



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 19 April 2017

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
12th Meeting 2017, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)
*John Finnie (Highlands and Islands) (Green)
*Rhoda Grant (Highlands and Islands) (Lab)
*Jamie Greene (West Scotland) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*John Mason (Glasgow Shettleston) (SNP)
*Mike Rumbles (North East Scotland) (LD)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Fergus Ewing (Cabinet Secretary for Rural Economy and Connectivity)
Allan Gibb (Scottish Government)
Cian Gullen (Scottish Youth Parliament)
Joanna Murphy (National Parent Forum of Scotland)
Eileen Prior (Scottish Parent Teacher Council)
Michael Russell (Minister for UK Negotiations on Scotland's Place in Europe)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament
Rural Economy and Connectivity
Committee

Wednesday 19 April 2017

[The Convener opened the meeting at 10:02]

Interests

The Convener (Edward Mountain): Good morning and welcome to the 12th meeting in 2017 of the Rural Economy and Connectivity Committee. I ask everyone to switch their mobile phones to silent. No apologies have been received.

Our first agenda item is a declaration of interests. I welcome our newest member, Fulton MacGregor, to the committee and, in accordance with section 3 of the code of conduct, ask him to declare any interests relevant to the committee's remit.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Thank you, convener. I have no interests to declare.

Decision on Taking Business in
Private

10:03

The Convener: Our next item is a decision on whether to take item 6 in private. Do members agree to take that item, on the interim report on the budget review process, in private?

Members *indicated agreement.*

Implications of European Union Referendum (Agriculture, Forestry and Fisheries)

10:03

The Convener: We will now take evidence on the implications for Scotland of the outcome of the European Union referendum in relation to agriculture, forestry and fisheries. Before I welcome the panel, would any committee member like to declare any interests relating to agriculture or forestry?

Peter Chapman (North East Scotland) (Con): I declare an interest in an agricultural business in the north-east. I refer members to my entry in the register of members' interests.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a very small registered agricultural holding, from which I derive no income.

The Convener: I declare that I am a partner in a farming business, the full details of which can be found in my entry in the register of interests.

I welcome Fergus Ewing, the Cabinet Secretary for Rural Economy and Connectivity, and Michael Russell, the Minister for UK Negotiations on Scotland's Place in Europe. The ministers are joined by David Barnes, deputy director in the agriculture and environment EU hub, Allan Gibb, head of the sea fisheries division, and Jonathan Taylor, head of secretariat and communications at the Forestry Commission.

Mike Russell, I believe that you are going to start with an opening statement. I ask you to keep your statement within two minutes, or as close as possible.

The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell): That is the second warning that I have had from you, convener. I shall pay attention to it.

Thank you for the invitation. We are both grateful to have the opportunity to discuss the United Kingdom's departure from the EU in relation specifically to agriculture, forestry and fisheries. We have followed the committee's work on the impacts of Brexit but, of course, events are moving very fast—you do not require me to tell you that on a day such as today. As a result, I think that most of the information will come to you in questioning, but, if I may, I will make two points.

First, this is a crucial time. Scotland did not vote to leave the EU but, recognising that the rest of the UK voted differently, the Scottish Government put forward compromise proposals in the document "Scotland's Place in Europe", with which

I am sure members are familiar. Those proposals were genuine compromises, which were designed to square the circle by addressing Scotland's interests, in particular our interest in remaining in the single market, while enabling the UK Government to respect the referendum result elsewhere in the UK.

Last month, unfortunately, the UK Government rejected that compromise position, whilst the Scottish Parliament voted in favour of the First Minister's proposal that the people of Scotland be given a choice about their future. That means that the Scottish Government is working to deliver the right to choose that the Parliament approved, but at the same time must continue—as the First Minister has said—to stand up for Scotland's interests during the process of the Brexit negotiations. The interests that this committee represents are, of course, very significant in terms of the devolved settlement, European competence and their impact on Scotland.

I am happy to talk in more detail about all those issues during questions.

The Convener: Thank you.

Fergus, would you like to make an opening statement?

The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing): Yes, thank you, convener. Good morning, everybody.

The Scottish Government has made clear what we see as the key issues in the event of Brexit, and I welcome the opportunity to run over in a bit of detail what those are. First, common agricultural policy funding is a hugely significant issue. Between 2014 and 2020, Scotland will receive €4.6 billion, or about £400 million per annum, from the EU across the two pillars of the CAP. That is hugely important to rural Scotland. Although the UK has given some limited assurance, which is welcome as far as it goes, it does not really apply post-Brexit at all. There are questions about funding but no answers, and that is despite active engagement by me and Ms Cunningham on these matters.

On trade, we have made it clear that single-market access is absolutely essential for agriculture, food and aquaculture. Seafood is far more important for Scotland than it is for the rest of the UK, even though farmed salmon is the UK's second—and, on occasion, top—food export, yet the UK Government will not share with us its list of priority countries for trade agreements. Our salmon industry has made clear the importance of the single market—along with the free movement of goods and of people—for the future of its business and has highlighted non-tariff barriers as an area of significant concern. About 8,000 people who are employed in the food and drink sector are

non-UK EU nationals and our soft fruit and vegetable sectors employ up to 15,000 non-UK seasonal workers each year for harvest in summer and autumn. No one knows with certainty what the future position of those absolutely essential workers will be—again, there are questions but no answers.

Finally, on the repatriation of powers, fishing and agriculture are devolved and our position is that all those powers should come to this Parliament. That has been pursued by me, Michael Russell and Roseanna Cunningham, and questions have been put but, again, there have been no answers. I am persevering with the process of meetings and will be in London tomorrow unless the meeting is unilaterally cancelled by the UK Government, as it has been in the past. On behalf of the Scottish Government, I will seek to ensure that we have the answers as well as the questions, and we will take it from there.

The Convener: Thank you. We would like to explore 12 themes during today's meeting, and Stewart Stevenson will introduce the first.

Stewart Stevenson: I want to talk about relationships with other Administrations in these islands and in the United Kingdom on the common cause of getting the best outcome, in particular where agriculture is concerned. The Cabinet Secretary for Rural Economy and Connectivity referred to knowing the level of financial support up to 2020, but not post-Brexit. Given the history in respect of such matters as convergence payments, which have not been distributed on the basis of agricultural need, are there any specific areas of common cause to ensure that agriculture—which is disproportionately important in Scotland, compared with in the rest of the UK—will continue to get the right proportion of the support? Is that something that is being worked on with Wales and Northern Ireland—and the dependencies, for that matter—or with other interests in England that are affected by poor decisions that could be made in that area? How is that going?

That is a long question—I know that the convener is hoping for comparatively short answers, and probably for shorter questions.

Fergus Ewing: We have sought to engage constructively with the UK, and so have our counterparts in Wales and Northern Ireland. There is a group that has met twice, on 8 November last year and on 23 February this year. The Secretary of State for Environment, Food and Rural Affairs cancelled a meeting scheduled for 26 January 2017, against the wishes of the devolved ministers. We have pursued those meetings positively and constructively, but there has simply

been no information whatsoever on anything. That is unfortunate, but it is the reality.

Stewart Stevenson's second question was about convergence, and perhaps I should give a brief explanation. The European Union provided a fund to assist with convergence—a moving together of the real rates of return for farmers across the EU. The UK qualified for that money only because of Scotland. If it had not been for Scotland, the UK would have received zero. Instead, because the rate per hectare in Scotland is way below the EU average, the UK was entitled to convergence funding. That funding was in the region of £190 million and my predecessor argued that, because the money came to the UK because of Scotland, and only because of Scotland, it should be received for the benefit of farmers in Scotland, who receive a far lower rate of return per hectare than our friends down south or in other parts of the UK do. Sadly, that is not what happened.

This Parliament has debated the matter before, in the previous session of Parliament, when my predecessor sought and obtained an agreement from the UK Government to carry out a review. Although Owen Paterson, the previous Secretary of State for Environment, Food and Rural Affairs, agreed to a review, it has not been carried out. It is a pledge that—without being political about it—simply has not yet been fulfilled. When I became Cabinet Secretary for Rural Economy and Connectivity, I pursued the matter by seeking a discussion with my counterpart, Andrea Leadsom. I had a meeting with her in this very room last autumn, when she undertook to look at the issue and revert to us thereon. We are waiting for a substantive response.

The matter is hugely important, because it involves £190 million of money that should have come to Scotland. It is not an EU issue; it is between Scotland and the UK. I hope that all members of this Parliament will agree that Scotland's farmers should receive the benefit of that funding, which was specifically designed to tackle the lowest average rate of return per hectare in the EU—that is what the money was for and what it should be used for. It has not been used for that purpose and, believe me, the matter will be pursued over the coming weeks.

Stewart Stevenson: My other question is quite brief and will probably generate quite a brief answer. Given that, as the convergence issue illustrates, Scotland gets far greater than its population share of support for agriculture, is there an opportunity for common cause with the other jurisdictions, to ensure that our share of support for agriculture is broadly preserved, or are there indicators that that clear message is neither being heard nor being responded to?

10:15

Fergus Ewing: I am an optimist by nature and therefore I am working positively to procure what Andrea Leadsom promised—namely, a sensible, reasoned discussion and then, perhaps, a solution. That is what I want; I am interested in practical results. This is a good opportunity to report to Parliament on what I have been doing, and I hope that all members will support our efforts in that regard.

We also work closely with our colleagues in Wales and Northern Ireland. Scotland's per hectare rate was only 45 per cent of the EU average. The rates for England, Wales and Northern Ireland were all above the 90 per cent threshold set by the Commission. The EU said that all countries receiving less than 90 per cent of the EU average should close the gap by one third by 2019. That is the purpose of the convergence fund. I have the details here and I undertake to write to the committee with the full facts. I will not labour the argument by going over them now, but on the face of it, the case is crystal clear. It concerns money coming to Scotland in respect of which the UK Government promised something but has not delivered yet. People should deliver on their promises in government.

The Convener: We will take you up on your offer, but we will leave the matter there. Mike Russell signalled that he wanted to come in on that question, so I will take him now. On a matter of etiquette, if you both look at me, I will indicate who should answer.

