation, there is an opportunity to ensure that we make progress on marketing. We must ensure that vaccinated animals are not labelled and that the public are aware that the product is just as safe as any other product—in fact, they may be eating it now if they buy South American beef.

Those details are not in the bill, but they should be considered. If the bill is to influence contingency planning, such areas should be pushed. If we do not address them now, we will be in a difficult position when the next outbreak comes.

**The Convener:** I invite the witnesses to stand down and thank them for giving evidence and answering our questions.

We will continue with evidence at stage 1 of the bill at our next meeting on 7 December. At that meeting, we will welcome witnesses from veterinary and animal welfare organisations and from among people who are involved in the keeping and care of animals. We will follow up some of the issues that we have been tracking for the past two weeks.

12:41

*Meeting suspended.*

12:42

*On resuming—*

## Subordinate Legislation

### Plant Health Fees (Scotland) Amendment Regulations 2005 (SSI 2005/555)

**The Convener:** For agenda item 3, we have three instruments to consider under the negative resolution procedure. The Subordinate Legislation Committee has considered all the instruments and has made no comment on any of them. I invite members to comment on or to ask questions on the instruments.

**Elaine Smith:** I have a few questions on the Plant Health Fees (Scotland) Amendment Regulations 2005, but I am not sure what I should do because there are no Executive officials here to whom to put my questions.

**The Convener:** If they are relatively minor comments or questions of clarification, we can put them to the minister in writing and ask for a response. If they are substantive policy questions that would leave you unhappy about agreeing to the instrument, we can put the matter on our next agenda. It is possible to log questions today and to get a response next week, if they are significant.

**Elaine Smith:** I will outline my questions and you can advise me, convener.

Paragraph 7 of the Executive note on the regulations states:

“A fundamental principle of Scottish Executive accounting procedure and practice is that fees and charges should be set ... on the basis of full cost recovery.”

It seems that the licences have been processed below full cost recovery until now, or perhaps until last year—I am not sure about that—and that therefore, the Executive is not meeting that accounting principle.

Under paragraph 2.5 of the regulatory impact assessment, we are told that

“for the 2004-05 financial year there was a disparity in relation to the cost of issuing licences, which were processed at below full cost recovery.”

Did that happen last year just because of the licences that were issued for genetically modified crops, and was it a one-off? What will the costs be next year? If the Executive is to implement the option—which seems to have been chosen from three—to increase the fees by a certain amount, will it have to keep coming back to Parliament to do that? Is there another mechanism to deal with that?

I am concerned that it is mainly publicly funded bodies that are being charged for the licences. Is the Executive giving public money with one hand and taking it away with the other? Does that make accounting sense?

Furthermore, paragraph 10 of the Executive note, which deals with impact, says:

"The option should meet full cost recovery for plant health import licensing and should ensure that SEERAD continues to have co-operation with applicants regarding notification of imports."

I have some concerns about illegal importing and so on. If the costs are put up by too much, people might not be inclined to notify SEERAD about imports.

12:45

**The Convener:** I will be guided by members, but I think that we could seek comments and responses from the minister on those questions in time for next week's meeting. Given that no one else around the table can deal with the questions, that might be the best way to proceed. Do members agree?

**Members indicated agreement.**

**The Convener:** We will leave the instrument on the table and come back to it next week, when we will have to make a decision on it.

### **Less Favoured Area Support Scheme (Scotland) Regulations 2005 (SSI 2005/569)**

**Rob Gibson:** I have a question about the Less Favoured Area Support Scheme (Scotland) Regulations 2005. Can I ask it now?

**The Convener:** Yes.

**Rob Gibson:** Having considered the correspondence from the minister regarding the way in which the scheme works, I have two questions. I accept that people with key interests will continue to be represented through the stakeholder group, but what weight is to be placed on the views of the different people who are represented? Will the views of big farmers be given greater weight than those of crofters?

I cannot tell whether what is being done at the present time meets the needs of less favoured areas. While we are preparing for the next stage of LFAS, it would be a good for us to find out whether that is in any way a part of the minister's thinking.

When the payments are made, will they be made public in the name of each person who receives a payment? The instrument suggests that information about the payments will be presented in terms of parishes. Previously, we have been able to see a map that shows how many payments have been made in each parish, but I want to know whether we will see the actual amounts that

are paid to individuals whose applications are successful.

**Mr Alasdair Morrison (Western Isles) (Lab):** I appreciate where Rob Gibson is coming from in terms of interest groups and stakeholders. As a member of the Scottish Crofting Foundation, I obviously want that organisation's voice to be heard clearly.

One of the problems that the Executive faces is that 85 per cent of agricultural land in Scotland is classified as being less favoured. There are at least three members here from the Highlands and, if there is to be a reclassification, I do not think that we will end up with 85 per cent of Scotland's land being classified as less favoured. However, that is an argument that we cannot have here.

On publication of the names of recipients of the LFAS payments, the Executive should follow the good practice that has been established at Westminster by Margaret Beckett and the Department for Environment, Food and Rural Affairs and publish the sums and the names of those who have received them.

**The Convener:** Are members keen to have the decision on the instrument delayed until next week, or do you merely want the responses to the questions to be with us for next week?

**Mr Morrison:** I would like to see the responses next week.

**The Convener:** We have time to delay our decision until next week. Do members agree to that?

**Members indicated agreement.**

### **Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005 (SSI 2005/552)**

**The Convener:** No one has asked about the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005 (SSI 2005/552). Can I clarify that we are content with the order and that we have no recommendation to make to Parliament?

**Members indicated agreement.**

**The Convener:** Thanks very much.

*Meeting closed at 12:49.*



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