



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 17 February 2026

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE

7th Meeting 2026, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Michael Matheson (Falkirk West) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

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

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jim Fairlie (Minister for Agriculture and Connectivity)

Nick Halfhide (NatureScot)

Joel Hankinson (Scottish Government)

Professor Pete Higgins (NatureScot)

Gillian Martin (Cabinet Secretary for Climate Action and Energy)

Gary McIntyre (Transport Scotland)

Kelly Minio-Paluello (Scottish Government)

Carole Stewart (Transport Scotland)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 17 February 2026

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning, and welcome to the seventh meeting in 2026 of the Net Zero, Energy and Transport Committee.

Our first item of business is a decision on whether to take items 8, 9 and 10 in private. Item 8 is consideration of today's evidence from NatureScot. Item 9 is consideration of a letter from the Scottish Government on appointments to the board of Environmental Standards Scotland. Item 10 is consideration of the committee's approach to scrutiny of the Ecocide (Scotland) Bill. I would also like to get the committee's agreement on taking our draft report on the draft climate change plan in private at future meetings. Do we agree to take those items in private?

Members indicated agreement.

NatureScot (Annual Report and Accounts and Future Priorities)

09:00

The Convener: The second item of business is an evidence session with NatureScot. This is a general check-in with the body about its annual report and corporate plan and strategic outlook. I think that we now have the right one, which was clarified on Friday.

I welcome to the meeting Nick Halfhide, the chief executive officer, and Professor Pete Higgins, board member, NatureScot. Thank you for attending this morning. I congratulate you, Nick, on your appointment as chief executive. It is your first appearance before us since your appointment. I would like to say that I hope that you enjoy it, but I hope that it will be rewarding for us and for you.

Nick, you are going to make a brief opening statement.

Nick Halfhide (NatureScot): Good morning. Thank you very much for inviting us along. On behalf of my chairman, I offer his apologies. He had very much hoped to be with us today but, unfortunately, he has flu. We have Pete Higgins instead.

I will make a few opening comments. First, we are Scotland's public nature agency, so we are your public nature agency. We want to halt the decline in Scotland's biodiversity by 2030 and restore Scotland's nature by 2045. This is of pivotal importance to us all, as we risk losing the beauty, value and benefits of nature because our natural world is still in crisis.

Our recently launched corporate plan for the next four years sets out how we will work to address this head on. The plan focuses on strengthening our resilience to the impacts of climate change by reconnecting people and nature. Our efforts will be bolstered by the passing of the pioneering Natural Environment (Scotland) Bill, which places Scotland on a path to statutory targets for nature, as well as by the recently approved Scottish biodiversity strategy.

I will say a little bit about us. As an organisation, we have grown significantly over the past four to five years. At the start of this parliamentary session, according to our own annual accounts for 2020-21, our budget was about £60 million and we employed just under 600 full-time staff. By 2024-25, the budget was closer to £90 million and we employed just over 750 staff. Our budget for this financial year is approaching £100 million.

During that time, our impact and reach has grown, too. The £65 million nature restoration fund is an unprecedented commitment to nature

recovery that has supported more than 240 projects through the competitive scheme that we run. We have put more than 30,000 hectares of degraded peat on the road to recovery, which obviously reduces greenhouse gas emissions and provides jobs and economic opportunities.

The Scottish marine environmental enhancement fund—SMEEF—has distributed around £4 million, supporting 62 marine projects, up until the end of last year.

Taken together, this tells the story of a Government that trusts us to deliver and sees our growing relevance. However, the demands that are placed on us as an organisation, through new legal responsibilities and increasing demand, have grown significantly, creating resourcing challenges for us and leading to increased workloads for our hard-working and dedicated staff.

We also know that we continue to work in a challenging fiscal environment, which means that we must be more creative in how we deliver. Our work is complex and, at times, contentious, which is why we are investing considerable resources in working with, and listening to, people to find common solutions where we can.

However, equally, we cannot avoid what the evidence and science are telling us about the most effective ways to urgently address the nature and climate emergencies, even if that means that our decisions and advice may, sometimes, run counter to what is perceived as popular opinion. We know that that can prompt a strong response from some in the general public and in this Parliament and has, at times, led to comments that have, in our view, crossed the line. There appears to be some lack of understanding of our role and responsibilities and there is clearly more for us to do to bridge that gap in understanding.

We all have our own experiences of the many benefits that nature can bring to our lives and I remain confident that we can meet the challenge ahead of us and can secure a Scotland where nature thrives and where people and businesses can flourish too.

The Convener: Thank you, Nick. I will give you an easy question to start with. You have developed a new corporate strategy to take you through to 2030 and you have told us about increased expenditure and some increases in your workforce. What are your key priorities and workstreams for the period between now and 2030?

Nick Halfhide: We are focusing on five areas of work for the next four years and I will run through those if I may. They are all important and must be done together if we are to achieve the greatest progress towards our 2030 targets.

The first is about leading species recovery, connecting habitats and safeguarding at least 30 per cent of our land, rivers and seas by 2030, putting those into good ecological health. That meets a Government target that is an international obligation—I can go into further detail if you would like me to. The second area is about increasing support for nature-positive action through strengthened public connection to, understanding of and access to nature, which ties in with the point in my opening statement about reconnecting people and nature. The third area is to embed nature-positive practices across agriculture, other land and marine uses, working with farmers, fishermen and others to help them make a living from the land in a way that is nature positive. Fourthly, and really importantly, given the fiscal challenge, we want to achieve increased levels of high-integrity public and private sector nature investment, getting more private money to match the public and philanthropic money that we already see flowing. Finally, there is a real emphasis on place and on strengthening climate, economic and social resilience in all our communities. We understand that what happens where people live and work is important not only at national but at local level.

That is a run through, which I hope will help.

The Convener: What are the key challenges to all of that? You have spoken a lot about the environment and ecosystems, but will you talk also about the thing that is sometimes forgotten, which is the people who are involved in that? They and their livelihoods are just as important as the systems that you are trying to protect.

Nick Halfhide: I will say little about the economic side of things and then invite Pete Higgins to say more about health and social wellbeing.

The week before last, I spoke at the NFU Scotland annual general meeting in Glasgow and made a point that I make wherever I go, which is that the businesses that rely on the natural assets that we seek to protect absolutely understand that their lives are difficult and that they have to be profitable. Our job is to help them to do that so that they can run their businesses profitably, but in a way that is sustainable in the long term and protects the assets on which their businesses are based.

We have many examples of where that has worked, which I would be happy to send information to the committee about. I am thinking particularly of a farm that we have been working with in Sutherland, where we have done more than 900 hectares of extensive peatland restoration with the farmer. We have also worked on other changes on the farm, which mean that the farmer

is running a more profitable business and has far fewer losses to her flock. There are many examples of where we are working to help people to run their businesses in a way that supports nature. That is just one example in farming. Pete, would you like to say a bit more about the work that we are doing on the social or health side?

Professor Pete Higgins (NatureScot): I have been an observer of the work that NatureScot has been doing for a considerable time. Over the past 15 or 20 years, I have noticed that the trajectory moved away from engaging people with the natural world to focusing on landscape-scale restoration, but it has come back to recognising that people are at the core. There are many issues that are people issues and not nature issues, and there are no nature issues that are not people issues. Therefore, it is important to engage people who work in the kinds of jobs that you are referring to about the importance of nature. There is the much broader context of recreation, engagement and health-related benefits, which is a significant part of the public narrative that needs to be developed. That is now in the corporate plan.

There are 200,000 jobs in Scotland that relate to the natural world. Some of those are in agriculture, some are in fishing, and quite a lot are in a range of other areas. Without Scotland's rich nature, we would not have those jobs and would not see the benefits for health, wellbeing and the economy. Beyond that, the evidence for specific health-related benefits in urban environments is very clear and there is some research on that that my colleagues and I have been involved in; there are some other themes that I might refer to. For me, understanding the relationship between what we might think of as the countryside and the wider landscape, and the urban environment is profoundly important. Taking the people of Scotland with us so that we all understand the importance of nature is significant. Without nature, the air that we breathe, the water that we drink, and the food that we eat would not be there. That narrative is part of the corporate plan. I see a real opportunity to provide an integrated approach to understanding the significance of nature across a range of areas. I can give you more examples of that if you wish.

The Convener: We are going to move on to other questions. I know that committee members get bored when I say this but, for the record, because you have mentioned farming and agriculture, I remind members that I have an interest in a farm in Moray and have been managing the farm for more than 40 years.

In passing, I would say that many of the designations in Scotland, from sites of special scientific interest to special areas of conservation and special protection areas, are usually as a

result of the management of those areas, because they are considered to be worth protecting. There are people who have kept them in the condition that they are in. Some need to be improved, but some are in good condition.

Mark Ruskell (Mid Scotland and Fife Green): Staying on the theme of people, you are Scotland's national access agency and yet, looking at your corporate plan for 2026 to 2030, I do not see a focus on enhancing public access. Could you say a little bit more about why that is and what your work will be going forward on that important issue?

Nick Halfhide: As we were developing the corporate plan, we included references to access, so it is in there, but you are right that it is not our top priority. Our statutory role is to promote the Scottish outdoor access code, which we absolutely do. It is true to say that we are more focused on working with those who manage natural assets so that we get them into good condition, and on working with farmers, crofters, foresters, and others so that they can manage those assets in a way that helps them with their businesses, as I said earlier. There are a range of other organisations in the access space that we support, but I do not envisage that we will have significant programmes of work on footpath repair, for example.

Mark Ruskell: Would you accept, though, that you are Scotland's national access agency? If it is not you, who is it that maintains the strategic overview of access rights, makes improvements to legislation and works with other stakeholders who own land, so as to encourage proper public access and enjoyment of the rights and responsibilities?

09:15

Nick Halfhide: We absolutely do that, and that is one of our many different functions. The point that I was perhaps not expressing very well was that we will be doing that, although we have not prioritised it in the way that you might be suggesting we should have done. We are trying to focus on the nature crisis end of our work more, over the next four years, as that is where the greatest priority lies.

Mark Ruskell: I thought that you had a corporate priority around the public, public access to nature and that side of things. Education and engagement are really important for tackling the nature emergency.

Nick Halfhide: Yes.

