



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 3 October 2017

Session 5



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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SCOTTISH LAND COMMISSION	2
11:16	
ON RESUMING—	
SUBORDINATE LEGISLATION.....	26
Public Water Supplies (Scotland) Amendment Regulations 2017 (SSI 2017/281).....	26
Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (SS1 2017/282)	26
PETITION	28
Game Bird Hunting (Licensing) (PE1615)	28

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
25th Meeting 2017, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Donald Cameron (Highlands and Islands) (Con)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Emma Harper (South Scotland) (SNP)
Richard Lyle (Uddingston and Bellshill) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Sally Reynolds (Scottish Land Commission)
Andrew Thin (Scottish Land Commission)
Hamish Trench (Scottish Land Commission)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 3 October 2017

[The Convener opened the meeting at 10:03]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning and welcome to the 25th meeting in 2017 of the Environment, Climate Change and Land Reform Committee. We have received apologies from Richard Lyle. Before we move to agenda item 1, I remind everyone present to switch off mobile phones and other electronic devices because they might affect the broadcasting system.

Agenda item 1 is to make a decision on taking business in private. Does the committee agree to take items 5, 6 and 7 in private?

Members *indicated agreement.*

Scottish Land Commission

10:03

The Convener: Agenda item 2 is an evidence-taking session with the Scottish Land Commission. I welcome to the meeting Andrew Thin, who is the commission's chair; Dr Sally Reynolds, who is a commissioner; and Hamish Trench, who is its chief executive. As you can imagine, members have questions to ask, so we will move directly to the questioning.

Emma Harper (South Scotland) (SNP): I was reading in the information that we have been provided with that since spring 2017 the Land Commission has been holding a series of public meetings in different places, including Dumfries and Biggar in the South Scotland region that I represent. I am curious to find out the key themes that have emerged from those meetings. Have differences emerged in different areas, and have different themes emerged in urban and rural areas?

Andrew Thin (Scottish Land Commission): I will answer that question, if that is all right, as I have attended all the meetings.

The broad message is that there is enormous interest in the subject right across Scotland, although awareness of the breadth of the subject is not all that high. The meetings have been attended by an extraordinarily diverse audience, who have been interested in just about everything.

The predominant issue in the urban context has been land for housing and how we can make more use of vacant and derelict land, whereas in the rural areas the predominant issues have included community ownership—as you might expect—with the aspiration for closer dialogue and consultation between landowners and people who live on and around their land, and who are affected by landowners' decisions, emerging as a strong theme. I do not think that any of that surprised us.

We also had some quite strong feedback about common good land. For example—I do not know why this was the case—it emerged as a very strong theme at a meeting that I attended in Clydebank the other night. There has also been quite a lot—indeed, more than I had expected—about access legislation and the Land Reform (Scotland) Act 2003, especially but not only in rural areas.

In the round, what I have taken away from all that and what I think is fundamental is the need to achieve a Scotland that is more at ease with itself. The relationship between the people who own and manage land in Scotland and the rest of us needs

to be more constructive and collaborative than it is at the moment.

Emma Harper: Did any particularly unexpected issues come up? How will all the information gathering, which I understand will continue, inform how you move forward with your work programme?

Andrew Thin: I do not think that any particularly unexpected issues came up—what was unexpected was the emphasis that was placed on certain issues. For example, in some parts of the country, there was stronger emphasis on land value taxation, but I think that there might have been some organised effort behind that. I certainly had not anticipated such a strong thrust in that respect.

I also did not expect to find at a meeting in Leith in Edinburgh such a strong level of concern about land assembly for housing. There was real concern about individuals being able to obstruct and block housing developments that the council had already zoned and approved; everything was in place, but the council did not have the tools to pull it all together. I knew that that was an issue, especially in Glasgow, but I had not expected quite such strong public opinion at that meeting.

As for how that will inform our work, our work programme is a moving feast and will evolve over time, but you will see those themes already coming through, and all that is published on our website. It is a two-way street: the meetings inform the evolution of our work programme, and we put out the work programme so that people can see exactly what is happening and how their views are influencing what we are doing.

The Convener: How has academia fed into the process? Has that happened through the meetings, or are you engaging separately with academia?

Andrew Thin: I will pass that question to Hamish Trench.

Hamish Trench (Scottish Land Commission): We are engaging with academia in a separate series of meetings. We had a number of academic representatives among the 160 attendees at our conference last week at which we launched the strategic plan, and we are also having separate meetings with the collection of research institutes that forms the Scottish Government's Scottish environment, food and agriculture research institutes—or SEFARI—group. We have also been in touch with Universities Scotland about collaboration. There is the potential for PhD work to contribute to the work programme and for contract research through academic institutions, although I emphasise that while some of the research that we intend to carry out will be

appropriate for academic institutions, some will be appropriate for a wider group of contractors.

Finlay Carson (Galloway and West Dumfries) (Con): You mentioned that the land value tax had come up. It has recently been given the tag in the media of “the garden tax”. What is your response to that? What part will it play in the commission's on-going work programme and strategic plan?

Andrew Thin: I make it clear that we have no preconceptions and have come to no conclusions on the subject. We will investigate it very thoroughly. Hamish Trench will tell you a wee bit more about where our thinking is: it is early days.

Hamish Trench: Clearly, we have been asked to look at the options for a tax that is based on land value. The current thinking is that our work will start by looking at ways in which land value taxes have been used elsewhere in the world. We will look not just at the set of options but at the drivers behind those taxes in order to understand why they are in place and their intended and unintended implications, so that we get a real picture of how they operate. We also want to look at the practicalities to establish what data would be required and how such an approach could be put in place here, if it were considered appropriate for Scotland.

Mark Ruskell (Mid Scotland and Fife) (Green): There is obviously quite a lot of stakeholder discussion about post-Brexit agricultural subsidies, which could have as much impact as land ownership on how we use land and what land is for. How have you been interfacing with the agriculture champions and the national council of rural advisers that has been established by the Cabinet Secretary for Rural Economy and Connectivity? Have they approached you or have you approached them?