Michael Russell: I wanted to address the point that Stewart Stevenson raised about working together on agricultural issues. Although the JMC(EN) has not had the opportunity to discuss agricultural issues in detail, largely because there has not been an opportunity to resolve how the agricultural frameworks might be devolved—that has begun to emerge only now through the UK Government's white paper—we have identified with Wales and with part of the previous Northern Ireland Executive common interest in agricultural issues being a major matter that will require to be discussed during the negotiations in JMC(EN). Sorry, I should have said that that is the JMC (EU negotiations). The joint ministerial committee has been deeply unsatisfactory, but members from the devolved Administrations have made common cause on a range of issues in agriculture, fisheries and forestry, and a number of other areas have been identified as key for the next phase—the post-article 50 phase.

The Convener: We will move on to the next theme.

Rhoda Grant (Highlands and Islands) (Lab): Looking to what we might have in the future, I

wonder what work has been carried out to assess the impact in relation to the common agricultural policy, whether positive or negative?

Fergus Ewing: We use a number of different methods to assess the impact of CAP, which provides a number of forms of payment. Particularly important for Scotland is the support that it provides for sheep and beef farming through the less favoured area support scheme and various other schemes.

It is important to evaluate the success of our policies and we regularly use independent experts to do that. We have also established the Russel Griggs group to look at how we can support profitable farming while meeting our environmental commitments. We are all aware that farmers' primary role is to produce food for the nation, and food security is moving up the agenda. It is also fair to say that farmers and crofters are the custodians of the countryside. If we did not have hill farming, what would the land look like? I am sure that Rhoda Grant and other members of the committee will be well aware of the huge role that farmers play as custodians of the environment. Perhaps we do not pay sufficient heed to that and need to evaluate it a bit more.

There are a number of other methods of assessing impact, such as auditing of independent assessment. I hope that the answer that I have given is sufficient, so I will leave it there.

Rhoda Grant: At this stage, does any of that work indicate what you would want to carry forward into a Scottish support programme or whether there are parts of CAP that you would not want to include?

Fergus Ewing: We believe very strongly that we need to continue to provide support for the high-quality farming for food that operates in Scotland. We are a high-quality food producer and we will remain so—we will not compete on lowest cost and lowest quality, nor should we. Therefore, whatever the future may hold, it is important that we continue to provide support for high-quality farming in Scotland, which includes beef, sheep, poultry, pig, soft fruit and potatoes, across the realm. We need to recognise that that needs to be supported to a greater or lesser extent. The particular areas that need support are sheep and beef farming—hill farming.

On a point of information, members will know that we have announced a decision to proceed with the 80 per cent LFASS parachute option for next year. We have also raised with the UK Government the fact that we will seek support for 2019 in order to maintain LFASS, because that will be post-Brexit, if it goes ahead. LFASS is essential for Scotland; we cannot do without it. We have been asking Ms Leadsom in particular for her

support in recognising that we must maintain hill farming in Scotland, and without LFASS we cannot do that. I have asked for clarification that the UK Government accepts that, in principle. Tomorrow, I am attending a meeting at which Ms Leadsom may appear; if so, I hope that she will answer in the affirmative.

The Convener: Peter Chapman wants to follow up. I will bring him in now and then come back to Rhoda Grant.

Peter Chapman: Cabinet secretary, you have made much of the difficulty in the negotiations between this Parliament and Westminster, but I would like to hear what you have done in the Parliament in Edinburgh to address the issues. We have had 10 months since the decision to come out of Europe, and I would like to think that much work has been done here to find a way forward. We all recognise that there are difficulties ahead, but there are also opportunities. One of the main opportunities is to design a system that is more suited to Scottish agriculture than what we have had to live with in the past with the CAP. I have heard nothing about what has been done here to try to address the issues going forward.

Fergus Ewing: That is not correct. Numerous things have been done by me and my predecessor. For example, in June last year, or thereabouts, we produced the vision document that set out the future of Scottish farming. We have also appointed four champions—Henry Graham, Archie Gibson, Marion MacCormick and John Kinnaird—who are working very hard in the important areas of education, food and drink, public value and sustainability. We have appointed the Russel Griggs group to look forward and identify ways in which we can have sustainable and profitable farming while respecting the environment.

Let me go back to the initial premise of the question. Mr Chapman said that I have made much of the negotiations with Westminster, but there have not actually been any negotiations. Negotiation involves a discussion—it starts with an offer followed by a counter-proposal, a dialogue and a commercial agreement. I spent a lot of my life in business doing that. There has been no negotiation, because the UK Government has not been willing to enter into any negotiations on convergence. I do not actually—

The Convener: Mr Ewing—

Fergus Ewing: With respect, convener, I will just finish on this point—

The Convener: No. I am sorry, but my understanding of the question—certainly of Rhoda Grant's question—is that you were asked about what areas of the current system you would like to keep and take forward in the future for agriculture.

That is what farmers and this committee are looking for you to answer. Rather than making a critique of Westminster, can you identify areas that we should be looking at as the future for farming post-2020, as far as subsidies are concerned?

Fergus Ewing: Mr Chapman asked what work we are doing, and I have just described some of that work. There is the vision document, which I will share with you if you have not seen it, although it is in the public domain.

We have also appointed four champions who are looking specifically at key areas. Those four champions are highly respected leaders and experts in rural life. It is very important to use the experience and the willing assistance and aid of experts outwith the Parliament. That is why we chose Henry Graham, the national chair of Lantra Scotland; Archie Gibson, the chair of the Scottish Food and Drink Federation; Marion MacCormick, the buying director of Aldi; and John Kinnaird, the former president of the NFU Scotland and chair of the Royal Scottish Agricultural Benevolent Institution. What better way to shape future ideas, thinking and policy than to engage and involve the farming community and leading rural representatives? That is what we are doing.

We have also held various events. I have held various summits on rural life: two on forestry, one on shellfish, one on procurement, one on farming and food, and one on food and drink. We have heard from discussion groups—as Roseanna Cunningham has, too—involving non-governmental organisations and representatives of the farming and rural communities. Therefore, we have been involved in a huge amount of work.

On a matter that I expect Mr Rumbles to raise, we have agreed with Parliament that we should form a group of experts, and we are close to coming to a decision on that over the next few weeks.

I make a final point. If you are running a business, as both you and I have done, convener, you need a budget. If you do not have a budget, you cannot run a business and you cannot make a plan. As I intimated in my opening remarks, there are questions, but no answers from the UK Government, about funding, which is reserved to the UK Government. It is not currently possible for us to come up with a detailed plan about what might replace the CAP and the pillar 1 and pillar 2 funding. I hope that that is a fairly obvious, sensible point that everyone will accept.

The Convener: Thank you for that. I appreciate your pointing out that I know the importance of a budget. I also appreciate the importance of cash flow being on time.

I think that Mike Rumbles wishes to develop the theme of the future of agricultural policy.

Mike Rumbles (North East Scotland) (LD):

The Cabinet Secretary for Rural Economy and Connectivity is absolutely correct. Back in January, in a debate in the chamber, the cabinet secretary accepted an amendment that called for the establishment of a review group to develop options for agricultural support beyond 2020. The post-2020 period is what the committee is particularly interested in. What is the Scottish Government's policy agenda for that? Does it have a free hand to develop a bespoke policy for Scotland?

In a written answer to me on 29 March, the cabinet secretary said:

"The Scottish Government is currently working up proposals for an external group to provide advice on future agricultural support".—[*Written Answers*, 29 March 2017; S5W-08043.]

That group is to fit in with the expertise from Archie Gibson, Henry Graham, John Kinnaird and Marion MacCormick that the cabinet secretary just mentioned.

I entirely understand the point that the cabinet secretary is making about which comes first—the budget or the policy development that we want for Scotland. This is what I am trying to say, although I do not know how the cabinet secretary wants to deal with this point. Let us park the money to one side for the moment, because, as he has said, we just do not know what is going to happen with that, and focus on what his priorities are for developing a bespoke agricultural policy for Scotland. He spoke about a decision being made in, hopefully, a few weeks' time. Is he working to get the group of experts together? How is that coming along? I am asking about the policy agenda for the future, rather than the money.

Fergus Ewing: That is a very fair question, and Mr Rumbles is right in his formulation. There are three broad groups that I feel could play an important part. I have mentioned the champions, and I have mentioned the Russel Griggs group, which will play an extremely important role. The third grouping is a group of experts on farming and the rural economy, which we require to provide us with advice.

It is actually easy to enunciate a set of principles around which I hope we can all agree. In particular, Scottish agriculture is more heavily reliant—by 100 per cent, I think—on the CAP than the rest of the UK. In other words, the CAP is twice as important here, to put it simply, than it is for the UK, pro rata. That funding is hugely important. About 16 per cent of CAP funding comes to Scotland, but a Barnettised formula would give us 8 or 9 per cent. There are high stakes here. The funding is something that we cannot overlook. We could park the car, but we need the car to get to the office.

10:30

To address the rest of the question, we need support schemes for hill farming and the livestock sector, specifically beef and sheep production. I am proud of our high-quality beef and lamb, and our farmers do a terrific job in producing high-quality products. Quality Meat Scotland does a great job in marketing, but there needs to be financial support for that to continue, otherwise imports with no tariff barriers from New Zealand or Argentina will simply swamp the market and potentially render our products uncompetitive. We therefore cannot ignore the importance of access to markets, including the single market, and the potential of tariffs, which could have very serious consequences for all our food products.

We also recognise that CAP funding is vital for the Scottish forestry sector, especially the grants for new woodland creation. The funding is vital for woodland management and research, which is an area on which we work closely with the UK. The CAP is also the primary vehicle for agri-environment schemes, and a replacement for that would be essential in the event of Brexit.

We are working hard on those issues and have more work to do. Within the CAP, we have been seeking a better deal for new entrants, given that the average age of farmers is just south of 60, which is not a very good statistic. There are therefore lots of policy objectives and imperatives that I hope we can all agree should be part of a new policy. Formulating precise policy requires more detail on money, markets and labour but, sadly, we do not have that detail at the moment.

My final point is an important one. I entirely agree with Commissioner Hogan that the current CAP has a payment scheme that, sadly, often results in very serious consequences for farmers and crofters due to relatively minor and inadvertent clerical or other errors in the completion of the forms. Many of us who have been around the Parliament for a long time have dealt with tragic cases, often involving elderly farmers who have made a simple mistake on a form. A clerical error can result in loss of income—sometimes a whole year's income. I am sure that the convener knows that Commissioner Hogan is working on reforming that process, which is good. However, if Brexit goes ahead and a new policy is required, I certainly recommend that we have a regime that treats people fairly and does not punish them for clerical mistakes.