Mark Ruskell: Do you see things through that lens?

Nick Halfhide: I will bring in Pete Higgins in a minute, as this is his area of expertise. We absolutely do see that as important, although we are only one of many actors in that space.

Mark Ruskell: So, you are not taking a lead on public access.

I turn to the subject of species licensing. It would be good to know exactly where you are with the species licensing review: what the headlines are coming out of it, and when we expect the review to be signed off.

Nick Halfhide: We have submitted the species licensing review to ministers. It rests with them at the moment.

Mark Ruskell: What are the headlines?

Nick Halfhide: The headlines are that we feel that we should be doing some charging for it. That is one aspect. Our advice was clear: we think that we are following the various guidelines as necessary for how we should be doing it, particularly in relation to lethal control. That is just our assessment, however. Ministers will decide whether they agree with us.

Mark Ruskell: Have you assessed the compliance of species licensing with international law and international conventions? I will give you an example of that. It did not get a lot of scrutiny, but an amendment to the Natural Environment (Scotland) Bill was passed that effectively allows the recreational hunting of mountain hares through falconry. The Parliament has approved that, but it begs the question whether that is compliant with international law. I am interested about the species licensing that you come under some political pressure to deliver. Who does the assessment, and is it compliant with international law? Is that you or ESS that does that?

Nick Halfhide: I do not know the answer to that. Determining whether something is legally compliant is a role for the courts. In our implementation of the law, we will seek legal advice about aspects of how we implement it, but we do not make the laws, which is Parliament's job, while the courts scrutinise whether something is legal or not. I am perhaps not understanding the question.

Mark Ruskell: Let us use that example again, then. Would that practice be compliant with the Bern convention?

Nick Halfhide: I do not know. I would have to seek legal advice.

Mark Ruskell: Okay. It just seems odd. You are Scotland's national nature agency as well as Scotland's national access agency. If you do not assess compliance with international law and international treaties—from United Nations

treaties to the Bern convention to Ramsar—who else will do that?

Nick Halfhide: As I have said, we will seek legal advice on those things, just as the Scottish Government will do when it is proposing amendments. I am perhaps missing the point here. We obviously seek legal advice on a whole range of items all the time. I have to be sure that, when we are implementing individual elements of our work—

Mark Ruskell: Let me ask you a straight question. When you were doing the species licensing review, did you review whether species licences that are currently issued by NatureScot are legally compliant with international law and conventions?

Nick Halfhide: I will need to check. I assume that we did, but I do not have that detail to mind.

Mark Ruskell: Okay.

I will move on. A key performance analysis in your annual report concerns the condition of protected areas. We know that woodlands are in serious decline. What work are you doing specifically on woodlands and other habitats that are in decline to try to reverse that? We are in quite a desperate state, so what is going to turn the corner on this? What kind of work are you leading to ensure that we are restoring habitats such as woodlands?

Nick Halfhide: For our protected areas, we work closely with individual land managers through our area teams. We also work with a range of other public agencies. For woodlands in particular, we work with Forest and Land Scotland, where it owns the land, or with Scottish Forestry on how they can use the levers that they have to improve the condition of woodlands. We use a range of other levers, too, such as the nature restoration fund, to support work that is outwith the scope of other public funding mechanisms.

Mark Ruskell: What is your assessment of the possibility of halting nature loss by 2030, specifically in relation to woodlands? Are the conditions in place to halt that and to start to reverse the decline? What do you see as the main drivers behind that?

Nick Halfhide: Of all our habitats, woodlands are particularly challenging. The number of Roe deer are a significant factor in woodland conditions, particularly in the lowlands, although they are not the only factor. In the uplands, a range of grazers are factors, such as red deer, sheep and mountain hares. Woodlands are challenging because, as you know, it does not take a lot to affect them, unless they are fully fenced, which is hugely expensive and presents challenges for various grouse species.

It is really challenging, but there are some bright spots. I could point to the work that is going on, for example, not only on some of our nature reserves, but on private estates such as Corrour. It has an agreement with the University of St Andrews that allows it to maintain a level of stalkers and pressure on deer numbers that is enabling woodlands to recover.

Mark Ruskell: I am aware of lots of good examples—I can see them on my back doorstep. The key issue here is that you have a target of halting nature loss by 2030. When it comes to woodlands, are we going to meet it?

Nick Halfhide: I think that doing so will be really challenging.

Mark Ruskell: That is a no, then.

Nick Halfhide: That is not what I said—I said that it would be really challenging.

Mark Ruskell: Okay—it will be really challenging.

Back to you, convener.

The Convener: Thanks very much, Mark.

Before we leave the topic of licensing completely, I note that NatureScot now has a lot more powers and requirements in relation to licensing. One of the things that you said is that you are going to charge for licences, and that you will move very quickly on that. Will you explain that to me?

Nick Halfhide: What I said was that, as part of the licensing review, we recommended that we start charging for some of our licences. Our view is that there are many licences for which that would be a completely pointless thing to do, because either there would be a very low value involved or people would stop applying for them. However, there are some licences that we would consider charging for, because we think that—

The Convener: Which ones are those, Nick?

Nick Halfhide: I do not have the full list in front of me, and it is still just advice to ministers, but it would be ones for which we feel that the business that is run on the back of that licence may be able to support some charge. We are using that basic concept throughout our consideration of charging.

The Convener: Give me an example. Would that be for when Tesco or another supermarket applies for a licence to remove robins, or is it something more fundamental than that? Sorry, I meant to say removing robins from their stores.

Nick Halfhide: I understand—and I know that you mean the birds, not the people called Robin. Probably not, although I do not know that—

The Convener: Which one is it, do you think? You must have an idea of which one you are talking about.

Nick Halfhide: At this stage, I do not, because we have a range of new functions that we are still bedding in.

The Convener: One of the criticisms that I have heard consistently is that getting through NatureScot's licensing department is difficult. It is particularly slow and unresponsive. Is that a poor representation of it?

Nick Halfhide: I am sorry that you have heard that. Sixty per cent of our licence applications are now done online, making the process almost instantaneous. I can give you the example of how we have been dealing with gull licences, which I know is of particular interest to the committee. We deal with those within four working days, which to me seems to be a pretty quick turnaround. We do a lot of licences over the phone now, so that we have a very quick response rate.

The Convener: Somebody wrote to me from, I think, the Dee regarding a licence for destroying a seal that had gone right the way up the river, and they said that they were finding it impossible. Is that something that you would expect to be charged for? If someone applied for such a licence, how long would you expect it to take for them to get one?

Nick Halfhide: I cannot answer either of those questions. What I would say, though, is that particularly complex licence requests that require evidence to be gathered will take longer—and when we are talking about one species against another, things become particularly complicated.

I imagine that, in that instance, we would be balancing seals against salmon, both of which are protected species and are particularly complicated.

The Convener: Okay. Seen as we have ended up talking about salmon, I will also declare an interest in a wild salmon fishery. However, I have not applied for a seal licence, before anyone thinks that I have.

Douglas, you have some questions.

Douglas Lumsden (North East Scotland) (Con): Yes, I want to ask about natural capital, which, in your annual report, you have defined as a risk. The report says:

“A complex balancing act is required to stimulate private sector investment into nature whilst ensuring there is sufficient governance, due diligence and effective communication to ensure our reputation is not adversely impacted on account of misjudged or poorly delivered interventions to influence private investment in nature.”

Will you briefly set out how private investment in

nature currently functions, and how you see it changing?

Nick Halfhide: Yes, I am happy to do so. First of all, let me give you a couple of examples of where we have been doing this quite successfully. I have already mentioned SMEEF, which is our marine investment fund; it has very successfully taken moneys from private sector organisations, held them in a central pot and then distributed them to marine projects that we think will have the greatest impact. For us, one of the key elements has been to ensure high integrity by putting in place a kind of ethics committee, as it were, to consider whether we can accept donations from those organisations. That element has worked really well and, indeed, has been quite thorough, but it is relatively small.

More broadly, we have been trying to stimulate private investment where there could well be a profitable return. That builds on the carbon code and the woodland carbon code, where individual land managers and investors can actually see a return, in time, on their investment. We have been seeking to de-risk the early elements of that by, for example, developing the natural capital tool, which helps land managers to look at all the natural capital on their holding and model how that might change. We are also looking to put forward a kind of shop window of investable opportunities for the private sector to invest in.

Douglas Lumsden: Is there a big enough demand to invest in nature just now?

Nick Halfhide: The private sector tells us that huge money is interested in investing in this area, but we have not yet quite cracked de-risking it enough to allow investors to see a long-term income stream. There are pockets where that has worked, but I would not say that it was widespread yet.

Douglas Lumsden: When you talk about de-risking, you mean that NatureScot will take on some of the early risk. Is that right?

Nick Halfhide: Yes, as in any new area of work—I know that that is a very broad statement—where the public sector will seek to de-risk the early development in order to make it market ready. However, we do that in discussion with a number of private sector organisations, which kind of guide us through the process.

Douglas Lumsden: Okay, but there is an appetite for people to invest in nature, as long as it is de-risked in the early years.

Nick Halfhide: Absolutely. There is huge demand. That is what the private sector tells us, although I would say that that appetite has slightly diminished, because of international events that

have spooked the market. Without being too explicit, I think that you know who I am referring to.

Douglas Lumsden: Yes. Pete Higgins, do you want to come in?

Professor Higgins: If I may. I am sure that you will come back to Nick in a moment, but one of the things that I am picking up is a degree of confidence that investors have in longer-term futures for their investments. This is not like making a short-term investment; when you deal with a land-related, or even a marine-related, issue, you want to put in money that you expect, over the long term, to get a return from or which you believe will have security—in other words, there is not going to be a policy change that will mean that you have made a mistake. That degree of confidence is, I think, quite significant, and it brings me back to my point about the narrative around the significance of nature being really important.

I am not sure whether you picked up on this, but the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services met in Manchester a week after you passed the Natural Environment (Scotland) Bill here. It makes an explicit link to the significance of nature for businesses globally. Without nature, our businesses would not survive. The more that we have a positive environment and welcome investment in nature in Scotland, the more it is in tune with that narrative—a very different narrative from the one that Nick Halfhide referred to, which has been negative.