Andrew Thin: There has been relatively little direct formal interaction, but it is early days. Indirectly and informally a huge amount of dialogue is going on between people in the SLC and people in other organisations. It is essential that we are all on the same page as we go forward. I do not anticipate the SLC making a formal contribution to that work.

Mark Ruskell: Why not?

Andrew Thin: I think that that would be duplication, to be honest. The Government has set up a different mechanism to address Brexit and its implications for agriculture and so on. I am not sure that it would necessarily be helpful for us to focus our quite scarce resources on duplicating that work.

Mark Ruskell: Is there not a danger that there will be competing visions?

Andrew Thin: No, not if we talk to each other. As I have said, it is essential that we are all on the same page. By implication, it is therefore essential that there is no conflict of visions, but the detailed work and detailed recommendations need to come through the channels that have been set up.

Hamish Trench: I add that Brexit obviously features most prominently in relation to the agriculture stream in our work programme. At the first meeting of the tenant farming advisory forum a couple of weeks ago, the theme of Brexit was explored at the top of the agenda. We are making the connections to keep under review the implications of Brexit, particularly for farm tenure. However, as Andrew Thin says, we will not be leading the response and ideas on the mainstream Brexit workload.

Angus MacDonald (Falkirk East) (SNP): I will touch on operational issues and resources. We know that the SLC has been awarded a budget of £1.4 million for 2017-18. Has the commission sufficient resources to carry out its work now and to allow it to meet the objectives that are set out in its strategic plan?

Hamish Trench: Yes. We are clearly in an establishment year this year. For example, we are still recruiting staff and we have further recruitment to do over the next six months, but we have developed a budget looking three years ahead based on that level of funding, which we anticipate is appropriate to deliver the work programme. That pans out in a work programme allocation of £550,000 a year, looking ahead to next year, which is sufficient to start delivering on the work programme.

Angus MacDonald: Okay. If the SLC were to end up with an underspend, what would happen to the funds from that underspend? Would they be returned to the Government or allocated elsewhere?

Hamish Trench: If we underspend, the funds will be reallocated by the Scottish Government in the normal way, but that would be a matter of discussion between us and the Scottish Government leading up to the year end, when we look at where we have come in to land in respect of the budget. It is likely that there will be an underspend this year because we are in the establishment year and will not have full expenditure on staff and research from the start of the financial year. We are in discussion with the Government about next year's budget being as is set out in the plan, which is £1.4 million.

10:15

Angus MacDonald: You mentioned that you are still recruiting—I presume, for support staff. I think that you are looking for eight in total. Do you

anticipate increasing the number of support staff in the future?

Hamish Trench: As of yesterday, the commission employs nine staff. We are about to start recruitment for two more policy officers, who will take a lead role in delivering the work programme. I anticipate that the number of core staff could rise to 12 to 15 in the foreseeable future, but once we have those two posts in place, a significant amount of work will be done by people on fixed short-term contracts; we will bring in the right specialists and expertise when we need them.

Angus MacDonald: Okay, thank you.

I will move on to the commissioners. Clearly, they all work part time. Is there capacity for all the commissioners to carry out their duties, given the time constraints?

Dr Sally Reynolds (Scottish Land Commission): I admit that it takes up a bit more time than two days a month, which is what we signed up for, but I think that we are all managing to make the time, so far. We share the roles out: you will have noticed that I did not answer the committee's first question, which was about the meet and greets, because that is not something that I have done so far, because I have done other duties. I think that we are managing so far, and I hope that we will continue to do so.

Angus MacDonald: How many days a month has it been so far?

Dr Reynolds: It has been least double what was expected. Shall we leave it at that?

Angus MacDonald: Okay. Thank you.

The Convener: Dr Reynolds, when the full commission was in front of the committee previously, we explored whether board members had identified any conflicts of interests. I think that at that point, one member indicated that they had had one and had taken the appropriate action. As you have drilled down into the job and really got a look at what it entails, have other conflicts of interests arisen for members? If so, how were those resolved?

Dr Reynolds: I do not think that we have had any such conflicts to date. We have attended training and discussed the matter in great detail. We have also discussed the potential for conflicts—in respect of crofting in my case, for example—but I think that we have managed to deal with them all. I do not think that any have had to be declared at meetings, to date.

Andrew Thin: I have made certain that all board members have had full training in this, and it is important that that happens through on-boarding training. The one thing that was not identified at

the previous hearing is David Adams's role at the University of Glasgow. We anticipate making use of academic institutions for work. That might include the University of Glasgow, but to be frank, whether it does or not, there is a perception issue. We have spent a lot of time talking about that, and we are on top of it.

The Convener: Okay. It is good to get that on the record.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): The strategic plan states that land reform is not a single event but a process and defines it as

“the legislative, policy and cultural framework within which land is owned, managed and used”.

When it comes to land reform, does the commission intend to focus on legislation and policy or on cultural change? If cultural change is part of it, what does that look like?

Andrew Thin: I will start, but it is possible that we all have something to say about that. It is a very important theme.

There is no doubt that we will put a lot of effort into conducting research, doing thorough reviews and producing evidence-based recommendations for the Government about legislation and policy. That will be a core bit of our work, but we are now clear—clearer than when we were last before the committee—that non-statutory leadership is an important function of this organisation. Let us look at what has happened with agricultural holdings in the past three years. Very quickly after the 2014 agricultural holdings review, the Government put in place a non-statutory mechanism—that was me, actually—to produce codes, guidance and all the rest of it, which were entirely voluntary. However, it was about more than just producing codes and guidance—it was about me getting off my backside and getting around to talk to people and to lead.

What does cultural change look like? It looks like changes in behaviour and changes in attitude. Perhaps they are just being nice to me—although I do not think so—but most people who work in the agricultural holdings area tell me that behaviours, attitudes and expectations are changing. That is not because of changes in the law but because of all that work. We can extend the principles to all sorts of other areas. That may involve guidance or codes of practice, but the board will sit down and think that through in a thorough, strategic way before we jump into it.