The Convener: I will bring in Mike Russell, then I will come back to Mike Rumbles, Peter Chapman and Rhoda Grant.

Michael Russell: I want to make a point about the context of all this. Fergus Ewing is absolutely right to say that the development of the policy will

be undertaken by him and the people who work with him. However, the negotiation is far distant from that, and it is important that people realise that. There are four possible outcomes. One is the continuation of devolved policy making, as exists now, building to a fully independent policy. Another is a transition process that could be of any length of time. Another possible outcome is the development of a UK framework, as anticipated in the white paper and in the Prime Minister's Mansion house speech. However, we do not know whether the preference would be for a framework in which the decisions would be made by the United Kingdom or for one where there would be an element of co-decision, as with Europe at the moment. In addition—this is like playing three-dimensional chess inside a Rubik's cube—we then have the issues of freedom of movement and whether there will be a continuing flow of labour, and whether we would leave the EU for World Trade Organization terms, which would be very harmful to agriculture.

It is possible to have a blue-sky vision of a policy, but the ways in which it is likely to be constrained are many and varied. The UK Government has not yet brought to the table a single proposal that outlines that. Indeed, from the discussions that we have had, it seems unlikely that that will be part of the discussion in this calendar year, given the nature of the negotiations that were about to start but which will now be delayed by at least another month to six weeks.

Mike Rumbles: I found your response particularly helpful, Mr Russell, but what I am trying to get at is this: we are assuming—perhaps you will correct me if I am wrong—that the Government's preferred option would be to maintain the UK farm support that we get at 17 per cent, and if that is the preferred option we should have a plan for the best bespoke system for Scotland. I assume that that is what the Scottish Government wants, but I have not heard that it is. It would be helpful if the committee heard the Government say that that is its preferred scheme.

Michael Russell: May I make a point about that? I do not think that I or the cabinet secretary have any great differences with what you are saying, but the constraints around that preferred scheme are great. Fergus Ewing outlined the principles, which are important, and talked about some of the people who are playing a role in that regard. However, the moment that we introduce the issue of freedom of movement, for example, we introduce an enormous issue that will greatly influence some of the other issues.

Money is also crucial. Were the 17 per cent share in your gift, Mr Rumbles—you accept that it is not—it would be a good start, but of course there is no such commitment, and the history of

negotiation in relation to money for devolved powers has always been one of the Treasury trying to deliver less than the policy costs. That has been the experience; it is the experience with social security at the moment—

Mike Rumbles: I am not trying to be critical, but would it not be better to take a proactive approach, rather than a reactive one?

Michael Russell: I think that the cabinet secretary has indicated that proactive approach. I am simply being boringly pedantic in saying that there is a huge range of qualifications that must be borne in mind.

The Convener: Before I bring in Fergus Ewing, I want to bring in Peter Chapman, because I think that his question is linked to Mike Rumbles's question. The cabinet secretary might answer both questions.

Peter Chapman: I understand the constraints and that negotiations have to take place. However, that does not prevent the two ministers who are sitting in front of us today from conveying to us what they would like Scottish agriculture to look like in future. I am hearing no vision for the future of Scottish agriculture—

Michael Russell: Yes, you are. Mr Ewing—

Peter Chapman: No, I am not hearing a vision. You have told me what is going on behind the scenes, but surely you can illustrate some of the pluses that could come from the Brexit negotiations, rather than telling us all the negative stuff. That is all that we have heard. It has all been negative, negative, negative. There are opportunities here. Let us hear what they are.

Michael Russell: May I make a point about the positives?

The Convener: I will let you make your point briefly, but I think that Fergus Ewing should come in afterwards.

Michael Russell: I would be happy to hear about the positives from Mr Chapman or anyone else. I am open to that, but I have to say that my inbox is not full of messages from people about positives, because every time someone comes forward with a positive it is possible to show that, far from being a positive, it turns out to be a poisoned chalice. If Mr Chapman has positives, I am happy to hear them.

The Convener: Does Fergus Ewing want to respond to both questions?

Fergus Ewing: I will certainly try to do so. First, on Mr Chapman's point—I do not think that it was a question—I think that I have set out that I passionately believe that Scottish farming produces high-quality food and that our farmers and crofters have shaped and sculpted the

landscape for generations. That allows us, as a country, to be attractive to visitors and to have some of the most beautiful scenery in the world. It has not happened by accident; it is because of the work that farmers and crofters do.

That is, I think, a vision that I have—to use our natural assets to their best advantage, protecting the crown jewels and having a thriving and vibrant rural economy. That is a vision—it is to me, at any rate; it is for others to judge whether it is a vision that Scotland should follow.

On Mr Rumbles's point, I take the view that if the UK Government were to confirm that the funding that has come to Scotland, which I outlined in my opening remarks when I talked about the €4.6 billion over the period from 2014 to 2020, were to be matched and replicated for a further period of, say, five years, that would allow us to do some serious planning and discussion. In other words, my challenge and request to the UK Government, and my ask of it tomorrow, will be this: "Please confirm that you will at least match the funding from Europe."

After all, that is what Andrea Leadsom and George Eustice said, prior to the Brexit vote. I have respect for the work that Mr Eustice has done in some areas, and I get on with him perfectly well on a personal basis—as I do with Ms Leadsom. He said that the funding would be at least matched

"Without a shadow of a doubt."

All that I am asking is that after Brexit the UK Government does what it promised to do before the Brexit vote.

The Convener: I am sure that the UK Government will hear your message loud and clear tomorrow. It is probably listening to the committee. Rhoda Grant will come in on that.

Rhoda Grant: There are two issues, both of which are to do with negotiations with the UK Government. However, we are keen to see what the Scottish Government is doing, and you have outlined some of that.

Expert and specialist groups are being set up. We all know that farming and crofting involve very small businesses that are run by people who do not engage with conferences and the like. How is the Scottish Government reaching out to them to learn what they require from a scheme?

Fergus Ewing: Across the portfolios, we reach out in a number of ways to small business. The small business bonus provides the most generous rates relief in the UK; more than 100,000 businesses receive it and pay low or no business rates. Having run a small business, I know that such financial assistance is probably the most

concrete and advantageous measure to assist small businesses in the UK.

Specifically on the rural economy, we have not touched on the digital process. Although under head C of schedule 5 to the Scotland Act 1998 digital is, plainly, a reserved function, we could not hang around waiting for the UK Government to invest, so we came up with our two contracts that are worth £400 million, in order to invest in broadband to help small businesses—

The Convener: I do not mean to be difficult, but there are a lot of themes that we want to develop, and broadband was not specifically referenced. People realise that the Government has made a commitment to broadband, and I am sure that they are appreciative when it is delivered. I ask you to stick to the specific question. I know that your colleague Mike Russell wants to come in on the back of what you are saying. Please tighten your answer, then I will come to Mike.

Fergus Ewing: The question was quite an omnibus question: what can we do to help small business in rural Scotland? I can tell you that I get emails about this almost every day, so—

Rhoda Grant: I apologise; obviously I have not been clear. I am saying that farmers and crofters are small businesses, and they do not engage in conferences, expert working groups and the like. How are you reaching out to crofters and farmers, especially in the small hill farms, to involve them in formulating the policy for intervention?

Fergus Ewing: We are doing that in a variety of ways. We are working with MPs and MSPs who are reaching out to the farmers and crofters and then engaging with me—I met Finlay Carson yesterday about a fishing interest, for example. We work, to some extent, as a team.

Let me give you specific examples of how I have reached out to small croft and farm businesses. In recent days, I attended, in Applecross, the Scottish Crofting Federation's annual conference—as did Mike Russell on different days—and a very good event it was, too. There was a question and answer session that lasted for about an hour and was very positive. Three weeks ago, I attended a hill-farming summit in Lanark with my colleague Aileen Campbell. Almost all the attendees were individual hill farmers, but there were also individuals from the fertiliser supply and fencing contracting businesses. In a month or so, after the lambing season is over, I will hold a second hill-farming summit in Dingwall, at which I will engage with hill farmers.

I should credit the role of the rural payments and inspections division offices throughout the country, of which there are 17 in total—David Barnes will correct me if I am wrong—and which day and daily are communicating and engaging with crofters.

Much of that communication and engagement is fed back to me, because I am in regular contact with the local offices: indeed, I have visited more than half of them.

Rhoda Grant has raised an important point; if there are, as a result of this meeting, other ways in which she or other members think the Government should reach out to work with small business units in the farming and crofting world, I will gladly consider any such recommendation.

10:45

The Convener: I remind everyone that we have dealt with only three themes so far, and we are 45 minutes into the session. We have another eight themes to go. Brief answers and brief questions would be appreciated, so that we can get through all the business. I ask Mike Russell to come in briefly.

Michael Russell: One of my roles is to work with colleagues to meet a range of people across Scotland. I take that very seriously. I have accompanied Fergus Ewing to a number of meetings and have held events and meetings, myself.

I also take meeting people in my constituency seriously. I tend to take the Miss Marple approach: if we know what is happening in our own patch, we can understand matters more widely. As a result, I have held regular meetings across Argyll and Bute—Fergus Ewing was with me at a meeting on Islay—in order to understand what is happening and what people might want from a new system of agricultural support. It turns out that it looks rather like the existing system of agricultural support—but there we are.

The Convener: I will move on to the next theme, with John Finnie.

John Finnie (Highlands and Islands) (Green): Good morning. The cabinet secretary touched briefly on regulation and standards. I will roll into one a number of questions on that theme. Our crofting and farming are subject to EU legislation and regulation and to some international regulation. Views differ on the significance of that legislation; it will not surprise anyone that I align myself with Pete Ritchie of Scottish Environment LINK, who says:

“Better regulation drives efficiency, so we do not believe that regulation equals red tape—quite the contrary.”

The cabinet secretary touched earlier on a more humane regime of regulation. I ask him to outline how that would dovetail with maintaining the high standards that—I presume—we all want in the agriculture and food sector. How will that regime be used to monitor and enforce standards in order

to demonstrate to the market the high quality of Scottish products?

Fergus Ewing: John Finnie sets out very well the case that high standards remain vital if we are to compete in home and international markets. I have found from engagement with leading figures in the farming community how important those high standards are as a means for us to continue to access markets. For example, the provenance of our seed potatoes is dependent on compliance with regulations that are of a very high standard in order to counteract the risk of disease. Only by meeting those high EU standards can we access markets furth of the EU for our seed potatoes. In other words, compliance with standards is an entry card to markets, but it is also a barrier: if we do not comply, we are barred from markets. Appropriate regulation is, therefore, not a foe but a friend and enabler.