09:30

There are other things that might go with this. Again, you may be aware that there was a national security briefing recently on the significance of nature globally. That was provided by the Joint Intelligence Committee, with the Joint Nature Conservation Committee supporting that work. That is now being developed at a European level, and some elements highlight the direct significance for the United Kingdom with regard to climate change's negative impact on nature.

Those arguments are strongly in favour of investors making a commitment or philanthropists making an investment, as long as we provide a stable, long-term environment for them to give that support.

Douglas Lumsden: Is the drive to invest by investors about making money, or is it more of a conscience thing?

Professor Higgins: My take would be that it is a mixture. I work for the University of Edinburgh, which has put a significant amount of money into peatland restoration and woodland planting

because it believes that it is the right thing to do, and that it provides a way of dealing with the emissions that it cannot tackle in any other way.

Universities are one type of organisation that can do that. I can think of other groups, such as philanthropists, who have said, "This is important for nature and I will do it for that reason." I know of one sporting estate that has recognised the benefits of diversifying its work and investing in nature restoration, because planting trees nearby affects the salmon fishery and the river. Part of my research background is in that area as well.

Douglas Lumsden: That all sounds good, so why do we have to de-risk it?

Professor Higgins: I think that de-risking is about developing that narrative of confidence. When people are considering investing, they have, on the one hand, this option and, on the other hand, another. Let us give them that extra support to make sure that they make this decision rather than another one about where they want to put their money. Nick will probably have more to say about that, but I hope that that is helpful.

Nick Halfhide: The de-risking aspect is interesting, because some businesses and some investors do not need that de-risking; they will just go for it. Those are the pioneers and those are the examples that we have seen.

However, to make this more mainstream, we need to help the majority, who are maybe more cautious, to understand how it works, because everyone has a different risk appetite. We have been trying to help to de-risk it for the majority and to give them tools to show how it works and point them to good examples, because that will help to mainstream this rather than it just being a few individuals.

Douglas Lumsden: Thank you.

Kevin Stewart (Aberdeen Central) (SNP): Before I go on to my main line of questioning, in your opening statement, Mr Halfhide, you talked about some parliamentarians having made comments that "crossed the line". Will you give us examples of that and how that has had an impact on NatureScot?

Nick Halfhide: It has had an impact. I have not got the words to hand, but they are on public record. Some individuals are calling our organisation I think, the worst in the western world, and other individuals are questioning the competence of some of our staff. I raised that because I refute that. I have had staff in tears saying, "I have dedicated my life to this work," so to be denigrated in public crosses a line. I must look after the welfare of my staff. I have not only a legal duty to do that, but a personal duty, so I take those comments very seriously and of course I

react when I hear people making baseless comments.

Kevin Stewart: It would be interesting for the committee to get examples of where you think comments have crossed the line and where they have had an impact on your staff. I would also ask you to recognise the difference between scrutiny and what you may think is crossing the line.

Nick Halfhide: Absolutely—I understand that. I make that judgment, as do all of you, as to where putting stuff on the public record crosses a line. We are an evidence-based organisation, and being called the worst public agency in the western world, without evidence, is difficult for me. That creates an atmosphere, not only in Parliament but in wider society, in which members of the public can come up to one of my members of staff and their family in the local co-op and be abusive to them, as happened down in Galloway during the national park debate. Just this week, our headquarters in Inverness has been attacked and vandalised for the second time. That is deeply disturbing.

Kevin Stewart: Sure—I well understand that. Given that you have made those comments, I think that it would be useful for the committee to have in writing where you think that folk have crossed the line. It would also be interesting to know if you have made any complaints about any individuals in cases where you think that comments have crossed a line.

Nick Halfhide: I am happy to provide you with extracts from the public record.

Kevin Stewart: On peatland and nature restoration—and on peatland restoration in particular—we have already heard from Professor Higgins, just a few minutes ago, about an example of the University of Edinburgh investing in peatland restoration. Are there other examples of private finance that you think can be used? Are there any changes to taxation that you think might be viable for peatland restoration? Given the importance of peatland restoration not only to Scotland's climate change plan but to the UK's climate change plan, do think that the UK Treasury should invest more in peatland restoration?

Nick Halfhide: We should definitely invest more in peatland restoration. That is the bottom line. As you know, the Scottish Government has committed to doing that, or is committed to doing it, through the climate change plan. Our position is that we could do more if there was more money. It is a tricky situation: we do not want to overstimulate demand that we then cannot meet, but we feel that, if there was more money, we could stimulate demand and work with industry to meet it.

The key for us is not only the quantum of extra money. There are many other areas to consider, in fact, including the certainty of the long-term funding, whether it comes from private or public sources, so that the businesses involved in peatland restoration are willing to invest in the skills and the machinery required. There is also a need to recognise that there is a lead-in time. If we fund some design work on a piece of ground at the moment, it may be 18 months before the project comes through.

We increasingly require a greater level of private investment for peatland action. Previously, we might have funded nearly all peatland restoration; now, we require individual landowners to pay for some of it. As that market develops around the carbon code, we might expect that to be more attractive for private investment.

Kevin Stewart: I return to my point about whether the UK Treasury should be investing more. You said that we need continuous multiyear funding in order to get this right. Do the funding streams need to change from the HMT level to become multiyear in order that we get this right?

Nick Halfhide: It would be really helpful to have guaranteed multiyear funding. We have three-year funding in the pipeline. If we are to meet the targets to 2040, it will be very helpful to have long-term funding.

I am not a tax expert, so I cannot answer the point about taxation, but I am sure that there are changes that would be helpful.

Kevin Stewart: Let us move on a little bit, to marine planning. Is marine planning working effectively at a more strategic level to guide sites towards areas of lower ecological sensitivity?

Nick Halfhide: Are you referring particularly to offshore wind?

Kevin Stewart: Offshore wind is probably one of the main areas, so let us start with that.

Nick Halfhide: I would say that that has improved significantly in recent years. The ScotWind approach has been very helpful—it has involved a far more strategic approach than is applied on land, and that helped to guide most wind farms and most marine energy projects into more suitable places. As you know, we struggled with one of the larger developments pre-ScotWind. Our role is to give advice on the potential impact of all the marine energy proposals that are put forward.

Kevin Stewart: One of my colleagues will probably go into more depth about this, but are there conflicts of interest with some of the assessments that you are carrying out because you are also a statutory consultee?

Nick Halfhide: I do not understand what you are asking.

Kevin Stewart: I am asking a general question. Do you feel that there are any conflicts with where you stand as an organisation on some of these issues?

Nick Halfhide: I have never quite understood the argument, because we provide advice and evidence across a range of issues. There will be times when our advice about one species may need to take into account the impact on another species. We provide advice on a range of issues, such as the impact of a wind farm on a bird species or of the acoustic noise on cetaceans, or we might consider the impact of cables on the seabed. We look at, and provide advice on, a range of topics.

Kevin Stewart: I am not trying to trap you in any pitfalls here, Mr Halfhide. You said that you do not understand the question, but the question about conflicts is asked by a number of people. I would have thought that you might have tried to find an answer for those folks who are sceptical and think that conflicts exist.

Nick Halfhide: Our role is to protect and restore nature and to provide advice to decision makers. We do not have a business conflict of interest; we have an interest in helping decision makers to have all the evidence in front of them so that they can make decisions that are in the public interest. They will be gathering evidence from a range of other areas, particularly on the impact of any decisions on businesses and people, and we provide evidence about nature. We do the job that is asked of us. I do not feel that there is a conflict of interest.

Kevin Stewart: Professor Higgins, as a board member, can you counter some of the folks who question your role and say that there may be conflicts?

Professor Higgins: I can give a simple answer. In my experience as a board member, I have never encountered that as an issue. It may be in a public narrative, but I have not encountered it. My answer would be the same as Nick Halfhide's. I have nothing to add, although I wish that I had. If I knew more about it, I would give you more of a response.

The Convener: We have moved on to the theme of marine and offshore planning. I have some questions on natural capital, which I will come back to, as we will stick to the marine theme at the moment.

Douglas Lumsden: You mentioned offshore wind and the strategic compensation policy. What are your views on moving away from the like-for-like compensation that we have in place to a system in which compensation could be granted

somewhere completely different and for something completely different?

Nick Halfhide: We welcome that. In the offshore environment, if we insisted on like-for-like compensation, there would be very little development. Standing back from it, we see that offshore wind and other renewables are really important for the nation. We look forward to seeing how we can invest more broadly in nature through the compensation scheme.

Douglas Lumsden: How would you see the scheme working? For example, if there was a new wind farm off the coast of Kent, who would decide what the compensation could be in parts of Scotland?

Nick Halfhide: Kent is obviously beyond my jurisdiction. We have already seen that happening on a voluntary basis, but that could be the forerunner of its becoming a requirement. One offshore wind farm has put significant sums of money into onshore work in order to reduce the impact of invasive non-native species. It has allocated more than £1 million to help to reduce mink predation on the mainland and some of the islands. That is a way of relieving some of the broader pressure on nature, even though the wind farm is more likely to impact seabirds.

09:45

Douglas Lumsden: What would you see as NatureScot's role in that process?

Nick Halfhide: We would have a number of different roles. First, we would help to assess the impacts that a development might have, to see what damage would be caused. That is at one end of the process. At the other end, we would work on the ground with land managers and those who manage the sea to come up with measures that could be invested in that would have a real impact from that compensation. That is important.

One of the challenges of the current development process, which requires that compensation is like for like and often that it is very close by, is that the work that is being funded is of little ecological value. We can make that funding have a much more strategic impact.

Douglas Lumsden: If the compensation is not like for like, how would you make that assessment? How would you say that a given measure was the best equivalent, in terms of nature restoration, of any damage that a wind farm might cause?

Nick Halfhide: It is really challenging, and that is work in progress. We have biodiversity metrics, which might be more developed further south for on-land developments, which we use to give a

certain value. It is very complicated and there will be a lot of judgment involved. That is why we are taking our time to work that through with others.

Douglas Lumsden: Thanks.

The Convener: Monica Lennon has some questions in this area.

Monica Lennon (Central Scotland) (Lab): On the same theme, I want to drill down into the governance arrangements and what you anticipate the role of NatureScot will be.