There are parallels: as some committee members will remember, a few years ago, the Deer Commission launched a best-practice programme, which was entirely voluntary but actually quite effective. We are going to ask

someone from the Deer Commission to come and talk to us about that.

I do not know exactly what culture change will look like, but I am clear that the commission will have a very important non-statutory leadership role in the future.

The committee might want to hear very briefly from the two other witnesses on the same subject.

Dr Reynolds: Last week, we held a conference to launch our strategic plan. In the afternoon, I held an accountability workshop, which was very interesting. A wide range of stakeholders and interested members of the public attended. I have been shuffling through my notes so that I can find my opening statement from that workshop. I wrote down two remarks from the conference session in the morning, which were from different speakers. One was:

“Achieving the bigger picture requires cultural change.”

The second was:

“Good practice should be celebrated and spread.”

It came through from the workshop that the attendees wanted to know what good practice was and that they wanted to move forward not with overregulation but with codes of practice and other methods. I hope that we will be able to help with that.

Hamish Trench: I hope that the committee will be able to see that, in our programme of work, we have already identified areas in which that approach will work—for example, vacant or derelict land, or charitable land ownership status. In those, there is scope for guidance, perhaps for codes and certainly for better collaboration in order to make a difference on the ground, even as we pursue the longer-term work such as research and longer-term recommendations.

Mark Ruskell: Do you see a challenge in working with different types of community in order to effect cultural change? At the moment, particularly with the community right to buy, there are more articulate communities with good resources that will drive forward and establish best practice, but there are many other communities that are being left behind. How can you tailor your approach to support communities that are perhaps in very different places at the moment?

Andrew Thin: There is no question but that there is a great challenge, which is why I am anxious that the board thinks it through carefully and that we do not just dive in and start using codes all over the place—although we may produce some interim guidance and codes, just to keep things moving. There is no question in my mind that building confidence and capacity will be an integral part of the process in some parts of the

country—especially in urban parts of Scotland, where awareness is low and there is less history of such an approach.

Equally, in the landowning community, we have managed to build, very quickly, a very constructive relationship with Scottish Land & Estates. However, there are a lot of landowners who are not members of SLE but whom we must reach. I sat down with David Johnstone, the chairman of SLE, on Friday, to talk through how he might help me to reach landowners who are not his members. They might not all be members, but they probably all know one another—it is not a big world. He will help me to try to reach landowners who are resident in London, which would be enormously helpful.

There is a big job to be done and, without prejudging the board's deliberations, I anticipate that we will put quite a bit of resource into getting that right over the next two or three years. It could be very powerful. My sense is that there is a great deal of appetite for change across all parts of the sector and all players in it. However, there is a lack of leadership, which is sectionalised. There is leadership in the landowning community and also in Community Land Scotland, but it is fragmented and not holistic.

Claudia Beamish (South Scotland) (Lab): Good morning, panel. I want to ask a few follow-up questions from that discussion, particularly in relation to the programme of work.

The panel will know this, but I mention, for the record, that the workstreams are expected to apply to both policy and practice, and that it is thought to be important

“to identify changes in practice that can be implemented in the short term, leading to change and improvement on the ground”.

I ask members of the panel to be forthright about any concerns that they might have about stakeholders. Is it generally the case, as you have highlighted, that stakeholders are willing to participate, irrespective of whether they are members of SLE, other organisations, or no organisation? If they are not, how do you deal with that? Can stakeholders be compelled to engage? As we know, there is a very unequal balance in land ownership across Scotland, and that is part of the reason—although not the only one by any means—for the thrust of the legislation that has been introduced, whether or not one regards it as a backstop. I am interested in how that will develop and whether you have had discussions about it.

Andrew Thin: I am sorry, but I think that you will have to hear from all three of us again because we all have quite clear views on that and

have done a lot of thinking about it. Let us start with Hamish Trench.

Hamish Trench: I certainly see the challenge, given the wide range of different interests and motivations involved across the work that we are setting out to do. Building strong relationships in the collaboration with different representative bodies from across the sectors—whether that is Scottish Land & Estates, Community Land Scotland or, indeed, a completely different set of organisations and groups in the urban context—will help significantly to ensure that we make progress. Andrew Thin touched on that earlier. There will always be outliers and individuals who are unwilling to engage or who simply disagree, but it will help if we are able to build strong relationships with some of the key bodies. To be completely honest, there is a strong and genuine willingness across the piece among all the organisations that we have met—we have made a point of meeting many over the past few months—to look at how we can make progress.

Dr Reynolds: I back that up. I spoke at the Scottish Land & Estates annual conference this year, and it was fantastic to see the reaction and the willingness to listen and talk to us—I did not get a cup of tea because so many people wanted to speak to me during the breaks. That willingness to listen and talk to us was genuine although, obviously, we know that there are people who were not in that room whom we need to meet.

There has been persistence on our side. We work hard to make contacts and, if we do not get a meeting on our first contact, we try again. Sometimes a third attempt is needed, but we have been lucky in starting to build that up.

Andrew Thin: I re-emphasise that it is enormously important that we reach the whole landowning community. That is a challenge for us because a lot of the landowners do not live in Scotland and a lot are not engaged in such things. We need all the help that we can get.

The message to the landowning community is that the Scottish Land Commission exists to help it. It is not in the interests of any landowner to have the Scottish people being uncomfortable with their relationship with the landowners of Scotland. We are all in this together, perhaps from different perspectives. The challenge for the commission and for me in particular is to find ways to get out and really communicate with those people.

I have found that, when I communicate with people and we sit down and talk, there is an appetite to shift very quickly. I will give you a specific case. You will be aware of the case in Wanlockhead, in which Claudia Beamish has been involved very helpfully. It is clear that there was a major communication breakdown there and that

parties were not thinking things through properly. Over the weekend, I had a number of conversations with parties that I will not name, and I am very optimistic that we can make progress there. We were not talking to each other there, and there was a breakdown in communication.

Claudia Beamish: Thank you. That is helpful.

It has already been highlighted that

“Good practice should be celebrated and spread.”