Were we to go down the route of some ultra Brexiteers and get rid of all the red tape, we would not have many friends in the farming world, which relies on high standards. In terms of the quality of our beef and sheep and of our regulation of abattoirs, we have very high standards. That is rightly so: were we to depart from those standards in a free-market way, the commercial results would be devastatingly bad.

High standards need regulatory frameworks. Animal health and welfare, as John Finnie well knows, are also protection against disease. We do not have to think back too far to remember the ravages that were caused to communities and individuals by, as well as the economic cost of, foot-and-mouth disease. The best outcome would be that we continue to remain a member of the EU. Were that to be the case, those high standards would be a given.

John Finnie: I accept your final comment, which is the Green Party’s position. Do I understand correctly that you are saying that were the UK to come out of the EU, we would, in order to continue trading there, need to maintain those standards and others? There is a view that Brexit provides an opportunity to burn a lot of regulatory information and move on to a bright new future. Is that not how you see it?

Fergus Ewing: There is an opportunity to get rid of what farmers often describe as gold plating—in other words, overzealous interpretation of the rules. Professor Griggs is looking at those important issues with a group that includes farmers, non-governmental organisations and a wide variety of experts, so that we get a Scottish approach that will ensure profitability and environmental sustainability.

John Finnie: If such regulation is a prerequisite of trade with the EU, has there been any

discussion, or will there be any contact, between Professor Griggs and the EU on the workstream that is being undertaken?

Fergus Ewing: Yes—there will be contact. One of the questions that I asked Ms Leadsom—although I have not yet obtained an answer—was about inspection points. In the event of Brexit, the UK would be a foreign or third country to the EU, which means that—on paper—there would be a requirement for inspection points on the EU mainland and for any export of food or fish produce to be checked. How many inspection points would there be, who would pay for them, who would run them and what delay and costs would arise for exporters? We have asked all those questions but—sadly—we have not had any answers from the UK Government. Those are also regulatory matters.

Michael Russell: The issue of regulation causes concern because the assumption that there is a vast number of regulations that can simply be abandoned is an unsafe one, largely because safety drives many of the regulatory regimes.

There is another issue that needs to be understood. In many things, there will essentially be two big blocs of regulation—US and EU regulation. A smaller regulatory system goes down the pecking order of global manufacturers and traders; they will not spend a lot of time and effort on trying to please a much smaller regulatory system until they have already pleased the two big regulatory systems. Therefore, far from being an opportunity that will free people up to be more active, the opposite will sometimes—for example, in pharmaceuticals—be the case and the importance of your market will decline if you are not in either of those two blocs. That is a big worry for many people.

Fergus Ewing is right about trading—if a business cannot meet the requirements that are laid down by the EU, for example, it will not be able to trade within that bloc. There are huge difficulties in just saying, “Let’s get rid”, and having a bonfire of the regulations. The regulations that are safety based are there for a purpose, and those that are there for other reasons and are part of the trading bloc are necessary because not observing them means that a business will not get in.

The Convener: Let us move on to the next theme.

Gail Ross (Caithness, Sutherland and Ross) (SNP): The next theme is integrated land use policy. We spoke about the issue at our previous meeting. Stuart Goodall from Confor suggested that there should be a countryside policy, rather

than a common agricultural policy. What are your thoughts on that?

Fergus Ewing: We are very attuned to the proposal for an integrated land use policy, which reflects the fact that rural Scotland’s economy comprises a range of activities. There is not just farming, although it is the lead activity; there are also forestry, fishing, field sports and angling. We published a land use strategy in 2011. The latest version of our strategy covers the period 2016 to 2021 and aims to encourage an integrated approach to land use. There is a desire among stakeholders to build on that work.

A practical piece of work that we are currently doing is a sheep and trees project to encourage more work between farming and forestry. I am due to meet the National Sheep Association to discuss that further. In the past, some hill farmers have seen forestry as a bit of a challenge or, perhaps, even competition. Increasingly, rather than an either/or approach, we are seeing the two in a cumulative way—a large hill farm could sustain a plantation on part of the land. The Forestry Commission Scotland is doing excellent work to encourage farmers to think about plantations.

An integrated approach is very sensible and has for many years been part of the approach that has been taken by the Scottish Government. I will meet Confor this evening; we may discuss that issue further.

The Convener: Thank you very much. We will move on from agriculture to more questions on fisheries. John Mason will start us off.

John Mason: The common fisheries policy seems to be loved or loathed in different circles. It has been suggested to us by some people that there is nothing good in the common fisheries policy and that we should just walk away from it. However, it seems to have contributed to the fact that we still have fish in the sea and they have not all been taken. Which parts of the common fisheries policy do you feel we should keep, and which parts can we walk away from?

Fergus Ewing: The common fisheries policy has caused enormous problems for Scottish fishermen, and we believe profoundly that Scotland’s not having had a direct voice in the EU has hindered our ability to prevent the worst excesses of the CFP over the decades. That said, there are aspects of the CFP that it would be sensible to retain—for example, the types and specifications of fishing gear that may be used, which are subject to regulation. There is a role for such regulation.

At a higher level, there is a guiding principle that fisheries should be sustainable, that there should not be overfishing and that, if there is overfishing, everybody loses. Sustainability requires a system

of quota setting in line with scientific advice. In the relatively brief period for which I have been cabinet secretary—in my engagement with Mr Gibb in particular, but also in my engagement with the Scottish Fishermen's Federation, the inshore fisheries groups and the whole range of stakeholders in fishing—there has been an acceptance that scientific advice has a role to play. There may have been huge scepticism about the advice some time ago, but there is now better alignment between the scientists and the fishermen and there is realisation that they need to work together.

We would wish to retain some things; for example, we would wish to retain access to markets. The EU is a massively important market for our fish, particularly for Shetland, as I learned from a recent visit there. The ability of people from the EU to work in our fish-processing factories is also important. Many of the factories that I have visited are pretty much dependent on people from other EU countries. Many of those people now live in Scotland but feel a wee bit uncertain about whether they have a long-term future here.

The EU has also supplied a great deal of financial assistance to build the capacity of our fishing effort. The financial aid that has been received from the European maritime and fisheries fund and other sources by ports and harbours including Peterhead and Fraserburgh to upgrade their facilities, and by processors and individual businesses, has been immensely important. More than £77 million was provided under the European funding scheme to over 1,200 projects in the fishing, processing and aquaculture sectors, which has safeguarded about 8,000 jobs. There is a question about what would replace that source of funding, which is not as well known as the CFP but nonetheless plays a hugely important role, as I have seen during my visits to our ports and harbours, in particular.

John Mason: You mentioned markets, which are a subject in which I am particularly interested. We have taken evidence from fishing groups, including at the high end of the market, and they are not worried so much about a tariff of a few pence or pounds as they are about not getting fish across borders quickly. Delay in getting fish into France, Spain or wherever is the big worry for them. Can you reassure us about that? Is that a priority for you in your negotiations?

Fergus Ewing: It is certainly a matter that I will raise tomorrow in my meeting with Mr Eustice. Let me give you an idea of the figures. Our seafood exports are worth £601 million and accounted for 78 per cent of the UK's seafood exports in 2016.

Access to the single European market is hugely important. Were there to be delays at inspection points, or whatever they might be called,

particularly for fish, that would be a big disadvantage and would place continued access to those markets in serious jeopardy, simply on practical grounds.

11:00

Michael Russell: The issue is one that concerns bodies such as the UK Chamber of Shipping and the British Ports Association, which I have met and to which I was referring in saying that I had met a wide range of organisations.

Perishable goods—and particularly fish—are probably at most risk, but so is just-in-time manufacturing. I have to say that, at present, there is no clarity about how that would be dealt with as far as tariffs are concerned. At the moment, we have no tariff barriers. The moment you put in tariffs of any description, you require inspection or declaration of goods. If that takes place, there are then delays and issues with the piling up of lorries. Members will be familiar with images of the motorway in Kent, with lorries all the way down it. That is because there is now no sizeable marshalling area in any of the major ports that can deal with tariff goods in that way. There are considerable issues to be addressed and not much time in which to address them. That is one of the big issues for transition. It would not be possible to put in that type of system after two years; it would require five to 10 years to be able to develop it.

The Convener: Part of John Mason's question was about things that the Scottish Government would like to keep. Just for my information, will the panel give me one item that they would like to lose from the CFP?

Fergus Ewing: The most problematic area of the CFP is the way in which the landing obligation is being implemented. The purpose is to prevent discards—throwing fish over the sides of boats—which is a repellent practice that everybody agreed should come to an end. However, in order to deliver a practicable result, there has to be a system that does not result in fishing vessels having to be tied up in February. We would not expect Marks & Spencer to shut in February each year and remain shut for the rest of the year, would we?

That is an area in which I felt that a greater flexibility was required, and it is the subject of on-going discussion in the European Commission. I was in attendance at the European Commission discussions in November and then, of course, with Mr Gibb at the December negotiations. We achieved a remarkable outcome in those negotiations, not least because of the expertise and experience of Mr Gibb and his colleagues, and the respect in which they are held by their

peers in Europe. However, we are up against a stumbling block of a regulation that was overly prescriptive and which many fishermen would be happy to see go or be changed into a more manageable one. That is a problem that has to be dealt with, though, because nobody wants to see a recurrence of the practice, which we have seen in the past, of dumping good fish over the side and having it entirely wasted. The problem is not an easy one, but there has to be far more flexibility in finding a solution to it.

Peter Chapman: On that very point, would it be worth considering changing from a quota system to a days-at-sea system to regulate the amount of fish taken, and going down a different route entirely?

Fergus Ewing: Some system of ensuring that fishing stocks are not overfished and exhausted is the key principle, but I am no expert in how that could be achieved. There are different schools of thought and different strategies that can be pursued. As Mr Gibb is here, I wonder whether he might be able to provide an answer. As he knows far more about these things than I do, I am sure that he could give a more rounded answer if he has the opportunity, convener.

The Convener: A short answer, please.