You have said that it is complex and that sites in England and other areas outwith Scotland are not within your jurisdiction. Let us say that an offshore wind farm has been consented, the compensation measures have been agreed and they are set out in conditions or legal agreements. Oversight of that would involve ensuring that the compensation measures are implemented properly and that the project is monitored and evaluated. How would the governance around all of that look?

Nick Halfhide: My understanding is that, with any development, the authority that gives the permission and sets the conditions has the responsibility to ensure that those conditions are met. We would be an adviser to that end. We would help, for example, by saying what monitoring on the ground might need to be done or, if new projects needed to be found in order to help with the compensation, we might help to stimulate that. I suspect that the strict monitoring of the conditions will rest with the authority that gives the permission. In offshore wind, that authority will be with ministers and the marine directorate.

Monica Lennon: Do you anticipate that decisions will be made at a ministerial level, whether by UK ministers or Scottish ministers? Will that impact on local planning authorities?

Nick Halfhide: My understanding is that, for offshore developments, decisions are made by ministers. The wind farms are offshore, obviously, but there is clearly an onshore component involved, because the energy has to come onshore at some stage. The local authorities are involved, through the planning lens, in deciding where the cables come onshore, where substations and the like might be needed, and where the pylons that cross the country will go. Although the wind farms are offshore, there is definitely an onshore component.

Then there are the huge local economic opportunities. I live up north, near Buckie, and I can see the change that is happening in that town already through the setting up of offices there for maintaining all of that. That is not my department, though.

Monica Lennon: That is helpful. I am just trying to understand the role of NatureScot in all of this, because it sounds as though there might be some joint working and a need for good communication, record keeping and data.

Nick Halfhide: Yes, there is, and we are already closely involved. By the time a development comes forward for permission, we will have been talking to the developer for probably three or four years. In that pre-application period, they will come to us and ask what data they need to gather, and we will tell them what data they need to start gathering over a number of years and that we will go with them every step of the way. There are seven stages that we map out with them, right the way through to decommissioning, which seems a long way off. As we know from the oil and gas sector, you need to think about decommissioning now, because it is something in the future that has to be planned for.

Monica Lennon: There is that long-term approach. Pete, do you want to comment?

Professor Higgins: There is also a UK perspective, and the Kent example is a good one because migratory species coming to Scotland might be impacted by a wind development in Kent, and vice versa. New developments, such as Berwick Bank, will have impacts on England as well, so the role of the joint nature conservation committee is to have broader oversight. Some elements are clearly Scottish, but others refer to Natural England and to the JNCC. There is a complicated range of discussions that need to take place on some issues. I hope that helps.

Monica Lennon: Is that change likely to be part of a broader shift to strategic biodiversity compensation approaches? What are your views?

Nick Halfhide: That is an interesting question, because we see that happening in England already. In effect, developers can put money into a bank that our sister organisation, Natural England, then administers. We could go down that route in Scotland, but we have not ventured there yet and it could be quite challenging to do so, because there are many different elements. It is probably useful that we have dipped a toe in the water with offshore development, where there is significant work and opportunity. If we were doing like for like, the compensation just would not exist.

I can give some colour by explaining some of the ideas that have come from industry already, before we move down the compensation route. One idea was to pay fishermen in Portugal to change the nets they use, because some of our migratory species were getting entangled in those nets off the Portuguese coast. Some of the thinking about interventions went as wide as that.

Michael Matheson (Falkirk West) (SNP): I will stick with the subject of your role as a statutory consultee in the consenting and planning process, initially with regard to on-land projects and developments. In the course of the past year, have any projects that went to planning been delayed as a result of NatureScot not having the capacity to respond within the timescale for consideration of the planning application?

Nick Halfhide: I do not have that information to hand, but I can provide it if that would be helpful. I can also give you a general comment, but I cannot think of any specifics.

Michael Matheson: Let me hear your general comment first.

Nick Halfhide: My general comment is that we aim to meet the timescales required by local authorities or by the Scottish Government for larger applications, and my understanding is that we succeed in most instances. However, there may be cases in which we cannot meet the timescale because the evidence has not yet been given to us by the applicant.

The examples that I know of where we have met the timescale concern some of the major wind farm applications and, crucially, the major transmission lines. We met the timescale for that development, which required a considerable investment of our time. We had to understand the importance of that work to balance the grid and ensure that all that renewable energy could start flowing.

Michael Matheson: Are there times when you do not make it?

Nick Halfhide: Historically, we have not always made it, and in some instances, although very few, we have asked for an extension.

Michael Matheson: Are you able to quantify on how many occasions you have not been able to meet the timescale?

Nick Halfhide: Not off the top of my head, but I can provide that information in writing if that would help.

Michael Matheson: It would be good if you could provide that in writing.

How does your organisation, with the resources that you have, respond to the challenge that you face when you are unable to meet the timeframes for planning applications for which you are a statutory consultee? What happens? You are the chief executive and you are in charge, so the buck stops with you. What do you do to ensure that your agency is taking action to prevent that happening in the future?

Nick Halfhide: Most of it predates me, but we have taken action over many years to ensure that

we have the right people in the right place to deal with the highest-priority applications. I will give you a few examples of what we have done. We have introduced a new system called InformedDECISION, which is an artificial intelligence system that allows planning authorities and developers to know at the outset what information about nature with regard to their application is available in the public domain, so that they can provide the information that we require. Because the machine provides that, we not have to, which frees up staff to go on to the front line. We have also slightly increased our number of staff working in this area, so that we can deal with the tighter timescales required by Government and the increasing demand, both onshore and offshore. I know that your comment was about onshore, but we will be starting to charge for our offshore services from 1 April, so that we can increase our capacity to deal with the exponential increase in marine energy cases.

Michael Matheson: It looks as though, on occasions, you do not meet the timeframe. You are not clear about exactly why that is the case, and you do not know the figure for the number of cases in the past year in which you have not been able to meet the timeframe as a statutory consultee for local planning matters. Pete Higgins, what sort of discussion takes place at the board in relation to the executive team's oversight of these matters?

Professor Higgins: I have not encountered that matter at board level. Nick Halfhide's response to your question implied—to me anyway—that there may be issues, which may be historical, but he does not have the information. I have not seen anything relating to that at board level, so my assessment would be that no information has come to the board, therefore I cannot comment. If there were issues of slippage, the board would want to know why and what could be done about it. Following this meeting and Nick's written response to the questions that you have asked, I would hope that something would come to the board, so that we could ask the appropriate questions at board level. I hope that that helps.

Michael Matheson: We are in a situation where the chief executive does not know the figure for the past year but we do know that there are delays that have an impact on live planning applications, for which you are the statutory consultee, and, to date, the board has had no oversight of that. Is that correct?

Professor Higgins: I have no recollection of the board having oversight of that. That does not mean that my memory is quite what it should be, but I have no recollection of that.

Michael Matheson: Nick, you made reference to being a statutory consultee to the energy

consents unit when it is considering applications. Over the course of the past year, have you been late in responding to the energy consents unit when it is considering an energy application? At any point, has that delayed consideration by the ECU?

Nick Halfhide: My answer is the same, but I will elaborate if I may. I do not have that information to hand, but none of my colleagues has flagged an issue with regard to our being late, or any concerns from the ECU or local authorities. I am interested in the information that you have, deputy convener. You are clearly concerned that we are not meeting the timeframes, whereas my organisation is telling me that we are meeting them.

Michael Matheson: The buck stops with you. You confirmed earlier that there are cases in which you are not able to make it on time, but you were not able to give us the details. We know that it happens. I know that it happens. I am asking you for details of the oversight that you have as the chief executive of the organisation in making sure that you are addressing these issues when they arise, how you go about doing that and how you make sure that the board has proper oversight of the issue. I ask that because it is an on-going issue for the industry that you do not have the necessary capacity to deal with the demand that you face for dealing with energy consents.

Nick Halfhide: If that is your view—

Michael Matheson: No, it is not my view. You have already confirmed that there are cases in which it does not happen.

Nick Halfhide: There are cases of every statutory body asking for extensions, but that is not always through a lack of capacity. It is often because the information provided by the applicant has been insufficient for us to make the assessment within the timeframe.

Michael Matheson: Can you give us a breakdown of that data? I know of specific cases where that is not the case.

10:00

Nick Halfhide: I am absolutely happy to give you that data. I just do not have it in my head.

Michael Matheson: I know of specific cases in which it is just that you did not have the internal capacity to deal with the application.

Nick Halfhide: We are really stretched, but we deal with the highest-priority ones, and we prioritise energy—both on and offshore—and energy transmission.

Michael Matheson: Okay. It would be interesting to see a breakdown of the cases that

go to the ECU—against local authorities—for which you are not able to meet the timeframes, what the reasons are for that and what actions you have taken, as well as how you ensure that the board has proper oversight of those issues when they arise.

Nick Hafhlide: I am happy to take that away.

Michael Matheson: Will you come back to the committee with those details?

Nick Hafhlide: I will come back in writing.

Michael Matheson: Thank you.

The Convener: I will keep going with the flow, saving my question to the end as a quickfire. Monica Lennon has the next questions, which are on biodiversity.

Monica Lennon: I want to briefly ask something that is supplementary to the deputy convener's question. Nick, in your opening comments, you talked about the complexity of your organisation's work but also said that, at times, it can be contentious. It is important that we see in writing some of the data behind what has just been discussed. I am going back a long time to when I worked as a planning officer but, often, the quality of information determines how quickly a decision can be made or a response given. It will be important to see that in writing. Given what you said about some of the abuse that has been levelled at your staff, we need to take the heat out of the issue and deal in facts.

I turn to the biodiversity delivery plan. We have heard about the nature and climate emergency and the need to halt the decline of biodiversity by 2030. You did not sound entirely confident that targets would be met in relation to woodlands. Will you talk us generally through the key milestones that need to be delivered early in the next parliamentary session if Scotland is to have a chance of halting the decline of biodiversity by 2030?

Nick Hafhlide: Yes, I am happy to do that, and I am sure that Pete Higgins will come in with his expertise.

The Scottish biodiversity delivery plan has more than 100 different actions. That in itself shows the complexity of the activities that need to be undertaken across land, sea, freshwater and coastal activities. We have just started the delivery. Some elements are delivering well but others are more challenging.