At the other end of the spectrum, will the commission highlight examples of poor land management and ownership practices and identify individuals who are considered not to be working collaboratively with it or with local communities? If you have had discussions about that, how will that process develop?

Andrew Thin: Let me use the agricultural holdings legislation to illustrate, because our thinking more widely than that is slightly embryonic. Under that legislation, codes of practice have been and will be put in place. It is open to people to allege that someone has breached that code. If that is the case, evidence will be gathered, there may well be a hearing, and the commissioner will decide whether there has been a breach. If there has been, that information will be made public and the person will be named and shamed. There will be absolutely no ambiguity about that.

10:30

The celebration of good practice and the calling out of bad practice has to be integral to any wider best-practice programme. I do not know exactly how we will do that. The board will spend some time, probably at its December meeting, thrashing out exactly how to do that, and I do not want to prejudge that work.

The Convener: In discussing engagement, we seem to be focusing on rural land. With regard to derelict urban land, how, in practice, are you going to engage with faceless companies that are land banking?

Andrew Thin: I have some involvement in that issue because I chair Scottish Canals, which is, in essence, the Scottish Government’s wholly owned regeneration company. We have found that it is difficult to get to the ultimate owner of a piece of land but that it is possible to exert pressure through working closely with local authorities.

I do not want to name names, but the owner of a derelict and disused site not far north of Buchanan Street bus station, which is zoned for housing and is perfectly developable, is holding out for what I suggest is more than is reasonable. We have to be honest and accept that a voluntary code will not

deal with that. Non-statutory leadership has an important role to play, but it is not the only answer. I do not want to suggest that it will even be half our work. There is going to be a big programme of robust, evidence-driven and thoroughly researched reviews without preconception that will lead to clear recommendations to ministers, setting out options for statutory or other changes. Nobody should be in any doubt about that.

Hamish Trench: In relation to vacant and derelict land in particular, there are two parts of our work programme that are relevant. We are proposing to look at the housing land supply market and, in particular, the role of land banking, so that we develop an understanding of where and how that is an issue, and we are working closely with local authorities on vacant and derelict land. Part of our work involves trying to understand the reasons why the land is vacant and derelict. In some cases, there will be ownership constraints and, in others, there will be wider issues such as contamination and wider economic issues. I expect that we will be able to identify areas of land on which it will be easier to make progress and some in relation to which there must be a much longer-term approach.

Dr Reynolds: I assure you that this issue is definitely on our agenda. We will hold our November meeting in Glasgow, and we will visit some vacant and derelict sites at that time. As you will appreciate, until now, we have been a bit too busy to get out and about during our board meetings, but we will start to go out on visits once a quarter.

David Stewart (Highlands and Islands) (Lab): I will move us on to bigger-picture issues around your objectives and wider issues that affect the future. What assessment have you made of the effect of Brexit on your longer-term objectives?

Andrew Thin: As I indicated, we have not done an in-depth piece of work on that, and we will not necessarily do one. There is no point in duplicating effort. We are clear about the fact that Brexit is a major factor and has introduced huge uncertainty into the equation. It is potentially more challenging for upland rural areas than for urban areas. It is an important part of the context that we are in, but we are unlikely to perform detailed analysis of it; we are more likely to rely on other people’s analysis.

David Stewart: To what extent do you rely on top-level briefings with specialist civil servants in the Scottish Government who are involved in European strategy?

Hamish Trench: We rely on close contact with central Government civil servants in a range of policy areas, including Brexit. I mentioned that the civil servant who is leading the Brexit agriculture research briefed the tenant farming advisory forum

a couple of weeks ago on the likely implications for the agricultural sector; similarly, we will keep in touch with officials to keep other sectors apprised of likely implications.

David Stewart: Your organisation's three objectives are productivity, diversity and accountability. Nobody would disagree that they are all worthy, but let us drill down to the detail with Mr Thin. How will the commission fulfil the diversity objective? You have always said to the committee that you want to proceed by consensus, but we all know that the history of land reform—you do not need me to do anything on the history books—has been about conflict. There are examples from Eigg, which I know well—a younger version of myself was at the official launch of the buyout there 20 years ago—and from Knoydart, and we can think of the Highland Land Leagues and the battle of the Braes.

If the intention is redistribution, we will have to find resource, as some people will lose land and others will gain. I take the point that local authorities might transfer resources and assets through community empowerment, which is a good thing, but how will you proceed by consensus when you are, in effect, in a position that has its roots in conflict for a hundred years?

Andrew Thin: We will not always proceed by consensus, but we will not proceed if we always proceed on the basis of conflict. I am clear that, broadly speaking, it is possible to make huge progress without conflict, but there will be times when people's objectives and priorities conflict. As I have indicated, we will put a lot of resource into non-statutory leadership, and we can achieve a great deal with that. However, we will also put a lot of resource into reviewing the statutory tools that are available for use by elected authorities—local authorities or the Scottish Government. I will not prejudge what those tools will be, as we are a long way from conclusions on that.

On diversity, it is important to be clear that land reform is not all about community ownership—it is about significantly more. A public meeting that I held in Oban about a month ago became a discussion about community ownership, so we need to be careful. From diversity comes innovation, and from that comes economic growth, so diversity is important. It may at times mean disaggregation, but it does not necessarily mean that. We have to keep an open mind about where economies of scale are useful, for example.

I draw again on our agricultural experience; agriculture's future depends on innovation as much as anything else. Brexit is hugely important, but that industry needs to innovate. We are most likely to achieve that if we can get new blood and new ideas into the industry, and we are most likely

to achieve that by creating a greater diversity of tenure in that sector.

David Stewart: I do not suggest that you should see conflict as an objective; I merely remark on my experience of history. Knoydart was owned pre-war by a supporter of Hitler, and it took immense conflict before there was a community buyout. Eigg has a similarly difficult background. Do you have the strength of legislation that you need to achieve your worthy objectives?

Andrew Thin: I would be surprised if we were to conduct all those bits of research and conclude that no change is required. The Scottish people are indicating that they think that change is required, to some extent. I will not prejudge any of that until we have thought it through.