Allan Gibb (Scottish Government): It will be very short. The days-at-sea option is quite popular in the press at the moment. There are other options, such as credits for the type of fish and extra credits for catching cetaceans as bycatch. I emphasise that those options are very complicated. In the mixed fisheries of the North Sea, for example, you have to look at your weakest stock. If you are going to follow your international responsibilities on sustainability, you cannot just go out and have unlimited fishing for a fixed number of days. You have to understand the mixture of your catch, and avoidance techniques. A days-at-sea-only solution is unlikely to fit the mixed fisheries that we have in the North Sea and the west of Scotland.

The Convener: Stewart Stevenson will lead questions on the next area that we want to look at.

Stewart Stevenson: I want to talk about two issues relating to exclusive economic zone access for our vessels to waters out to the 200-mile limit, and the enforcement of our rights in those waters. The committee has heard, both at the Scottish Parliament information centre breakfast meeting and in our own deliberations, that we have the right to arrogate to ourselves the waters out to 200 miles, although we might choose not to do so. Interestingly, it is not a new issue. I discovered old SNP policy papers from 1974 that talked about the issue. Can either of the ministers tell us, in the light of what the UK has said in its white paper

about a mutually beneficial result for fishermen in the EU and the UK, what they understand from that? How does it support the SFF's position, which I support, that we must first have exclusive control, before negotiating how to use that exclusive control?

Michael Russell: Significantly, the Prime Minister's Lancaster house speech and the white paper both referred to fisheries only in those terms and only in terms of trading away access to waters. For many, that is eerily familiar, reminding us of what took place in the 1970s during accession, and I have certainly heard nothing different during the negotiation discussion to date. Fisheries have been referred to in the JMC process, not as a specific subject but as an illustration of subjects that will need to be dealt with in the detail of the European negotiations, on the basis of recognising, for example, historic rights that exist elsewhere, and that was also the subject of some media coverage yesterday. If I were a member of the SFF, I would not be confident that the UK Government is listening to or has heard the points that have been made.

Fergus Ewing: Mr Stevenson has raised the matter before in committee and in the chamber, and I have raised the question on several occasions, both with George Eustice and with Andrea Leadsom. Specifically, I have asked for a guarantee that the UK Government will not bargain away Scotland's fishing interests in its Brexit negotiations. I have received no answer to that question.

Stewart Stevenson: It is quite clear where we stand, if not where others stand. The second part of my question is on enforcement. Working on the basis that we have responsibility for how fishing is conducted out to the 200-mile limit, what challenges might we have to respond to in getting that new responsibility?

Fergus Ewing: Questions about enforcement involve technical aspects, and I would be grateful if Mr Gibb could assist the committee on that.

Allan Gibb: Under the devolved fisheries management arrangements, we already monitor the Scottish fishing zone out to 200 miles. Marine Scotland patrol vessels and aircraft are already active in monitoring not only Scottish and UK vessels but those of the 11 non-Scottish nationalities that currently fish in the Scottish zone. We are well versed in that. The enforcement burden will increase, because we would need to ensure that people who had access to our waters had that access legitimately negotiated, so there is no doubt that there would be an increased burden. It is also fair to say that we would be reliant on vessel-monitoring satellite systems and electronic logbooks, which are two additional elements of the current common fisheries policy that we would

probably look to keep. That is a technical issue, but those systems allow for collective and remote monitoring of activity in our waters and in other member states' waters as well.

The Convener: Thank you. John Finnie has some questions on a slightly different subject.

John Finnie: Yes—the next theme is the ecosystem approach to fisheries management, which the Cabinet Secretary for the Rural Economy and Connectivity has touched on. Just as there have been calls for an integrated rural or countryside policy, at a previous meeting we heard Calum Duncan of the Marine Conservation Society call for, in effect, the retention of a regionalised ecosystem approach to the management of fisheries. There is a lot of background to that but, briefly, it includes the protection of crucial fish habitats such as breeding and spawning grounds.

How do you respond to the calls for a sustainable ecosystem-based approach that links fisheries to marine protected areas and special areas of conservation? Would Brexit facilitate that more readily? What impact would future arrangements have on our ability to have such a system?

Fergus Ewing: Scotland's national marine plan, which we adopted in 2015, promotes the kind of approach that Mr Finnie mentions, putting the marine environment at the heart of the planning process. I share the responsibilities for these issues with Roseanna Cunningham, and Marine Scotland is to the fore in taking the work forward.

A sustainable ecosystem-based approach to fisheries management should be taken, in accordance with those principles. It is also seen as an asset by many sectors of our fishing industry. For example, the shellfish sector is reliant on the image—and the reality—that we have a clean marine environment, from which our high-quality shellfish products enjoy their provenance and receptibility in the marketplace. We are taking that approach at present.

The second question was about how Brexit would allow improvements in this area. I think that the only difference that it would make would be to change the process for offshore fisheries measures from an EU member state negotiation process to a national legislative one. Broadly speaking, the impression that I get is that the EU is in favour of the ecosystem approach—and, indeed, much of the environmental legislation is EU legislation.

The Convener: Fulton MacGregor will ask some questions on the next theme.

Fulton MacGregor: In the interest of time, I will combine them into one question. Mike Russell and Fergus Ewing have already mentioned the theme.

How does the Scottish Government respond to the concerns that the committee has heard from some stakeholders about the possible restrictions on EU labour in the sectors that we are discussing? What is the Scottish Government's response to deal with that, specifically in areas such as vets and research?

The Convener: I understand that it is a huge subject, but I ask you to keep your answer as tight as possible.

Michael Russell: I shall do my best to be as brief as possible. We laid out in "Scotland's Place in Europe" our proposals with regard to the four freedoms, of which freedom of movement is one of the more important ones for Scotland. About 8,000 EU nationals are employed in the food sector, and about 15,000 are employed in the seasonal market.

In agriculture, there is a big dependency on labour from the EU—for example, 60 per cent of the workforce in the abattoir sector comes from outside Scotland, largely from the EU—so there will be big pressures on the labour force, and there is no obvious place from which people can come to replace them. There are also pressures in the tourism sector, the finance sector and the innovation sector—for example, some 25 per cent of staff in research come from other EU countries—so we are very dependent on labour coming into Scotland.

We have, essentially, no information from the UK Government about how it would replace the present system. At the weekend, there was some press speculation about what were called barista visas. I think that it was the Home Secretary who suggested that giving young people a visa that would not give them any rights to continued residence or support from the state but would allow them to work here for a couple of years may be one of the solutions. That was rather interesting, because it tells us that there will be problems in leaving the EU and that sticking-plaster solutions will be required to solve some of them.

In Scotland, we will not be able to use a sticking-plaster solution for agricultural labour. If we put in place a sectoral approach, which has existed before, we will have considerable difficulties in administering it. For example, I think that the committee heard from Angus Growers Ltd about the difficulties that exist for soft fruit and the fact that the solution might be to move the bushes to Romania and Bulgaria, rather than to do anything about labour coming from Romania and Bulgaria. That would move the entire industry out of Scotland.

11:15

The reality is that there will be a very considerable pressure right across the Scottish economy, particularly the rural economy, and there are no proposals to solve it at present. The pressure will be felt at various levels. You raised the issue of vets, which is very interesting because the hardest part to solve will probably be at the professional level. There will perhaps be a small number of alternatives at the labour level for some people, but there will not be any alternatives for professional services.

In the health service, many doctors and nurses are very fed up with being treated as bargaining counters; they are already leaving and the number of nurses coming in is dropping quite dramatically. We look to the UK Government to bring forward a solution for the migration problem, but no policy options have been presented. As a result, there is no solution and we are only two years away from leaving. That is another area in which there will have to be some transitional arrangements, which is very difficult for those people who believe very strongly in Brexit, because Brexit is about controlling access and, if we are not going to do that, some might argue, "What is the point?"

The Convener: That is a very full answer, cabinet secretary, and, unless there is anything specific to add, I would like to move on to the next theme.

Fergus Ewing: I have two points. There are around 181,000 non-UK nationals living in Scotland, and rural Scotland is particularly vulnerable to the loss of any of those people who have chosen to come to Scotland. Further, our leading agri-food and environment research institutes have attracted talent from many EU countries and any threat to that would be a serious threat to the continued success of the research excellence of our institutes.

Jamie Greene (West Scotland) (Con): Will any new or enhanced trading opportunities or relationships arise as a result of the UK's exit from the European Union? If yes, what will those opportunities be and where will they lie? If no, why not?

Michael Russell: I have still not seen any evidence presented to me of those trading opportunities. Sometimes much is made of India and the possibility that we might be able to sell more whisky there as a result of Brexit, but it is not clear why that would be the case. In reality, the Prime Minister went to India last October endeavouring to get trade deals, but she failed. She failed, by and large, because the Indian Government wishes to establish a relationship based on migration, particularly for younger and talented migrants who wish to come to this

country. Internationally, migration is very often a trade-off for increased trade.

Something has been made of the opportunity in the old Commonwealth countries, but there is no evidence for that. Indeed, the Australian foreign secretary has talked about using Ireland as a route into the single market and about preferring investment in Ireland.

The real example lies in Germany, which is far more successful at international trade than the UK. Germany is a full and central member of the EU and it has no intention of leaving. It is not constrained in any way, so I see no evidence of membership of the EU bringing constraint on trade. The cost and difficulty of the process of withdrawal is far in advance of any advantage that might be seen. I have always said that, if people can bring me evidence that withdrawal is greatly to our advantage, I will be happy to look at it. However, I am eight months into this job and, so far, nobody has done so. I am always ready, if Mr Greene has some evidence here today.

Jamie Greene: If I may clarify, that was a question for you, rather than for me. Are there any trading opportunities outside the EU that might arise as a result of our exit from the EU?

Michael Russell: I have just answered that question.

Jamie Greene: So that is a no.

Michael Russell: The answer is no but, in the spirit of trying to work with people, which I believe that I should do, I am willing to hear examples if anybody brings them to me.

The Convener: Do you want to add to that, Fergus?

Fergus Ewing: Are you asking me to help Mr Russell find examples of trade opportunities?

Michael Russell: Have you an example?

Fergus Ewing: I do not think that there are any additional opportunities to those that already exist. There are already huge efforts by entrepreneurial people in our food and fish sectors to export throughout the world and they are well helped by bodies such as Scottish Development International, which has engaged the services of a number of individuals to assist in furthering exports.