I will start with those that are delivering well. We are particularly pleased with some of the nature restoration work, whether that is peatland restoration or some of the landscape-scale work that we and others have funded. A lot of good stuff is going on.

In the more challenging middle ground is the aspiration to have 30 per cent of our land and seas protected and in good condition. More than 30 per cent of the sea is already protected, but I would not say that it is in good condition. On the land, we are at about 18 per cent. We are introducing a new approach, called nature30, which allows a range of private landowners and community owners to put their land into a long-term stewardship that is slightly less constricted than some of the formal designations. That is the middle ground.

More challenging areas probably concern the pace of reform on agricultural support, which I imagine the new Parliament will want to look at very closely.

Another area to highlight is deer and species management, including invasive non-native species, on which we estimate we need to spend around £40 million a year. We are not spending anywhere near that.

Some of the challenges that others have alluded to concern species that elicit challenging responses. No one has mentioned beavers yet, or white-tailed eagles. Those are challenging for the individuals who may have them and be struggling to run a business—not all of those, but some—but the situation also puts a dampener, for want of a better expression, on some of the wider public debate about just how important it is to engage with nature and get it right.

Deer management continues to be challenging. Again, that is an area where we have some incentives at the moment. We have dedicated staff working on it, and we have a huge contribution from the voluntary sector, but in an ideal world, if we had another £5 million a year to provide incentives, we could make more of an impact on reducing red deer numbers in the open range and, what is actually slightly harder, roe deer numbers in the lowlands. That would have a significant benefit for biodiversity.

I think that I have talked too much. Pete, did you want to come in?

Professor Higgins: I will add a few points, primarily about the multiple benefits of doing certain things. We have talked a little about the significance of peatlands as carbon stores and the ways in which rewetting and restoring peatlands has benefits from the point of view of ensuring that we are not releasing CO₂ into the atmosphere. Even with the numbers that we are talking about in the programme of work that is going forward, even if we succeed in all those areas with peatland, we will be dealing with only a sixth of the area of Scotland that is currently releasing CO₂. However, there are also benefits for wildlife in doing that work. You are not just stopping the release of CO₂ but providing benefits for wildlife.

The same is true of INNS, which cost the economy about £240 million a year or something, but the amount of money going into dealing with INNS is a fraction of that. If you deal with invasive non-native species, you enhance our biodiversity status across a range of different species and habitats. That also makes those habitats more enjoyable for people to spend time in. We relate that to public benefit in other ways, including the access issues that you were talking about earlier.

My point is that we have the knowledge and the mechanisms to improve biodiversity across the piece. Are we going to meet the 30 by 30 target across the whole range of environments? As Nick said, I would love to think that we will, and staff are working hard to do so, but it is a real challenge. We are dealing with, make no mistake, a very highly degraded environment in many of our habitats in Scotland. There is so much to be done. I hope that that helps a little.

Monica Lennon: Yes, it does. Thank you, Pete. Some of the earlier comments from Nick were obviously important for us to hear today, and they are now on record for the next Parliament to pick up the baton. It is clear what the ambition is and what the milestones are, but there are a number of risks that could hold us back.

I will ask you about skills. We have talked a lot about people in your organisation and about people who work in various industries in Scotland in both the public and private sectors. Is there a risk around skills? Do we have the right people doing the right jobs, and do they have the skills to take us forward to 2030 and beyond?

Nick Halfhide: We work with nature—I say that in the broadest sense. Farmers work with nature, as do nature conservationists and people in the renewables sector—it is a real growth industry for Scotland. We have been working closely with colleges in particular to try to stimulate the market in that skills sector.

I have said this before in public, but one of the things that holds us back is housing in rural areas. We need more people in the countryside, not fewer, and we need more affordable housing, particularly if people in the nature sector are competing for those houses with folk who either have much better-paid jobs or who are not using them on a full-time basis. There is a direct link with housing. I have seen in my time how hard it is for our staff to live at Beinn Eighe, one of our nature reserves near Kinlochewe. Partly as a result of that, the primary school has closed. We want the communities in rural areas to be vibrant and to have more work, not less.

Professor Higgins: Historically, part of my work has been in the world of education at university level, with people who become teachers and so

on. I have attended committees in the past to talk about learning for sustainability and the environment. It is an educational construct that we developed in a previous parliamentary session.

The idea that education in Scotland has strong links with sustainability and the environment is in place, but it is not in place enough for young people to really believe that there will be jobs across the wide range of areas that Nick is referring to—and to be confident that they will get jobs—and that restoring peatlands is a worthwhile career opportunity. To address that requires a public narrative that says that we care about nature and that it is part of our national identity. The more that we can do that, the more people will look towards those jobs.

For example, restoring peatlands is problematic because there are not enough people out there to do it—there is a job shortage. How do you deal with that? You provide training courses, but you also make sure that, as Nick said, the necessary broader environment, including housing, is in place in those areas. We are starting from a low base and we have a lot to do.

Monica Lennon: I strongly agree that we need a joined-up approach.

I am watching the clock; the convener is sitting right there. I just have one more question, convener, about the progress that we need to make on the 30 by 30 target. What progress has NatureScot made in assessing potential areas for other effective area-based conservation measures—OECMs—and how have you been engaging with land managers? When might we see the first OECMs put in place?

Nick Halfhide: I am happy to talk about that. We have been working very closely with a whole range of stakeholders. The cabinet secretary launched the first of the OECMs, which we relabelled “nature30” for convenience. I was actually there because it is just by my house in Findhorn.

The four first sites were the Loch Arkaig pine forest, the Findhorn Hinterland, Loch Wood, which is the Blackwood Estate Community Association project, and some of the Forestry and Land Scotland site down in Knapdale. We have been working with the public sector, but mostly with the private sector and community groups, to have a pipeline of new areas coming forward.

It is worth reflecting that when I talk about this in the rest of the UK and abroad, people look with envy at what we have done here, because we have taken such a collaborative approach. The International Union for Conservation of Nature has applauded our approach in Scotland as world leading, because we are working with people who own and manage the land and who want to run

businesses and have communities there, but in a way that is nature rich.

I am optimistic, but we need to move at pace to move, on land, from 18 to 30 per cent. I do not have the figures in my head, but we need to shift a lot of hectares into that accolade space where we say to people, "You are doing such a good job that we want to reward you with the accolade of nature30 status".

Monica Lennon: That is encouraging. Thank you.

The Convener: Bob, you have some questions.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I do. I want to ask about your biodiversity delivery plan, which mentions that there will be a new action plan on invasive species, which came up a little bit earlier.

I had a look on the internet to find out what previous action plans looked like. I think that the previous one was the Scottish invasive species initiative, which ran to 2023—I do not know whether there was something after that. Listed as priorities were giant hogweed, Japanese knotweed, Himalayan balsam, American skunk cabbage, white butterbur and American mink. Is the new plan out yet? What are the priorities?

Nick Halfhide: Ministers are hoping to launch the national plan, I think, before the end of the session, and we have just consulted on that national plan.

On the detail, you talked about the SISI, which is an on-going initiative to tackle all those species. We have just received additional funds from both the nature restoration fund and, as I alluded to earlier, one of the offshore wind farms to help to sustain that project and expand it so that it can tackle some of those invasive plants and species.

In addition, we have really big programmes to try to deal with invasive species on some of the islands, where the impacts are considerable if those species get out of control.

Bob Doris: I am fine with that. I am trying to understand whether there has been a gap. Did SISI run beyond 2023? Your website says that phase 1 concluded in 2023.

Nick Halfhide: Sorry—I need to update our website. The initiative has continued and expanded. It relies heavily on volunteers and is really engaging locally.

10:15

Bob Doris: Some species that are noted on your website are not listed as part of the project, such as the signal crayfish, the carpet sea squirt and the good old rhododendron. How does

NatureScot determine which invasive species become priorities? What action do you take? How can we, as a parliamentary committee, measure the impact that NatureScot has had?

Nick Halfhide: There is a multipronged element to that. The priority depends on what the local priority is. We often work with local communities and actors to determine the priority in their catchment.

On the west coast, the priority might well be rhododendron. We have a number of big projects to try to reduce the impact of rhododendron. In some of the main salmon rivers, the priority is more likely to be controlling mink and dealing with some of the plant species that you mentioned.

In each individual case, we use a series of measurements to see whether what we have done has been successful, and we think about how we can sustain that success over subsequent years.

Bob Doris: How would our successor committee have a conversation with you about that this time next year? You might tell us in February 2026 that the emerging priorities are X, Y and Z. After a year has passed, how can we find out how you have got on by looking at the data and the measurements? I think that you are saying that the local action plans are separate from the national priorities.

Nick Halfhide: The national plan, on which we have been consulting recently, will pull all that information together so that, quite rightly, we can judge whether we are having an impact at a national level. We will measure our impact by looking at the sum of the individual projects, as it were, and at what is not happening.

Bob Doris: That is all very general. Do you want to come in, Professor Higgins?

Professor Higgins: There is an element of cost-benefit analysis to prioritising. How much return can you get from the investment that you put in when you have limited staff and resources? Recently, an INNS paper to the board has gone to the scientific advisory committee for review.

In essence, we take a triaging approach. In medical terms, that is about how to prevent further harm. For example, in relation to signal crayfish, which you mentioned, we used a freshwater ecologist and a salmon biologist. Signal crayfish are not seen but, if you allow them to come into certain areas, they will have a major impact on existing crayfish and other species.

We might say that preventing a species from arriving somewhere in the first place is the number 1 priority. The number 2 priority might be how to get the best return for the investment that we can make. The number 3 priority might be considering

the degree to which, some way down the line, a long-term solution might be necessary, such as a project that might last for five or 10 years to, for example, eradicate mink from an island.

I hope that that answer helps in setting out how NatureScot staff think about such issues. They think of it as triaging.

Bob Doris: That answer does help, and I hope that my line of questioning will help in relation to precise examples that our successor committee might ask about next year.

I sometimes go on to the internet—which is not always very reliable—to cross-reference what it says on NatureScot's website. It is said that the nature emergency and the impact of non-invasive species can have an annual economic cost of tens of millions of pounds, or £100 million-plus. I do not understand how that works in practice, but someone has quantified the economic impact, and the primary nature impact is obviously substantial.