I emphasise that diversity is not necessarily just community ownership. On that issue, we have identified a specific workstream to look at whether the available tools are sufficient, so we will be able to answer the question. Wanlockhead provides a good example of where the problem was not necessarily the statutory tools but communication.

David Stewart: Some have argued that one of your objectives should be more idealistic—it should be about land reform as an extension of human rights, which my colleague John Scott will refer to, in relation to people having adequate employment, housing and positive mental health. Would you subscribe to that philosophical objective? Perhaps Dr Reynolds can answer.

Dr Reynolds: We do not have that as one of our four objectives, but we hope that it comes into all our work. We are lucky to have Megan MacInnes as one of our commissioners, and we had a briefing from her at one of our meetings. We hope that the human rights objective is present in everything that we do.

Mark Ruskell: Where does sustainability sit in the objectives of productivity, diversity and accountability and in priority areas and long-term outcomes?

Andrew Thin: Sustainability is integral to the whole thing. It must be—there is no question about that.

Mark Ruskell: That is not explicit. How are you interpreting sustainability through those objectives?

Andrew Thin: It is not explicit because it goes through the whole thing. I take the point that maybe it would be helpful for that to be explicit, but it is integral to the whole thing.

Mark Ruskell: Do you see the driver of that coming from the land rights and responsibilities statement?

Andrew Thin: And from other areas of Government responsibility, of which the land use strategy is one.

John Scott (Ayr) (Con): Are you in a position to tell us anything about the guidance on engaging communities in decisions that relate to land? There was a consultation on that and we were told that the final guidance would be laid before the Scottish Parliament in the summer of 2017. Do you have input into that? When are we likely to see it?

Hamish Trench: As far as I am aware, the Scottish Government is due to issue the guidance in the new year. The Government has been clear that, as with the land rights and responsibilities statement, it sees a role for the commission in providing on-going advice on implementation. One of the early bits of work that we are doing that will sit alongside the guidance is research into how effectively we monitor and gauge the level of community involvement so that we can have some idea of whether we are making progress on that theme.

Andrew Thin: Engagement is a concern to the farming community, and we will need to get it right. I have embarked on a programme of meetings with NFU Scotland area boards and committees. There is anxiousness in the farming community that a duty to consult could become extremely cumbersome. If a landowner or farmer is making a decision that will impact on other people's lives, it is reasonable that there should be sensitivity and dialogue about that. However, we will need to work through how that will be implemented in practice without becoming a serious constraint.

John Scott: Thank you. I should have declared an interest as a farmer and a member of the NFUS.

The Convener: I will explore something else. Your work is attracting media attention, and last week there was a perhaps predictable reaction to the revelation that you are commissioning a piece of work to look at how other countries have restricted the amount of land that can be in one person's hands. Am I right in thinking that, even if such legislation was introduced, it could not apply retrospectively under the European convention on human rights?

Andrew Thin: I am not a lawyer, but it is clear that ECHR is a factor in all that. It is too early to give you a definitive answer, but we will draw out that key dimension of the research.

I have to admit to a slight frustration about some of the media coverage. We are serious people trying to do a serious job so, to be frank, it is not helpful when we get the kind of coverage that you mentioned; there was another piece of coverage in the *Sunday Mail* on land value taxation. What that

has told me loud and clear is that we will have to work even harder to get out there and communicate directly, which is what we will do.

It was partly because of some of that coverage that I went to see David Johnstone to get help in communicating directly with landowners outside Scotland. I am concerned that people who own land in Scotland but do not live here are getting a skewed perception of the matter. We should be clear that that is not only unhelpful but a challenge for us that we will have to work at.

10:45

Kate Forbes: I understand that the commission is preparing an annual operating plan that will outline the schedule of work, associated resourcing and performance management. A big question in all that—perhaps the biggest question—is how you will effectively measure what you are achieving in your priority work areas. Do you have accurate baseline data to go on? Engagement and communication, for example, are challenging to measure. How will you measure the effectiveness of your work?

Andrew Thin: One of the great things is that we have extremely well-trained academic people, so I will pass the question to them.

Hamish Trench: There are at least two levels to the question. In our annual operating plans, we will identify key performance indicators that will give us the continuing measure of progress. However, more fundamentally than that, at our conference last week, Professor Sarah Skerratt from Scotland's Rural College laid down a pretty blunt challenge to us and everyone else about how we know that we make an impact, particularly for communities that are not already active and able to take advantage of existing mechanisms.

Internally, we have started to consider what we need to do to commission independent analysis of progress against our outcomes against a three to five-year timeline. It is early days in thinking that through, but it will be a combination of the internal KPI work and getting external, in-depth analysis. The final part, which is part of our existing work programme for this financial year, is to get baseline data in place, particularly on the outcomes that we have set out in the plan.

Dr Reynolds: The easy answer is that there is a lot of work to do. Ms Forbes is correct that we do not have all the baselines and that that is the biggest question. However, we are really lucky to have a very good team, and getting baseline data in place is one of the first things that we will have to do.

Kate Forbes: When will the first operating plan be published?

Hamish Trench: It will be agreed and published in March for the coming financial year.

John Scott: What are your views on the Scottish land rights and responsibilities statement? Does it strike the right balance between rights and responsibilities? Is it simple, clear enough and understandable? Part of the ECHR stuff looks quite complicated to me.

Andrew Thin: We published advice to the Government on the statement after the first round of consultation and put it on our website. Everyone is well aware of it because it is in the public domain. In that advice, we emphasised the importance of clarity and accessibility. The second version of the statement is a big step forward in that respect.

The next step for us is to figure out how we help people to interpret and use the statement. We will do quite a bit of work on that. It is early days, but I ask Hamish Trench to say more about what we hope to do to help people to use what has been published.