However, membership of the EU is not an impediment to accessing that additional trade. If anything, it is an advantage because it is a badge of compliance with the highest standards and means that we are part of the European single market. Mr Greene is welcome to give us some examples of opportunities outwith the EU to help us on this question, but I am as baffled and perplexed by it as Mr Russell is. On the other

hand, there is nothing at all uncertain about the risks of a switch to the default WTO tariff arrangements, which could lead to EU tariffs averaging between 7 and 11 per cent being imposed on Scottish shellfish, pelagic and white-fish exports and tariffs of up to 13 per cent being imposed on Scottish smoked salmon exports—hence the concerns of the aquaculture sector, to which I alluded in my opening remarks.

I am afraid that the risks are all too stark and crystal clear, while the opportunities are opaque and, as yet, unidentified.

Michael Russell: As even Liam Fox has pointed out, the opportunities for world trade are presently diminishing, not increasing. In addition, we have considerable difficulties because of a protectionist United States. The outlook is therefore not bright in that regard. However, I continue to make the offer: if somebody has examples of opportunities outwith the EU, bring them to me.

The Convener: Peter Chapman will lead on the next area.

Peter Chapman: We all know that untangling domestic policy from EU legislation will be a monumental task. Does the Scottish Government have the capacity and skills to deal with that? How many statutory instruments do you estimate will need to be reviewed and amended as part of the Brexit process for agriculture and fisheries? What processes and structures is the Scottish Government putting in place to do precisely that?

Michael Russell: The great repeal bill was meant to be published at the time of the Queen's speech, but that speech will now be at least six weeks later than intended. I have discussed the bill in considerable detail with David Davis and others, and my officials have been deeply engaged in that.

I will answer Mr Chapman's question, but I will put it in context first. The great repeal bill raises a number of questions and issues, the first of which is whether the process can be done in Scottish terms through a series of legislative consent motions. In other words, can the process take place at Westminster and can we join ourselves to it and streamline it by means of such motions? Alternatively, would we be required, as a legislative Parliament, to produce separate primary and secondary legislation for the process? We will not know the answers to those questions until we see the bill.

We are told that the great repeal bill will take an approach that will involve not simply the legislation but case law—much of the European legislation is judged, in effect, by case law. We have to see what is proposed in the bill before we can answer the question whether we will introduce legislation

to cope with the changes or give legislative consent to the great repeal bill and what will be a series of Westminster bills—possibly 10 or 12. In addition, if agriculture is, in the end, fully devolved and if we plan a different agricultural regime, we will want to have a separate repeal bill from the one at Westminster for the agricultural statutory instruments.

Now that I have given Mr Chapman that long preamble, the short answer to his question is that there will probably be many thousands of legislative instruments. We might be able to short-circuit the process with a legislative consent process, which would be far better. However, in the end, it might be necessary for us to introduce primary and secondary legislation, which would be complex and take considerable time.

The objective of the great repeal bill process is to ensure that on the day that the UK leaves the EU there is no hiatus in law, but the time available for that process has been shortened by about six weeks by the decision to hold a general election. The process will therefore become a difficult, complex and time-constrained one that will occupy quite a lot of parliamentary time from about the autumn of this year onwards not only at Westminster, where it will drive out most other legislation, but in the Scottish Parliament, where it will be prominent.

Peter Chapman: Is there the capacity and the skill in this Parliament to do the work that might be needed? We all understand that it will be difficult and that much is to be done, but can we cope?

Michael Russell: We will have to cope; otherwise, there will be a hiatus at the end of the process. This is not something that we volunteered for. I have had good discussions with the Faculty of Advocates, the Law Society of Scotland and a range of others. In addition, the Lord Advocate and the Scottish Government's legal service are deeply involved. I do not think that anyone will underestimate what is required. However, we do not yet have the key information. To be fair, we do not know whether the UK Government has that information, because the task is so complex.

An information trawl took place from last October onwards to look at what had to be done. We played a part in that trawl, and we have a considerable amount of data as a result of it. However, how Westminster chooses to legislate to kick off the process will determine what else follows. We have not seen that and we do not know what that will be.

We got an advance copy of the white paper on the great repeal bill—it was about four hours in advance, rather than several weeks or months

beforehand. It would be helpful to be given information as early as possible.

The Convener: I will leave that subject there.

Gail Ross: Will you set out in broad terms the phases that you are planning in the coming months for agriculture and fisheries? What is the Scottish Government doing to prepare the rural economy for the possibility of life without EU funding?

Michael Russell: Can I lay out what we understand to be the phases of withdrawal, and then perhaps Mr Ewing can fit the agricultural policy changes into that?

The Convener: As you have offered to do so, you may.

Michael Russell: Thank you—that is very good of you. The article 50 letter triggered a two-year process, so the clock is ticking. The first response from the EU is due on 29 April. The second—and detailed—response on the Council's negotiating stance is due at the end of May. Discussion about all that will be subject to delays because of the UK election.

The first phase of negotiation is expected to be on the cost of withdrawal, although it is perhaps becoming clear that that will be about the methodology for setting the cost rather than about the cost itself. That is a crucial difference because I am sure that, once the cost is known, there will be the mother and father of all rows, and setting the methodology might not declare the cost at the beginning of the process.

It is expected that that, and the issue of EU nationals and the reciprocal arrangements for UK nationals in Europe, plus one or two other technical issues, will dominate the first period of negotiation. The question is whether there will be a parallel set of negotiations on the details of trade and other issues. The European Commission presently says that that will not be the case and that it will move on to the second part only when the first part of the negotiations is finished. I think that most people expect dovetailing towards the end of the process.

That takes us into the autumn before the negotiation on substantial issues takes place. That will very much be a sectoral negotiation. If the UK had agreed to stay in the single market in some way or another, the negotiation would be much simpler. That would essentially have been single market minus, and the negotiation would have been about what we were not contributing and what we were not taking part in. The UK has set its face against that, largely because of issues that are to do with the European Court of Justice and not accepting judgments outside the UK, so there

will be a detailed and complicated sectoral process.

The framework must be finished by the end of 2018 to allow a ratification process that will involve more than 30 Parliaments. It will not be just national Parliaments that are required to ratify, because some sub-state Parliaments will have the right to do that, too. The only Parliament that does not appear to have that right is the Scottish Parliament—I just make that point.

After that, there will be a decision on the framework. However, putting that into effect might take several years, because there will be transitional arrangements to make.

I would expect the agricultural and fisheries issues to be negotiated during the year to 18 months of detailed negotiation—that is from the autumn of this year to the autumn of next year. I would not expect the final arrangements to be put into place until the transition phase, which will be from spring 2019 onwards, provided that the Parliaments vote for it—and the European Parliament has the final say. The question is how long that phase will be.

That is all speculation—it is informed speculation, but anything could change, including any willingness of the UK to remain in the process. The European process would continue and come to an end, but the UK might have walked away.

11:30

The Convener: Does Fergus Ewing want to add anything, briefly, on timescales?

Fergus Ewing: The question was about phases, and we are in the first phase. The first phase is to seek clarity about funding—about what the UK proposes as the alternative to EU funding. That clarity is essential. Secondly, we need clarity that all the powers over agriculture and fishing will come to this Parliament. Thirdly, we need the resolution of the convergence issue that I described, for which I will be pressing—with the support of all members of this Parliament, I hope. Fourthly, as we just heard from Mr Russell, the prospect of any deal on the continuing relationship of a Brexit UK and the EU on rural matters seems unlikely for some considerable time to come. It is therefore absolutely clear that the UK Government should no longer postpone its recognition that a serious transition plan must be laid out.

It is plain from what we have heard, and the discussion today has illustrated this, that it is impossible to devise brand-new fishing, forestry and farming policies and funding programmes between now and April 2019—anybody can understand that. A transition plan is therefore required. It is also required for the vital reason that

those who are working in the rural economy need reasonable clarity about the future funding for the excellent work that they do. The sooner the UK Government comes up with a proper transition plan, the sooner some form of reassurance can be provided to those who are building and delivering on the rural economy across the board.

The Convener: Thank you very much, cabinet secretary. That concludes our session on Brexit. I thank all of you: Fergus Ewing; Mike Russell; David Barnes, whom I noticed helping the minister; Allan Gibb for his contribution; and Jonathan Taylor for being in attendance. I will suspend the meeting briefly while we change witnesses.

11:32

Meeting suspended.

11:36

On resuming—

Seat Belts on School Transport (Scotland) Bill: Stage 1

The Convener: Item 4 is evidence on the Seat Belts on School Transport (Scotland) Bill. I welcome Cian Gullen, convener of the Transport, Environment and Rural Affairs Committee of the Scottish Youth Parliament; Joanna Murphy, chair of the National Parent Forum of Scotland; and Eileen Prior, executive director of the Scottish Parent Teacher Council. Members have a series of questions to ask the witnesses.

Stewart Stevenson: This is a broad-brush question. We have received feedback on the bill from the SPTC and the Scottish Youth Parliament already, but, in broad terms, will the bill bring any benefit to safety in school transport?

Eileen Prior (Scottish Parent Teacher Council): The principle is absolutely right that when parents send their children off to school and entrust them to the local authority, the local authority is in loco parentis. I cannot take my children anywhere in the car without strapping them in, and it is completely unreasonable to suggest that local authorities should be in any other position. Our children should be strapped in when they are on school transport. In fact, we said in our submission that, given that in many areas service buses take young people to school, there is an argument for extending the provisions to those buses. However, children certainly should have seat belts in school transport and we should take co-ordinated measures to encourage them to wear them. The Scottish Youth Parliament's evidence on that is interesting, but we know that there are ways to influence behaviour and encourage young people to make safe choices, and we should do everything we can to do that. The fact that young people might rail against the adults who are trying to impose the wearing of seat belts on them is no reason not to make sure that there are seat belts and to do everything we can to make young people use them.

Joanna Murphy (National Parent Forum of Scotland): I hope that the bill will bring some benefit. A lot of plans are already in place in school transport. Although I agree with Eileen Prior, I feel that we are in a position now to start communicating with young people and their parents about what is already in place and what will come into force through any changes, so that those things are not seen as an imposition that young people will rail against and that they understand why they are being asked to put on a seat belt in the back of a bus or car.

The Convener: Does Cian Gullen want to add to that? Do not worry about pushing the buttons on your console; the gentleman on your left will make sure that the light comes on at the critical moment.