I would like to see specific examples—such examples might exist; I might just not have done enough preparation for the meeting—that quantify the investment that has been made and the action that has been taken. I know that this is your field, Professor Higgins, but what you do will not always work. You will get some things right, and some bits will not go so well. You will learn from that, and a new strategy will emerge. Our committee would like to touch, feel and smell some of that work, so that we can scrutinise it.

Nick Halfhide: Absolutely—I get the point. The plan will provide a national picture, and I can provide you with local examples. For example, on Orkney, where we have invested significantly in removing invasive non-native stoats, we can see nature returning. We have quantified that. I understand your point about wanting to see how that entire sum adds up.

Bob Doris: The danger of being asked a question at the end of an evidence session is that it gives the member time to look online for additional information. That is good, because it leads to a more informal line of questioning. I would like to be able to go beneath some of the headline narrative to look at actions and quantify what has been done.

My final question is on a topic that might have been partly covered. The biodiversity delivery plan set out that, by 2025, NatureScot would develop an approach to targeted peatland restoration investment. We have heard about that already. Are you able to say anything about the outcome of that work? What opportunities are there for peatland restoration funding to be better targeted at climate and nature goals? There are some good examples out there of peatland restoration simultaneously

boosting farming opportunities and nature restoration. In other words, it is not an either/or. Can you provide any more details?

Nick Halfhide: Yes, I can give a good example of what we are trying to do. I mentioned a farm earlier, and I will move on to a different example. The River Peffery, which runs through Dingwall, has a history of flooding. We have targeted peatland restoration and the planting of trees along the riverbank, and we have worked with one of the farmers to re-wiggle—that is not a technical term—the river. All those measures combined have reduced the flooding risk to the extent that it is now possible to do further development in the business park, which was not previously possible because of the flooding. That is an example of where we wanted to target our work on peatland so that it complemented all the other work. Does that help?

Bob Doris: It does. That is a positive thing. I asked for a case study and you have given me a specific example, which is very helpful. However, my underlying question was about whether we can do more of that targeted work and how we can roll that out and quantify it.

Nick Halfhide: You are absolutely right. We are now well into the peatland restoration process, but when we started that work, it was a question of doing it where we could, where we had someone who was willing to work with us and we knew that it would all work. As the peatland restoration work has developed and become more sophisticated, we have started to use a greater range of evidence and material to work out not only where peatland restoration is easy but where it would have the best impact.

We are beginning to look at criteria such as where peatland is emitting the most and where restoration would reduce the risk of flooding or drought the most, taking into account climate change projections. Therefore, we probably need to do far more work in the east, where it is projected to be drier, with the result that erosion rates will increase. We are also looking at linking peatland restoration with deer management far more than we did previously. We no longer fund if deer numbers are too high, because that will just undo the restoration work.

Peatland restoration is beginning to be a much more sophisticated and targeted intervention that takes account of other interventions locally and of where the benefits would be greatest.

Bob Doris: You say that there has been greater targeting, which has been a success. To ask the question another way, are you able to quantify that? You assert that there has been greater targeting and that that has been successful. I have no reason to doubt that, but what is your baseline?

How do we know that there has been greater targeting, case studies aside? How is that quantified?

Nick Halfhide: That is a really good question. I do not know the answer. I will have to take that away and think about how we can show that we have taken a more targeted approach.

Bob Doris: I have no more questions.

The Convener: I will let Mark Ruskell and Douglas Lumsden ask a couple of brief questions, and then I will ask some questions at the end.

Mark Ruskell: What are the implications of the provisions of the Natural Environment (Scotland) Bill that feed into your major workstreams?

Nick Halfhide: There are many, but I will focus on two. One of the implications relates to the statutory targets. When they come into force, they will be a significant driver for us. As well as helping us to provide evidence to support the measurement process, we are expecting the statutory targets to drive co-ordination across Government, as has been the case in other fields of public life. For us, that is really significant, because we know—as you will all know—just how busy Government is doing individual things. Having statutory targets really helps to concentrate the mind. We will support that with evidence and with conversations right across Government in order to help that adjustment and the benefits that we think that it will bring.

The second point, out of many, to which I will draw the committee's attention is around deer management. The extra powers and responsibilities in the legislation will help. Although we know that regulation is a pretty blunt tool, it can be effective in influencing behaviour in the deer management sector, which is, as we all know, largely voluntary—and you regulate a voluntary sector at your peril. Regulation is not the be-all and end-all, but it can be useful, and it will help to shift the balance for many deer managers; it will help them to make the shift and do what many of them already want to do.

Douglas Lumsden: I will be brief. I have a question for you on your annual report and accounts. Under losses, there is a section on "claims waived or abandoned", which totals £675,000 over the past two years. It states that:

"This represents claims paid to Third Party Grantees which were then subsequently rejected by Scottish Government as part of the Final Claim."

It also states that that relates to the ERDF structural funds. If I am reading it correctly, that is money that you have paid out, but which people were not actually entitled to, so the Scottish Government is not then pushing that money across to you. Is that right?

Nick Halfhide: Those were European funds, as the committee knows. Claims that have been rejected by the Scottish Government represent a very small percentage of the overall amount.

As I said, it is a very small amount of money where, for example, we will have made up that difference to the applicant, because we have accepted the claim in good faith. I think that there was also one example where the applicant had made an error and therefore they had to carry that. That is where we would have to make up the shortfall, because the European rules were incredibly complicated. With all the good faith and double and triple scrutiny, there was a very small number of cases where the claim that we had assessed was then rejected.

Douglas Lumsden: You say that it is a small amount, but it is still £675,000 of public money. Have you tightened up the criteria? Have you looked at the governance arrangements to make sure that it does not happen again?

Nick Halfhide: The programme is now complete. It was European money, which is why the rules were so tied up.

Douglas Lumsden: Is there no way of getting that money back?

Nick Halfhide: No. We have tried—we have given that the utmost scrutiny. However, the European rules are complex, they change and they are open to interpretation. That is why we had those considerable—but, percentage-wise, small—losses.

The Convener: I have some quickfire questions for you, Nick.

The Scottish outdoor access code, which Mark Ruskell referred to, is just over 20 years old. It is probably time for a review—nothing lasts for 20 years without needing some review. We have seen less money going into rangers, core paths and footpaths from local councils, and collapsing local access forums. How can you say that it is not time to review it, and that that is not one of your priorities?

Nick Halfhide: We have been undertaking refreshments as it has been going along. The Scottish outdoor access code has been one of this nation's great successes over the past 20 years—

The Convener: I would not disagree with that, but to keep it relevant, you have to keep reviewing it.

Nick Halfhide: We do that. I had not finished answering. We do not think that the whole thing needs reviewing. However, we keep updating individual elements of it as new things, such as paddle boarding, come forward.

Pete, you are an expert in this field, so I defer to you.

Professor Higgins: The first time that I was in this room, which was 25 years ago, I was giving evidence on the Scottish outdoor access code. My view then is the same as my view now, which is that there is nothing wrong with the code or the legislation that is associated with it. However, as the convener highlighted, there is a changing resource environment, as a result of both increased access to the countryside—which is, on the whole, a good thing—and changing perceptions.

10:30

The push for a review has come to the board and we have agreed that there is no real case for it at the moment. If I were to make a plea, it would be for the outdoor access code to be part of Scottish children's education from the day that they start school. This has been my world, but the difficulty is ensuring that it is properly understood and that investment goes into it.

I have a point to make about legislation. I was involved in advising on the Schools (Residential Outdoor Education) (Scotland) Bill, which went through Parliament recently. If we are not careful, that legislation will focus primarily on what happens in residential centres, although we need to get young people to understand, from a very early age, that they can walk out the door and experience certain rights and responsibilities that will continue through the rest of their lives whenever they go into an environment beyond the local.

In addition, there is the issue of increasing numbers of people who come to Scotland—and, of course, bring money into our economy—but do not understand the outdoor access code, which creates a resource issue for Nick Halfhide to deal with.

The Convener: Nick, I will take you back to 2023, when there was a great fanfare and a memorandum of understanding with Hampden & Co and Lombard Odier about releasing £2 billion to be invested in the environment. That was all to do with carbon credits. At a meeting last night, I heard the carbon credit market being described as the wild west. How much of the potential £2 billion that was announced in 2023 has actually materialised?

Nick Halfhide: Not very much of it so far, because it is taking longer than we thought. As I mentioned earlier, the markets are less confident than they were and, although it is not harder than we thought it would be, it is really difficult. There are some successes and those are building. There will be a big conference next Thursday, involving a

load of investors looking at that. You are right that we have not got as far or moved as quickly as we would have wanted. We talk about "patient capital" and we are having to be quite patient in our efforts to develop that market.

The Convener: There is some concern that money is being invested to build portfolios to be released into the carbon credit market when it actually matures.

I turn to your report, which says that you have 12 board members and that you extended the service period for seven members whose first term ended on 31 March 2025. They are supposed to serve a four-year term but appear still to be in place. Can you confirm that none of them will serve more than the eight years that the legislation entitles them to?

Nick Halfhide: That is not my decision. In making those appointments, ministers will have a eye to the rules regarding board members.

The Convener: It is not good to spend too long in one job and it is good to have some churn, but to have seven board members stepping down at the end of 2028 when their term is up would be quite a big churn, especially with another four members going the next year. That would be a huge churn, would it not? It might not be good, although it might be good to have some new blood. Pete, you are one of those people whose term has been extended. Can you tell me why that is a good idea?

Professor Higgins: I would love to say that it is because I am good at my job.

I had a conversation with our chair about my extension. I was aware that, for a range of reasons, a number of board members were appointed at the same time as me. By April, I will be into my fifth year, and my term has been extended to the maximum, which is eight years, according to the framework that Nick Halfhide just provided. In that conversation, I said that I could go now, or after one, two, three or four years, because I realise that change should take place throughout that period rather than NatureScot losing all its board members at once and getting another bunch in.

A new bunch of board members have been appointed and the current chair will ensure that there is a review at the end of their first term regarding how long each will stay. That will depend partly on their responsibilities and, probably, on their performance, although that is not my remit. You can be assured that the issue is on the mind of our chair, Colin Galbraith.