Hamish Trench: Mr Scott asked about the human rights aspect. We recognise that one of the useful things that we could do in the short term is start to explore in more detail what understanding the human rights context means in practice. One of the early things that we are doing this financial year is commissioning a series of discussion papers on key topics to kick off workstreams and engage people in thinking through the topics further. We have commissioned one of those on human rights as a way of starting to understand how land reform can advance the economic, social, cultural and human rights dimensions that are set out in the rights and responsibilities statement. Through providing discussion papers, guidance and continuing advice, we hope to tease out what some of the principles mean in practice.

John Scott: Good luck with that.

The Convener: The commission has identified three key workstreams in relation to land for housing and development. We touched earlier on urban vacancy and dereliction, so I will focus on land assembly and public interest-led development. Will you paint a picture for us of what that looks like and give us some good and bad examples?

Andrew Thin: I will take you back to north Glasgow, if that is all right. That seems a good place to start. A great deal of work has been done by Glasgow City Council and Scottish Canals—I am sorry to wave that flag, but I will—to create a master plan for the development of huge swathes of north Glasgow. A great deal of progress will be made there over the next few years because the public agencies have some of the tools to lead and drive the area's development and regeneration.

That will include the public agencies acquiring some of the land in order to make that progress happen.

The big question is whether we have enough tools in Scotland to do that. Germany has a different set of tools and goes about things in a different way. Germans have a lot of experience of dealing with derelict land, because we presented them with a lot of derelict land during the war, so they developed the tools and the expertise. We need to ask whether the tools that we have are sufficient—the evidence suggests that they are possibly not—and, if they are not, what tools might be helpful. I will not prejudge that, as it is important that we come at everything without preconception. We will approach that in a thorough way.

The Convener: Having heard you say that, I will put you on the spot. A proposal is kicking about in academia that, in an urban setting, if someone purchased a piece of land or building and left it derelict for a period—in essence, land banking until they got their way—a compulsory purchase power could be introduced to allow that land or building to be bought in the public interest for the figure that was paid for it. Is that the kind of proposal that we are looking at?

Hamish Trench: Yes—we will certainly look at such ideas and solutions. The Scottish Government has committed to looking at compulsory sale orders, which may form part of the picture, and we have spoken with the team that is doing the review of compulsory purchase order work. We have identified work on land value capture, which may look at alternative ways of capturing the investment to make some of that happen, and there is also the right-to-buy dimension, particularly with abandoned, neglected or vacant and derelict land. A new right to buy was introduced under the Community Empowerment (Scotland) Act 2015, and we will need to see how that plays out in unlocking the development of sites where it is appropriate for a community body to take that work forward.

The Convener: Does Mr Thin want to add anything?

Andrew Thin: The only thing that I will add is that we should not leap to conclusions. Let us learn from what is happening in other places and think the process through. That is my only plea.

Dr Reynolds: It is important to remember that the problem is rural as well as urban.

The Convener: Absolutely. I just wanted to get that example on the record.

John Scott: I have been given a series of questions to ask about meeting deadlines. How does the commission propose to assess the extent of the scale and concentration of land ownership

by the end of 2018-19 if the land register will not be completed before 2024?

Hamish Trench: It is important to emphasise that we are trying to understand the impacts and implications of the scale and concentration of land ownership; we are not looking to carry out a full survey of Scotland's land ownership and quantify the exact numbers. That work is on-going, and the more complete the land register is, the easier it will be for us to do that. Using case studies and examples from different areas of Scotland, we can start to get behind the headline statistics and understand how scale and concentration affect the way in which land is used, the way in which decisions are made and the opportunities that are associated with that.

John Scott: How will best practice guidance impact on the prevalence of charitable status in land ownership if that continues to be a legal and viable route for the avoidance of inheritance tax and other taxes? What is your thinking on that?

Andrew Thin: I will not repeat our earlier discussion, but it is clear to me that best practice guidance changes behaviour. We have seen that already in ag holdings. Will it change the number of estates that are held under charitable status? Not necessarily, but that is not necessarily where we are trying to go with it.

The reason why that has been included as a priority in the programme for government is not so much to reduce the number of estates that are held through charitable status, but to ask how we ensure that the public interest is fulfilled if an estate is held through charitable status.

John Scott: That leads on to my next question, on whether, given that the recent programme for government undertook to publish further information on the reform of succession law in 2018, the commission will work with the Scottish Government to ensure that that reflects its vision for

"a fair, inclusive and productive system of ownership".

How do you see that? What is your vision for such a system and how would you define it?

Andrew Thin: I am struggling to link that to the succession question. Could you elaborate your question?

John Scott: The Government has said that it will bring forward

"a fair, inclusive and productive system of ownership"

In terms of succession law, what would your vision be for

"a fair, inclusive and productive system of ownership",

given that you will be informing the Government's view?

Andrew Thin: We have not discussed succession law. I am aware of it only from the agricultural holdings review, so I cannot answer that question at the moment. It is too early.

John Scott: How does the commission propose to assess the effectiveness of current community right-to-buy mechanisms by the end of 2018-19, when regulations for the right to buy abandoned, neglected and detrimental land have yet to be laid, and there is no timetable for implementing the right to buy land to further sustainable development?

Hamish Trench: The focus on that is on reviewing the existing rights, particularly those under the 2003 act—the community right to buy and the crofting community right. In doing that, we will usefully be able to inform the way in which the further two rights are rolled out and implemented. I anticipate that, if we do that in the short term, we will be able to feed back some of the learning from where that has got to into how the other two rights are implemented.

Donald Cameron (Highlands and Islands) (Con): Before I ask my question, I refer the committee to my entry in the register of members' interests, as the owner of a land holding in the Highlands.

It would be fair to say that huge tracts of the Land Reform (Scotland) Act 2016 are not yet in force. In fact, the key elements that are in force are the establishment of the commission and the statement of land rights and responsibilities. What is your view on the fact that we have legislation that has been enacted but is not yet in force? Is that inhibiting you? Do you need a pause before the provisions are put in place? What is your general take on the situation?

Andrew Thin: It is a long-term process. It is important to progress systematically, calmly, methodically and logically. The current state of affairs is not holding us back at all, but I do not expect to have come up with all the answers and resolved all the questions by the end of next year. I am sorry. I think that it is important that we take this approach. You can look at it in two ways. You can say, "It's all a bit slow," or you can say, "It is being done carefully."