Cian Gullen (Scottish Youth Parliament): Joanna Murphy talked about young people railing against adults who tell them to put their seat belts on. It is about making sure that people are working with young people, rather than just doing something to them. It is about partnership. Perhaps a task force made up of young people, parents and teachers could work at the national level, feeding down to local authorities, so that there would be a national minimum standard of safety for young people and an understanding throughout Scotland that young people need to wear seat belts. Rather than saying, "We're telling you to wear your seat belt", it is a case of saying, "We want you to wear your seat belt; will you tell us why you are not doing so?"

The Convener: According to the review of responses, nearly 69 per cent of people were in favour of wearing seat belts, so the issue is how we convince the others to do so.

Stewart Stevenson: I have a specific question for Eileen Prior. I got a hint from what you said that you might be in favour of quite stringent enforcement measures. The most stringent measure that I can think of—I emphasise that you did not suggest this—would be to deny transport to people who will not wear a seat belt. I imagine that that is an option, although it is not necessarily one that you would pursue.

I have a more general question for the other witnesses. Does the issue increase awareness of the need for personal safety in school transport? There might be other, more exciting ways of putting oneself at risk, in environments where the consequences might not be so severe.

Eileen Prior: I would not say that I am in favour of stringent rules. I entirely agree that this is something that we should do with young people, not to them. Schools, local authorities, parents and young people need to work together on the issue, so that seat belt wearing becomes the norm. Thirty years ago, smoking was the norm; it no longer is. In the same way, seat belt wearing should become the norm. That will not happen quickly, but we can work together to change behaviour. We have to use a wee bit of a carrot and a wee bit of a stick to achieve that.

The Convener: Does Joanna Murphy or Cian Gullen want to comment?

Joanna Murphy: Not really. I agree with what Eileen Prior said.

The Convener: You do not have to comment, but if you want to add something, feel free to do so.

John Mason: I was struck by Ms Gullen's point about the need to work with and persuade people. Do we really need a bill? Surely we could work with local authorities, most of which are already doing what we want them to do. Do we need a bill at all?

Joanna Murphy: Yes. There is always a need for legislation where there is any dubiety. A lot of different local authorities and companies are involved in school transport, and where there is ambiguity that can be seen as a way out, legislation is needed.

For a parent—and for the young person, of course—the most important thing is that a young person who goes on a bus to school is safe in the event of an accident. We cannot mess about with that. If the approach is not working without legislation, there needs to be legislation to make it work better.

Mike Rumbles: Should we simply make it a requirement for local authorities to specify in their contracts for school transport that seat belts should be fitted? Why would we need legislation?

The Convener: Does Eileen Prior have a view on whether legislation is needed or whether the issue could be dealt with as part of the contracting process? What would you rather see?

Eileen Prior: I had not thought of that. Let me tell you about the responses that we had. We use social media a lot to communicate with parents. When we talked about the bill, it was interesting that quite a number of parents said, "I thought that that was in place already." Parents have the impression that there are already seat belts on school buses.

11:45

I am not a policy person and do not know the ins and outs of all the legislation but, however we do it—whether there is a simple requirement in the contract or we have legislation—we have to be certain that seat belts are in place, both for our young people and our families. I am afraid that you are the folk who will have to tell us the best way to do that. I completely get Joanna Murphy's point that often, sadly, if there is no legislation, the game in every walk of life is to find a way round the rules. It may well be that legislation is required.

The Convener: I may have got this wrong, but I think what the committee is gently trying to probe is this. If a law is passed to require seat belts on buses, that will not require children to wear them. We are trying to understand whether the requirement for seat belts should be achieved

through the contract, or whether—I do not want to put words into your mouth—you think that that does not go far enough and that we should seek to make it a legal requirement that people have to wear a seat belt on a bus.

Cian Gullen: Legislation could be more useful than putting a requirement into a contract, particularly if young people, parents and teachers had to be consulted on how to implement a requirement to wear seat belts. The bill does not require young people to wear seat belts, but I understand that you can legally require local authorities to consult young people on better ways to implement such a requirement. If a seat belt is provided, a person aged 14 or above is responsible for wearing it. We should make young people aware that that is already in place and that, legally, they must wear a seat belt if one is provided. Perhaps we could consider including in the bill that schools should ensure that young people are aware of that responsibility.

John Mason: I will answer Mike Rumbles's point. The point of the legislation is to make local authorities put the requirement in their contracts—it is not either/or; it is the two together. My colleagues will come in on who should wear seat belts.

Service buses have been mentioned—they are the normal buses that we all use every day and which do not have seat belts. Is there any point in dealing with the buses that the schools use in contracts if we do not have seat belts on service buses?

Eileen Prior: A lot of young people in rural areas, such as the area where I live, get to school on extended service bus routes—the bus goes its normal route with a dog-leg to school. A lot of young people from outwith towns travel to school on service buses. There is an argument that a company that provides that service should provide seat belts, so that we are not saying that some kids are safe but others on service buses are dispensable.

As a nation, we need to think about how safe bus passengers are. I do not know how often members travel on buses, but there are times when I wish that there were seat belts on them.

The Convener: I think that there is a certain amount of empathy with that point.

Peter Chapman: Thankfully, there are few injuries to kids on buses on the way to school. Given that fact, is a requirement for seat belts the best way forward to improve safety? Should we consider doing something else—and if so, what?

Joanna Murphy: When I brought up the subject with members of the National Parent Forum of Scotland, they started to talk about a code of

conduct for young people and parents. The bus service has been withheld from young people who persistently misbehave—they are put off the bus. I do not think that that is the best way to go, but it happens.

As we are all in agreement, we need to work with young people themselves, the bus companies, parents, schools and communities so that young people understand the whole safety aspect and why we are proposing these measures. We are not trying to restrain their civil liberties in any way; we just want them to be safe on their journey, as people are when they have their seat belts on in a car.

The Convener: I will follow up on that. Should we do something more to cover when young people get off the bus, cross the road and so on? This is your chance to tell the committee that we should be considering more than what is in the bill, if that is what you think.

Eileen Prior: You will know about the cases of young people who have been knocked down as they crossed the road to get home after getting off the bus or whatever. Speed is the big issue, of course. I live in a rural area, and folk use some rural roads as a race track. If there is a straight, the foot goes down. There is an education process—it is carrot and stick.

There is only so much that you can do as a committee and that the Government can do. As regards legislation, if I put children in a car, I need to strap them in. Legally, it is my responsibility to ensure that my passengers are strapped in. I do not think that it is unreasonable to expect bus companies and drivers to ensure that young people are at least able to strap themselves in, and that is what we encourage young folk to do.

Peter Chapman: Joanna Murphy has referred to this. Sitting in your seat with your seat belt on is the safest option, but sitting in your seat without a seat belt on is certainly a far better option than running up and down the aisle, for example, if the bus has an accident. There is an issue about behaving on the bus, over and above the question whether there are seat belts. You have reflected on that, and we need to think about that issue, too.

Fulton MacGregor: I have a question—I appreciate that I might have missed the point in previous evidence. Do parents in general just assume that there are seat belts on buses? When I have told folk that the bill is going through the Parliament, many of them have said, “Do we not have seat belts on school buses?” I know that that is anecdotal, and perhaps those people do not have kids at school or of school age. However, I was struck by the number of people who just assume that there are seat belts on school transport. Have the witnesses come across that?

Eileen Prior: Absolutely. That was the feedback that we got: people were taken aback that that was not the situation as it stands.

The Convener: I notice that you were all nodding at that. That is a yes: everyone thinks that there are seat belts already on school buses.

Jamie Greene: I will pick up on a point that Eileen Prior made. One of the things that has cropped up quite a lot in the discussion relates to who is responsible for ensuring that children wear seat belts. I say “children” in the loose sense, because that could mean younger children, those under 16 and those over 16. I ask Eileen Prior to confirm that she thinks that the drivers should be responsible for ensuring that seat belts are worn. Drivers would be representing the bus company that had the contract with the authority. Another school of thought is that it would be up to someone at the school at either the beginning or the end of the journey. Other people think that it should be up to the children themselves or their parents.

It is perhaps a controversial or contentious issue, but are there any further views on who should be responsible, and therefore legally liable, if something happened in cases where seat belts were not worn?

Eileen Prior: It is indeed a contentious issue, and I can completely see where the different perspectives come from. Young people’s behaviour is influenced by all those parties. My sense is that younger children will respond to an adult telling them what to do, and they will generally respond favourably and will do what they are required to do. The challenge comes in the teenage years, as young people are expressing themselves and getting a sense of self. With that group in particular, you get into the territory of peer influence and of modifying behaviour through consultation, discussion and setting a good example. I am trying to get out of answering your question, because it is really hard.

The Convener: I suspect that you will get a second bite at answering it in a minute, because John Finnie has a question along the same lines. It might be appropriate to bring him in now.

John Finnie: Good morning, panel, and thank you for your input. This is a lawmaking forum, and we are keen to make good law. I seek your views on whether you feel that, were the bill to become law, it would be compromised if children chose not to use seat belts.

The Convener: That is a really difficult question.

Joanna Murphy: I suppose that that comes back to enforcement. Everything will be compromised if people choose not to do that. It

also comes back to discussions in schools, at whatever level. I remember that, when I was a girl, we had the green cross code, all the adverts on the telly, the squirrel thing and all the rest of it, which helped us to learn. I had already walked about and crossed roads with my parents, and they helped me to learn the dangers, although that was back when there was much less traffic. It comes back to education for young people so that they understand and realise why we wear seat belts in cars.

Sometimes, it is just about expressing some of the consequences, particularly as young people get older. Obviously, we would not want to show wee ones videos of things that have happened but, when they get older, if they choose not to do something, sometimes they have to see part of the consequences. Perhaps that could involve talking to people who have been in accidents, or perhaps the Scottish Government could put out information for young people through parent councils and the pupil voice in schools. Those might be ways of targeting and combating the peer pressure that kids experience about everything nowadays. Particularly when they are older—secondary school age—it is about trying to work with young people so that they fully understand. Knowing what it is like to be in an accident is outside the scope of most people’s knowledge—thankfully, very few of us are in accidents. However, if someone is in one, they do not want to say later, “I wish I had worn my seat belt that day.”

The Convener: Does John Finnie want to come back in?

John Finnie: Yes—I will maybe just supplement my earlier question, although I think that Eileen Prior was going to come in.

I was going to move on to the issue of promotion. Were the bill to proceed, would you see a role for the Scottish Government, specifically, and for pupils and parents in promoting it? I appreciate that you do not speak for all pupils and parents, but would you engage with the Scottish Government in creating promotional material? How should the promotion be progressed were the bill to proceed?