The Convener: I am just concerned that it seems to be a huge churn at one stage. Any

proper organisation, when planning ahead, would look to change two or three every couple of years.

Professor Higgins: That is precisely what he is doing.

The Convener: I understand that that is what you are saying, but it is not possible to read that from the report. It just seems like an extension.

Turning to valuations, plant and equipment, the land values that are held by SNH have dropped. Those must be the only land values in Scotland to have done so. Why have they dropped?

Nick Halfhide: I am not sure why they have dropped. I cannot think why. I will need to check that for you.

The Convener: I would not be so impertinent as to suggest that it was to do with the management. I am sure that there must be a reason, on which you will get back to the committee.

Nick Halfhide: Yes. As you know, we do not run our land as a commercial operation, but it is worth pointing out, as an aside, that we have peatland credits on one of our reserves, so we are actually doing one of the things that we have been talking about, which is to look at alternative approaches. We also have a hydro scheme, which generates nicely for us.

The Convener: That will probably all go up in value, then.

Nick Halfhide: That is why I am surprised. I will need to look into it, to see why.

The Convener: Maybe there was a sale in there somewhere.

I have another thing to ask, for clarity. I think that the average pay for employees in your organisation is about £40,000, and your predecessor was on something between £115,000 and £120,000. Are you in that range?

Nick Halfhide: The post was advertised at £115,000.

The Convener: That did not answer the question. I am asking whether your pay is within the range of £115,000 to £120,000.

Nick Halfhide: Yes, it is.

The Convener: Thank you. That was a simple answer.

That is all our questions. You have agreed to come back to the committee on some things. The committee has a fairly short shelf life—that is the nicest way of describing it. Before we go into election mode, our last meeting is almost literally the day before the end of business this session—I think it is 27 March or something like that. Will you respond as quickly as possible?

Nick Halfhide: Yes.

The Convener: The clerks will prompt you with the questions to which we seek answers, just to make sure that we get them on time. Thank you for giving evidence this morning.

I suspend the meeting, to allow a changeover of witnesses.

10:37

Meeting suspended.

10:46

On resuming—

Subordinate Legislation

National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) (No 2) Order 2026 [Draft]

National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026 [Draft]

The Convener: Welcome back. Item 3 is consideration of two draft Scottish statutory instruments. The Delegated Powers and Law Reform Committee has made no comment on either of the instruments.

I welcome to the meeting Jim Fairlie, Minister for Agriculture and Connectivity, and his supporting officials. Kelly Minio-Paluello—I probably massacred the pronunciation of your name, for which I apologise profusely—is a solicitor for the Scottish Government. From Transport Scotland, we welcome Carole Stewart, head of the bus strategy and funding policy unit; Gary McIntyre, economist, bus active travel and low-carbon economics; and Jenn Ruddick, team leader for concessionary travel.

Both instruments have been laid under the affirmative procedure, which means that they cannot come into force until the Parliament approves them. Following this evidence session, the committee will be invited to consider two separate approval motions—one for each instrument. I remind everyone that officials can speak under the current item but not in the debate that follows. Minister, you may make a brief opening statement.

The Minister for Agriculture and Connectivity (Jim Fairlie): Thank you, convener. I will start with the draft National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) (No 2) Order 2026. The order gives effect to an agreement that was reached with the Confederation of Passenger Transport, which represents Scottish bus operators. It sets for 2026-27 the reimbursement rate and capped level of funding in the national bus travel concession schemes for older and disabled persons and young persons. The order will enable reimbursement of bus operators for journeys that are made under both schemes after the expiry of the current reimbursement provisions, on 31 March 2026. It specifies the new reimbursement rates and capped level of funding for both schemes for the next financial year, to 31 March 2027.

An updated reimbursement model for both schemes, which was agreed and developed in partnership with the industry, was used for the first time last year. This year, we have used that model once again to set the proposed rates and budget caps for the schemes. The model uses the latest available data and evidence on industry costs, passenger demand and travel behaviours. The proposed reimbursement rate for the older and disabled persons scheme in 2026-27 has been amended from 52.9 per cent to 53 per cent of the adult single fare, and the capped level of the funding will be set at £248.2 million, which is an increase of £33.1 million from this year.

The proposed reimbursement rates for the young persons scheme for 2026-27 are as follows. For five to 15-year-olds, the rate will be 48.1 per cent of the adult single fare, which is an increase of 0.2 percentage points from the current rate of 47.9 per cent. For 16 to 21-year-olds, the rate will be 72.5 per cent, which is an increase of 0.1 percentage points from the current rate of 72.4 per cent. Since it began, in 2022, the young persons scheme has not been subject to a budget cap, as demand and patronage have been uncertain while the scheme has become established. However, demand is now relatively stable, with uptake by young people reaching around 90 per cent of the eligible population. The draft order before you therefore includes a budget cap of £220.6 million to be applied to the young persons scheme for 2026-27.

The national concessionary travel schemes continue to deliver life-changing benefits, supporting social inclusion, embedding sustainable travel habits and supporting 2.4 million card holders to access essential services. The draft order being discussed today will ensure that we can continue to deliver those successful, highly valued schemes, which provide a degree of stability to the bus sector on a basis that is fair to operators and affordable from public funds. I recommend that the draft order be approved.

The Convener: Are you going to talk about the other order at the same time?

Jim Fairlie: The two Scottish statutory instruments are completely different. They are not linked.

The Convener: I understand that. We will take a decision on them later. I am happy to go to questions on both instruments, if you would like to do it that way, minister. I would be happy with that.

Jim Fairlie: If we could deal with the first order first.

The Convener: Let us keep it simple. I agree.

Turning first to the concessionary travel one, I ask you to help me. The two concessionary fare

schemes amount to about £468.6 million. The level 3 line for concessionary fares in the budget is £472.8 million, so there is a difference of about £4 million. Could you explain that to me?

Gary McIntyre (Transport Scotland): The level of reimbursement is £468.6 million, as you say. The additional £3 million or £4 million will be related to the operational costs of running the scheme—not the actual reimbursement of operators, but the operational costs of administering the scheme itself.

The Convener: That is £4 million.

Gary McIntyre: Yes.

The Convener: That seems quite a large figure, does it not? Who gets that £4 million? Is it bus operators, for running the scheme, on top of the tickets? I am now totally confused. I have never picked up, in 10 years of looking at such things, that there is a £4 million admin charge.

Are you going to help me, Monica?

Monica Lennon: No—I might have misheard. Is this about the operational costs—the costs of running the scheme?

The Convener: Yes.

Monica Lennon: So—

The Convener: We have not had an answer yet. I am trying to work out who gets that £4 million.

Gary McIntyre: On the reimbursement figure, which is the money that goes to the operators for carrying passengers on the scheme, there are additional costs for administering the scheme itself, to cover the staff who are involved in running the scheme, the concessionary travel products and the back-office systems that relate to paying operators. I do not know whether those costs total £4 million, but there is additional money in the budget to allow for those expenses, on top of the money that goes to operators for carrying passengers.

The Convener: So, it goes to the operators for all the back-office-run things.

Gary McIntyre: No—

The Convener: If it does not go to the operators, does it go to the Government? Is it a Government expense, for all the civil servants running the scheme?

Gary McIntyre: It is a Transport Scotland expense for running the scheme itself.

The Convener: It seems quite a large sum.

Monica Lennon: This is an interesting place to start. The £4 million is effectively the cost of running the scheme, so that people can have their

concessionary travel cards. Will that cover staffing costs?

Gary McIntyre: Staffing costs will be part of it. I cannot confirm whether £4 million is the figure for this part of the scheme, but there is money allocated in the budget to allow for the expenses of running the scheme itself. So, yes—that covers the staff costs and the back-office costs of the system itself.

Monica Lennon: The minister perhaps knows the answer.

Jim Fairlie: If the committee would like a breakdown of what that is, I will have officials send that on to the committee.

The Convener: That would be jolly helpful, as £4 million seems quite a large amount of money. It would be nice to know where it is going.

Sorry—please continue, Monica.

Monica Lennon: It is disappointing that we cannot get clarity on that just now, given that the minister is here with four officials.

Jim Fairlie: That figure is 1 per cent of the cost of the entire scheme. It may sound like a large figure in its own right, but a hell of a lot of work goes on behind the scenes in administering the scheme. If the committee would like a proper breakdown of that sum, however, I would be more than happy to provide that if we can do so.

The Convener: I think that that would be helpful. Percentage figures often hide the true cost. We are talking about £4 million. It might be only 1 per cent, but £4 million is £4 million of anyone's money. It is a huge amount of money to me.

Bob Doris: It would be helpful if the committee could compare like for like. It is probably not something to discuss this morning, but, when you come back to the committee, it would be helpful if we could have the values from previous budgets.

Four million pounds is a sizeable amount, but we do not know whether that amount has gone up from £3 million in previous budgets, whether it has gone down or whether it is holding steady. The question relates more to the budget than to the statutory instrument that we are considering. However, it would be helpful to have that figure set in context.

The Convener: Kevin Stewart might have some knowledge that can help us.

Kevin Stewart: I would not say that I have knowledge, but the minister is correct in saying that 1 per cent is not a huge amount for the administration of any scheme. If most schemes were run with 1 per cent spent on admin costs, that would be good.

The minister has agreed to send a breakdown to the committee. It would be useful for us to see every aspect of the administration cost, including for the scrutiny of the schemes, because some folk have questioned whether there could be abuses of the scheme by operators through ticketing and all the rest of it.

When I was the minister for transport for a short period of time, I asked for a fair amount of scrutiny, to ensure that we were getting the best value for money. If we could have those breakdowns—including scrutiny of the 1 per cent—that would be wonderful.

The Convener: Are you nodding at that, minister?

Jim Fairlie: Yes.

The Convener: I have a couple more questions, but Mark Ruskell also has one, so I will bring him in first.

Mark Ruskell: Do 2.2 million people benefit from the two schemes?

Jim Fairlie: Yes.

Mark Ruskell: Okay. Well, £4 million seems like quite a low amount.