Mark Ruskell: We have the initial work programme, which is welcome, and it contains a lot of priorities. What is the next step beyond that work programme? What other aspects will you focus on? Will there be new or developing themes beyond the initial work programme?

Hamish Trench: I do not expect particular new themes to emerge in the short term. The next steps in the immediate future will be delving into the work that is required to deliver the work streams that are set out in the work programme.

You will appreciate that what is set out there is still at a fairly headline level, and that under each of those headlines there are several bits of work that we are now starting to put in place. For example, on vacant and derelict land and on the community right to buy review, we are starting the process of taking those individual bits of work forward at project level. That will clearly be informed by the board discussions that we referred to earlier, where we are going out and about, seeing the relevant examples on the ground, and speaking to other partners through continued public engagement. It is a question of fleshing out how we take that forward in practice.

11:00

Dr Reynolds: Just to make Hamish Trench's life more difficult, we go out and about a lot. At last week's conference, for example, we held three workshops and drew together the information that emerged, and that will be summarised and used to help expand our work. New things are coming along all the time, but we are trying to remain very focused and strategic.

Mark Ruskell: Okay. I note that you made a submission to the planning review. What do you see as your role in relation to that?

Andrew Thin: I hope that this is obvious, but the link between planning and our work, particularly in urban Scotland, is very important. We do not routinely respond to every Government consultation, but we thought it important not only to respond to that particular consultation but to publish that response. We will continue to have dialogue with Scottish Government planning officials as the whole thing rolls forward—indeed, Hamish Trench is already doing that—but we are not going to be taking over their function.

Mark Ruskell: You made some very interesting points in your submission to the planning review, including the point that communities are starting to feel that the plan-led system is being undermined by the appeals process. That is an interesting and quite weighty conclusion, and it brings us back to the question of how you see planning and your role in it going forward. It seems a little bit like the situation with agricultural subsidies, in that you have one foot in the door, you have a view and you have a responsibility to liaise with stakeholders but, although the issue seems pretty pivotal to the future of land, I am struggling to get a sense of whether that is a major strategic priority for you. It is not clear whether you will continue to get your oar into the issue and bring the views of communities into the process, which we are grateful to you for doing. I am just struggling to see how central it is to your work.

Andrew Thin: Land reform has implications for an extraordinarily diverse range of public policy and a significant number of the big priorities of the day such as planning reform, housing and so on. I hope that we have weighty things to say sometimes and that, when we do, we are not afraid to say them, as we have done in this case. However, we have to be careful. We are a very small non-departmental public body, and it is important that we focus on and prioritise issues. Indeed, perhaps one of the board's biggest early priorities was to decide what we were not going to focus on.

It was right to make the contribution that we made to the planning review, because I hope that we had something sensible and useful to say. However, I do not think that it would be right to divert resources into taking that too much further, given that we have a civil service and a planning division within it that can take that work forward. It is entirely open to those people to talk to us and vice versa—indeed, that is what Hamish Trench is doing all the time behind the scenes—but we should resist the temptation to get heavily involved in a lot of different things.

Claudia Beamish: With regard to land use strategy, which was mentioned earlier, I listened carefully to what Andrew Thin was saying about not getting involved in everything, and I respect and understand his point. Do you see any value in the land use strategy? Is the fact that it is not statutory—the requirement is only to refer to it—relevant as far as your work is concerned?

Andrew Thin: As Hamish Trench has a lot of experience of this, I will pass that question to him.

Hamish Trench: I certainly see strong value in the land use strategy, and the more we are able to articulate the public interest in land use, the easier it is to resolve many of the issues that we have been talking about. It can certainly play a clear role in that respect.

We see our work and particularly the area of work that we have identified as land use decision making as having a strong link with the land use strategy's aims and objectives. Perhaps what we can bring is an additional focus on the mechanisms of how the structures of land ownership and management can help deliver some of those aims in the strategy.

Claudia Beamish: Is the fact that the strategy is not statutory and just has to be referred to helpful or unhelpful?

Hamish Trench: I do not see that as something that will hold things back or make a difference. To be honest, I think that there is widespread support among all the groups that we work with for the idea of the land use strategy as well as quite a strong commitment to moving it forward.

Donald Cameron: I have a couple of questions, the first of which relates to the climate change aspect of our role as the Environment, Climate Change and Land Reform Committee. Can you tell us how the commission is considering its own contribution to Scotland's climate change targets?

Andrew Thin: Not explicitly, no. It is implicit in a number of areas that we are likely to be working in, but it is not an explicit area of priority that we have focused on.

Donald Cameron: Going back to a number of questions that have already been asked, I think that it is fair to say that one of the biggest landowners in Scotland is the state in its many guises, including state agencies such as Forestry Commission Scotland, the Government itself, Scottish Canals, the Ministry of Defence and the Crown Estate, from which we took evidence last week. To what extent are you factoring that into your thinking on issues such as land value tax, a cap on acreage and so on?

Andrew Thin: We have not said anything about a cap on acreage. Maybe *The Telegraph* did, but we certainly did not.

Donald Cameron: I am not suggesting that you did. Perhaps it is more of a diversity of ownership issue, if I can put it like that.

Andrew Thin: Before I pass over to Hamish Trench, I want to say for the record that we might have talked about diversity but not about disaggregation or caps. We have made it clear that the diversification of ownership is an important priority for a number of reasons, not least of which is the whole business of innovation, inclusion and so on. However—and I want to get this on the record—I would not draw any conclusions from that at this stage; we are not coming at this with any preconceptions.

On the substance of your question, I will pass over to Hamish Trench.

Hamish Trench: I am sorry, but could you go back to what you said at the start of your question?

Donald Cameron: The state, if I can put it this way, is obviously a large landowner. To what extent do you factor that into your thinking on the various themes that you are exploring?

Hamish Trench: Across the themes, we are making no prejudgments about or distinctions between types of ownership. As far as I am concerned, our work will look at these issues in relation to all types of ownership, be that private, public, charitable or community. The same themes are relevant to all sectors.