Eileen Prior: We would absolutely engage.

To return to your previous point, whatever legislation we are talking about, if people choose to ignore it, it could be compromised. There would need to be a carrot and a stick. The stick would be the legislation, but a lot of work could be done to address behaviours. That is done in other realms, such as road safety, drug or alcohol use and knife crime. There are lots of examples of really good work going on to address behaviours. We have to use that work as an example and ask what we can do on the issue of seat belt wearing. Funnily

enough, teenagers will automatically put on a seat belt when they get into a car—well, the ones I know will, anyway. They do not even think about not wearing their seat belt. That is in their head—they already know that that is what you do. I do not think that it would be a massive leap to get them to do that when they are on a school bus.

Cian Gullen: On promotion, if you get young people involved—for example, if the videos that you make have young people talking rather than an adult or a teacher—the older ones will respond better. The issue is that a lot of the behaviour on buses, such as not wearing seat belts or maybe messing around, probably involves older pupils, from fourth year to sixth year. They have maybe got a bit too confident on the bus and they see it as not being their responsibility to wear a seat belt, if there is one. If there are no seat belts, they do not see something to keep them in their seat, which is why they get up and walk around.

12:00

This is about ensuring that the older young people know that they need to set an example for the younger ones. When the younger ones no longer see the older young people messing about, they will learn the correct behaviour of sitting on the bus with their seat belt on. That is where working with schools comes in. It might involve establishing a group of older young people who travel on the school bus and asking them to check that everyone is wearing their seat belt, in the sense not of telling them what to do, but of simply saying, “Look—you need to wear your seat belt for these reasons.” It is not a punishment—it is about encouraging, rather than punishing, young people. Any punishment would just turn things completely the other way; as young people get older, a punishment makes them feel more resentful rather than wanting to work in partnership.

The Convener: Does John Finnie want to come back on that?

John Finnie: No, I have concluded my questions.

The Convener: Does Joanna Murphy feel that the other witnesses have covered the points?

Joanna Murphy: Certainly.

The Convener: Okay. Rhoda Grant can ask the next question.

Rhoda Grant: We have touched on how we could enforce the wearing of seat belts. Eileen Prior said that parents must ensure that children wear seat belts in cars, so surely bus drivers could do the same on buses. I wonder whether that is workable or whether somebody else would be needed on the bus, given that the bus driver would have more than three or four people to monitor. I

can imagine the situation, and I would sooner have bus drivers concentrating on driving than on monitoring what is going on behind them on the bus. Does the bill need to be strengthened by ensuring that there is a person on the bus to keep an eye on things?

Eileen Prior: I completely understand what you are saying: the driver’s attention needs to be on the road. We know that distractions—car phones or children fighting in the back of the car—do not do much for people’s driving abilities. The same applies to bus drivers. If there is a pattern of behaviour among young folk such that they are not wearing seat belts, there must be some sort of intervention. However, I do not know how that would work or who would do that job—it might be a member of school staff, for example. In many rural areas, school staff travel on the same buses as the young people but do not have a specific role during travel time. I would be interested in exploring what such a solution would look like and who could take on that responsibility.

Joanna Murphy: That brings us back to the need to ensure, rather than enforcing the wearing of seat belts, that young people understand why they should wear seat belts. We have talked about parents and young people in schools. This is partly about the involvement of bus staff—the people who run the bus, the drivers or whoever. That is another important group among the various people who are involved.

It would be interesting to find out—as, I am sure, the committee already has—what those people think, not in the sense that they might say, “We don’t want to do it and we wash our hands of it”, but to find out what they think would be the best option. As has been said, a parent could stand at the bus stop and safely strap the young person in—although I would hesitate to do that with teenage children; the last thing that any of them would want would be to have their parents anywhere near them. However, parents could be there to strap children in safely and then get off the bus, but the young person could have their seat belt off before the parent had even turned the corner. We have to get back to the reasons why young people would want to keep their seat belts on. Perhaps schools need to think of schemes that reward young people for keeping seat belts on, rather than schemes that punish them for taking them off. We need to be imaginative and perhaps move in a different direction.

Cian Gullen: On a scheme that would reward young people, my school dealt with littering around the school grounds in that way. A pupil who was seen putting their litter in the bin was given the chance to win a prize in a raffle—they were given a ticket, and they could win vouchers for shops in town. We could have something like that, although

maybe not on such a large scale, that acknowledges young people wearing their seat belts. Pupils in younger age groups are often quite competitive about getting praise and so on; pupils in secondary 1 and S2 often like to be told that they are doing really well with something, whereas with older pupils it is maybe more about giving them a sense of responsibility about wearing a seat belt, and making it something that they do more for themselves rather than to stop the bus driver getting on at them.

Rhoda Grant: As it stands, the legislation only makes it clear that seat belts should be fitted on buses—it says nothing about wearing them, because that is a reserved matter. We spoke to Scottish Government officials and asked about people being in loco parentis, and about where responsibility would lie if there was an accident in which children who were not wearing seat belts—which is not required by the legislation—got hurt. The response was that that would need to be tested in the courts. Do we need to strengthen the bill or are you happy that the bill is strong enough on that matter?

The Convener: The question of where responsibility lies is very difficult. I am mindful of what has been said about parents thinking that because there are seat belts on the buses the school might be considered to be in loco parentis.

Eileen Prior: In terms of managing risk and so on, the contract is between the local authority and the bus company, so it seems that it is a local authority responsibility to ensure that buses are to a standard. In our written evidence, we talked about maintenance of school transport being an issue that comes up regularly. Local authorities have a responsibility to ensure that companies maintain their buses properly and provide seatbelts. It seems to me that it would be the case that, if there were an accident, the local authority would have responsibility—not that anyone will like that answer—because the bus company is contracted to the local authority.

The Convener: Does anyone want to add to that? It is quite a tricky question. Joanna Murphy is raising her eyebrows—I am not sure whether that means that you want to add to what Eileen Prior has said.

Joanna Murphy: It goes back to thinking outside the box a wee bit—thinking more imaginatively about why a person might not want to put on their seat belt. Everybody knows that if there is a seat belt available, wearing it is the safest option. We need to try to think differently. The local authority has a part to play—it cannot just say, “We contract the buses, so it is up to the bus companies.”

In some rural areas, kids are on the bus for quite a long time. There needs to be a way of engaging them and keeping them safe for an hour on the way to school and an hour on the way back—and making it not just because we say so. Other things make seat belt wearing a secondary issue. It is not great to put a seat belt on and then to have nothing to do for an hour but sit and look out of the window at the rain; having a carry-on is a much better option.

The answer in some cases may be that local authorities need to have somebody on the bus.

Jamie Greene: I will keep my question brief, in the interest of time. The bill specifically applies to commuting to and from home and school and does not apply to excursions, school trips and anything that happens during the school day. Should such journeys be included, or are you happy for them to be left out?

The Convener: That matter is worrying the committee.

Joanna Murphy: Such journeys should be included. I have experience of going out as a parent helper on coaches taking young people to events, and I cannot remember a time when there were not seat belts on coaches. I get the point: because those journeys take place during the day, there are school staff and parents on the bus in the ratio that is needed for safety. One of the things that a parent helper does is ensure that every person has their seat belt on, and if a pupil cannot put on their seat belt, we help them.

The Convener: Would you like to add to that, Cian?

Cian Gullen: Those journeys should be included. It is the same age group of young people on those journeys as are getting on the bus to school. Seat belts need to be worn. Such journeys are often longer—for example, they might be travelling all the way to Edinburgh, rather than just going down the road to school. The approach should be more about making sure that all bases are covered: we would not want a little loophole that would allow schools to get a cheap bus in order to save money on the school trip. Such journeys need to be covered in order to make sure that young people are safe, that they know their rights, and that they know their responsibility to wear a seat belt. It might encourage young people to wear their seat belts if they were told by staff on school trips that they should be wearing them.

Eileen Prior: I agree. Again, it goes back to the principle that the school is in loco parentis: it has to look after my children.

The Convener: Thank you. All three of the witnesses agree.

Mike Rumbles will ask one further question, then we will conclude the discussion.

Mike Rumbles: We are told in the bill's policy memorandum that there are about 110 buses without seat belts in Scotland. In fact, the vast majority of local authorities already require seat belts. Strathclyde partnership for transport has told us that its local authorities are already moving along with that. From your experience, or from feedback from people across the country, can you give us any insight into how local authorities in which seat belts on buses is already the norm have dealt with wearing of seat belts? How are the local authorities that already have that requirement dealing with the issue of safety, and has it improved safety?

The Convener: Eileen—I am very happy to accept brief answers or, if you have no experience of that, just say so.

Eileen Prior: I am sorry, but I do not have direct experience of that.

The Convener: Joanna?

Joanna Murphy: No.

The Convener: Cian?

Cian Gullen: When we were doing our report, I asked a couple of young people who took school buses whether there are seat belts on the coaches that they take to school. They said that often young people sit at the back of the bus and do not put on seat belts and mess around, which schools still need to address. If there were to be legislation under which local authorities were more legally liable for young people not wearing their seat belts, or for not encouraging them to wear them, they might be more willing to take steps to make sure that bus drivers and young people make sure that seat belts are being worn.

The Convener: Thank you. Those are all the questions that we have. It has been a very interesting and informative session for us. On behalf of the committee, I thank the Scottish Youth Parliament for the research that it has done. There is also a list of primary schools that came to Parliament and contributed, through the education service. Various other people submitted responses that we have read in our committee papers.

I thank our three witnesses for taking the time to come in. It is always very interesting to hear the views of people who will be working with the legislation and who have seen the situation on the ground. I suspend the meeting briefly, to allow for a change of witnesses.

12:13

Meeting suspended.

12:15

On resuming—

Subordinate Legislation

Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Amendment Rules 2017 (SSI 2017/74)

The Convener: Item 5 is consideration of an instrument, as detailed on the agenda, that is subject to the negative procedure. The committee will consider whether it wishes to raise any issues in reporting to Parliament on the instrument. Members should note that no motion to annul has been lodged and that there have also been no representations to the committee on it.

Members have no comments to make, so does the committee agree that it does not wish to make any recommendation on the instrument?

Members *indicated agreement.*

The Convener: The final agenda item will be taken in private, so I close the meeting at this stage to enable us to move into private session.

12:16

Meeting continued in private until 12:28.

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