The Convener: I believe that Claudia Beamish wants to come back on an earlier comment.

Claudia Beamish: With regard to public sector reporting duties on climate change, the commission, as a new organisation, is not on the list of those with a mandatory responsibility to report under the Climate Change (Scotland) Act 2009, which was passed in a previous parliamentary session. In view of your very wide remit, which covers land, land ownership and the issue of sustainable development that my colleague Mark Ruskell highlighted, do you think that it would be useful, not immediately but in the future, to report voluntarily in that respect? Would it be appropriate for the Land Commission to be added to the list of the organisations that should report on a statutory basis?

Andrew Thin: The context for our work is and will always be the priorities of the Government of the day, which means that, certainly for the time being, tackling climate change is high on the list of objectives. That and other Scottish Government priorities will drive our strategic thinking and, in turn, our annual reporting. I do not want to prejudge the extent to which we will be explicit about that, which means that it is hard for me to judge the extent to which it would help for us to report, but if the committee considered that it would be helpful, we would certainly do it. That would not be a problem.

Claudia Beamish: I think that it presents a really positive opportunity. After all, yours is a new organisation with a significant remit in relation to the future of our land in Scotland. I respect the fact that there are other wide-ranging issues to take into account, but I suggest that you could be a leader on this in the future, given your involvement in public sector reporting duties in the past.

Andrew Thin: We will do that. I must emphasise that we will be extremely anxious to report our contribution to the whole spectrum of Scottish Government priorities, given the really important job that we will have over the next few years in communicating the significance of land and land reform to the welfare of society in all sorts of ways.

Claudia Beamish: Thank you.

The Convener: As members have no more questions, I thank the witnesses for their time this morning and their very useful evidence. If anything else comes to mind, please feel free to write to us, and we would also encourage an on-going dialogue with regular updates in writing of anything of relevance to the committee.

Andrew Thin: Thank you, convener. We will absolutely provide those updates in writing, and we very much welcome the opportunity to do this sort of thing from time to time.

The Convener: Thank you. I suspend the meeting briefly and then we will move to the rest of our business.

11:10

Meeting suspended.

11:16

On resuming—

Subordinate Legislation

Public Water Supplies (Scotland) Amendment Regulations 2017 (SSI 2017/281)

Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (SSI 2017/282)

The Convener: Item 3 is subordinate legislation. I refer members to the papers and invite any comments.

David Stewart: I am not objecting to the Public Water Supplies (Scotland) Amendment Regulations 2017, but I want to flag up for the record that they have the effect of allowing the United Kingdom to derogate from the drinking water directive, which could mean less frequent sampling of water quality under certain circumstances. We had some issues with water quality in Badenoch and Strathspey, and I suggest that we ask Scottish Water about this when we next meet.

The Convener: Do we agree to do that?

Members *indicated agreement.*

The Convener: Are there any other comments on the two instruments?

Mark Ruskell: I am concerned that the Public Water Supplies (Scotland) Amendment Regulations 2017 are the second statutory instrument that we have seen that contains major drafting errors. Given the volume of statutory instruments that we are likely to get next year in the run-up to Brexit, such errors raise concerns. I do not know whether the limit value errors in the regulations have any material impact on environmental quality, but they raise questions about drafting. If this is to be an interim measure ahead of an amendment being brought forward, does it have any impact on the water quality regime in the interim period? We should ask the Scottish Government for some clarity on that and for reassurance that instruments are being drafted with due care and diligence.

The Convener: Are you talking about the general picture around drafting errors, or are your concerns specifically about this statutory instrument?

Mark Ruskell: I have concerns about the SSI that is before us this morning, but they follow a theme.

The Convener: So you have two issues.

Mark Ruskell: Yes.

John Scott: I support what Mark Ruskell has said, and I, too, express concerns about the Public Water Supplies (Scotland) Amendment Regulations 2017. I hope that, when the next instrument is brought forward, which I welcome, these matters will be resolved. The broader point is that instruments should be correctly laid in the first instance; that would be hugely helpful for all concerned.

The Convener: Do we agree to write to the Government on those points?

Members indicated agreement.

The Convener: That being agreed, are we also agreed that we do not wish to make any recommendations in relation to the instruments?

Members indicated agreement.

The Convener: Can the letters that are to be sent in this regard be delegated to myself as convener?

Members indicated agreement.

Petition

Game Bird Hunting (Licensing) (PE1615)

11:20

The Convener: Item 4 is for the committee to consider correspondence from the Scottish Government in relation to a petition by Logan Steele on behalf of the Scottish raptor study group, calling on the Scottish Parliament to urge the Scottish Government to implement urgent action to introduce a state-regulated system of licensing for game bird hunting. I refer members to the papers and invite comments.

Kate Forbes: I certainly think that we should ask for an update from the Scottish Government about where it is at with this, especially in light of our previous discussions.

Claudia Beamish: I agree. The cabinet secretary's letter says:

"I am commissioning a research project to examine both the benefits and costs of large shooting estates to Scotland's economy and biodiversity."

In view of the fragility of rural economies and the lack of progress, however one might define it, towards 2020 biodiversity targets, it would be helpful to ask about that project. Once we have heard about how the review group and the research are developing, the committee would be in a better position to make an informed decision about whether to close the petition.

John Scott: I would be happy to keep the petition open. That would not be unreasonable. We would be pleased to hear from the cabinet secretary on how she is progressing the request from the committee. I have to say, however, that I am not necessarily in favour of licensing; it would mean much more red tape and would therefore be neither necessary nor welcome. However, let us hear what the cabinet secretary has to say.

The Convener: Okay. I am hearing that we should ask the Government for a detailed update and continue the petition. Is that agreed?

Members indicated agreement.

The Convener: At its next meeting, on 31 October, the committee will begin taking evidence as part of its inquiry into air quality and will consider subordinate legislation on land reform and wild fisheries.

As agreed earlier, we will now move into private session.

11:22

Meeting continued in private until 11:57

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