I want to talk about the overall spend, though. We are looking at £472.8 million—half of the Scottish bus industry's income. The industry says that the scheme is neither a benefit nor a disbenefit to it, but, when we see those figures, it is hard to see how it is not a massive benefit to the industry when substantial numbers of people travel by bus who would not do so were it not for the Government's investment in the schemes, which is very welcome.

How do we get more out of this? What about the conditionality for the bus companies? What about the linkage with investment in better bus services at either a community level or a regional level? What about the Government's target for a vehicle mileage reduction? Are we getting the most out of the investment? Could we be hitting other public transport policy objectives by using the existence of the cards and the massive investment as a lever to get more bang for our buck?

Jim Fairlie: The purpose of the order is to ensure that the scheme continues. I think that everyone on the committee agrees that it is a good scheme and that we want it to continue. It is helping to shape travel habits.

As to whether it is giving us the best bang for our buck, the fair fares review said that we would review the scheme, so it will be for the next Parliament to consider that. You are right to say that it is a substantial amount of money, but it is an

investment, and it is working for the people of Scotland.

From the conversations that I have had—with younger people, in particular—I know that the scheme has given people access to education and employment and that it has allowed them to keep up with friends and family. The value to those who use the scheme is enormous.

Is it doing enough to get more people out of their cars and using public transport? Is there more to be done on that? Are there other ways that we can use it? There are always different ways to look at it. I am quite sure that the next Parliament will look at the spend on the scheme and ask whether we are getting as much as we want out of it. Another Government might take a different view to the current one. We will just have to wait and see what the next Government says.

Mark Ruskell: What does Transport Scotland think about it? Does it have any creative ideas as to how we could use that huge investment to get more people out of their cars? What is the offer for people out there? Are we linking this with travel planning for colleges, universities and workplaces? I do not know. As a transport policy, this has been fantastic, and it is a great initiative that supports individuals. However, when it comes to all the wider transport issues that we are really struggling with at the moment, how do we use this to drive modal shift? That is the key question. What do your officials have to say about that?

11:00

Jim Fairlie: This is only one aspect of the offering with regard to creating better public transport and better travel options. As members are well aware, huge amounts of money have gone into active travel, too. Is there more that we can do? Of course there is. There will always be more that we can do, and that review is on-going.

Carole Stewart might want to say something about the bus infrastructure fund, the plugged-in communities grant fund and all the other things that we are doing to make bus travel an attractive option.

Mark Ruskell: What about putting conditions on bus companies? If they benefit from this scheme, they should not be, say, cutting rural bus services. What about that kind of conditionality?

Jim Fairlie: The condition in the particular scheme in this SSI is that companies will be left no better and no worse off. This is not seen as a direct benefit in terms of putting more people on buses; it is a no better, no worse approach, which is why the rate goes up or down slightly.

Mark Ruskell: But we are talking about half the bus industry's income. How can that be a no better, no worse approach? Would the industry miss it if this money disappeared?

Jim Fairlie: That would very much depend on how many people continued to use the bus. A lot of people have no choice but to use the bus, and they would end up paying for it themselves. The people who would be hurt would be the passengers, not the bus companies.

Mark Ruskell: Do your officials have any thoughts on conditionality?

Carole Stewart (Transport Scotland): It is something to look at in the next parliamentary session. A lot of different policy options could be explored with regard to improving bus services—for example, implementing the powers in the Transport (Scotland) Act 2019, putting in place specific provision to support rural services in other areas and linking the schemes with car reduction policies on a regional basis. A whole suite of policy options could sit alongside, or be integrated slightly better with, the concessionary travel schemes.

Mark Ruskell: Thanks.

I have one last question. I am aware that, at long last, a scheme has been put in place to extend concessionary bus travel to people trapped in the asylum system, who have no recourse to public funds and are effectively destitute. However, I believe that the current budget for the scheme will end on 31 March. Will the Government extend that provision into next year?

Jim Fairlie: That would be a decision for the Cabinet, not for me.

The Convener: Before I bring in Monica Lennon, I should, for clarity, declare what I think I declared at the previous meeting on this matter, which is that I am entitled to a free bus pass. I am sure that no one else on the committee has to worry about that, but I am over 60.

On that note, I will move swiftly on to Monica Lennon.

Monica Lennon: I will make no such declaration, convener.

Minister, I want to pick up on what you said about young people and those in education telling you that the scheme has been a game changer for them and that they really value it. As we know, the scheme is about opening up opportunities for young people, as well as changing behaviours; indeed, you said that it was habit forming. In the conversations that you are having, are you open to the scheme being expanded so that young people who go over the age of 22 but who are still in education and training can continue to benefit from

it? At the moment, just as they have started to get used to the bus they no longer have the benefit of the card. Where do you sit on that issue?

Jim Fairlie: Again, that will be part of the discussion on how the budget for the schemes is used and whether the next Parliament decides it wants to take such a decision. What we are discussing today is the SSI in front of us, which is about reimbursement rates. You are taking the conversation into the area of policy decisions that will be made by whoever forms the next Government.

Monica Lennon: Committees are always curious about ministers' views. You have had these conversations with young people, and you have said that they are talking about the benefits of the scheme. We are exploring what more could be done in policy terms. Would the sort of extension that I have referred to be desirable, if the funding were available?

Jim Fairlie: My view is that the scheme has been exceptionally successful. I am very proud of it, and I think that the Government should be very proud of the fact that it has brought it in. The next Government might decide to expand it, but that will be a decision for it.

Monica Lennon: Thank you.

The Convener: Bob Doris and Douglas Lumsden have follow-up questions.

Bob Doris: My question will be very brief, convener, because I feel that we are drifting somewhat from the instrument before us.

I ask the minister to exercise a bit of caution in any initial thoughts on how we could better use that quantum of cash. We have already had a bid from Mr Ruskell, understandably, on conditionality on rural services, and from Ms Lennon on jobseekers and colleges. Once a young person no longer qualifies for concessionary travel, lots of other things will be put into the mix, including regionalised aspects of the cash that goes to bus companies in Strathclyde and other regions. Strathclyde currently has franchising, for example. Before we come to a decision, we could take stock, more generally, of that quantum of cash, and work in partnership with regional transport authorities—perhaps giving them a bit more power. I ask the minister to be slightly cautious and to carry out a wider review, without any preconceived outcomes.

Jim Fairlie: I have no preconceived outcomes whatsoever. Carole Stewart talked eloquently about all the things that could be done differently if the next Government chooses to do them, but those are decisions for the next Government and the next session of Parliament.

Douglas Lumsden: How much does free bus travel for asylum seekers cost per year? Is it within the £468.8 million figure for next year? I assume that it is not, because you have not decided on it.

Jim Fairlie: The asylum scheme is a pilot scheme. It is budgeted at £2 million, but, beyond that, those are budget questions that you would have to ask the cabinet secretary.

Douglas Lumsden: So that £468.8 million does not include asylum seeker travel.

Carole Stewart: People seeking asylum in Scotland who are already eligible for the national concessionary travel scheme on the basis that they are under 22, over 60 or have an eligible disability are included in that overall figure.

Douglas Lumsden: But all the others who are aged between 22 and 60 are not included in the £468.8 million figure. Is that correct?

Carole Stewart: That is the additional £2 million.

Douglas Lumsden: At present, it is not in the budget, so it would need to be added to the budget if the scheme were to continue past March. Is that correct, minister?

Jim Fairlie: Yes.

The Convener: Is there any evidence that concessionary travel for under-22s has reduced the demand on school transport? I am intrigued by whether there is any crossover there, because it might have an effect on school transport.

Jim Fairlie: There has been anecdotal evidence that some local authorities—I will be careful how I word this—are encouraging the use of an under-22 pass as an alternative to having dedicated school transport. There is evidence that that is being done in some areas.

The Convener: That might be something for the next Government and the next minister to look at.

We move to The National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026, which relates to the code of conduct. Minister, do you want to make a brief opening statement?

Jim Fairlie: Okay. As we have discussed, the free bus travel provided by the national concessionary travel scheme is invaluable to those who use it—it provides life-changing benefits for many people. As the committee is aware, the legislation being introduced today is designed to protect those benefits by increasing safety on the bus network and ensuring that a small minority of cardholders who engage in antisocial behaviour are deterred from doing so. That policy has been asked for by members of the public, politicians and the bus sector itself.

The legislation will allow access to concessionary travel to be suspended or withdrawn from anyone who breaches the code of conduct. It sets out appropriate behaviour for those travelling on the bus network who are using their entitlement to free bus travel. The code will explain the kinds of behaviours that might result in suspension of concessionary travel and will apply to all cardholders, regardless of age.

A draft of the code has been shared with the committee to aid its scrutiny of the instrument. The definition of antisocial behaviour in section 143 of the Antisocial Behaviour etc (Scotland) Act 2004 is deliberately broad. That reflects the fact that the exhaustive list of behaviour considered antisocial by the Government would be unworkable and anomalous. For the same reason, the draft code of conduct does not include a comprehensive list of behaviours, but broadly outlines the behaviours that might have a significant impact on bus drivers or other passengers.

Given the impact that the suspension might have on a cardholder, the code is designed to ensure that withdrawal or suspension of free travel is considered only by exception and that it is proportionate.

To support enforcement of the code of conduct, officials are developing supporting policies relating to reporting, suspension and review of any decisions to suspend. I have provided a high-level written overview of what is being considered regarding these procedures, but we will continue our approach of close collaboration with stakeholders to finalise the procedures.

Before I take questions, I want to be clear that our phased approach to implementation is appropriate and necessary. It is essential that we establish a fair and robust process that considers business impacts, child wellbeing and poverty considerations, data implications and options to phase in the policy to ensure that it is known to users, and that we address any operational issues. The instrument will secure the enabling power for the policy and send a clear message that antisocial behaviour on the bus network will not be tolerated. It will provide a strong foundation for Transport Scotland to continue the work with operators and partners—which strongly support the legislation—to finalise the supporting procedures.

I am happy to take any questions. I move the motion and recommend that the draft order be approved.

The Convener: You will get a chance to move the motion under the next item, so that is fine.

I am looking round committee members to see whether anyone wants to ask questions on the draft order.

Douglas Lumsden: Keith Rollinson, a bus driver in Elgin, was killed in February 2024. When his killer is released, he will still be entitled to a free bus pass. Can you guarantee to us that, if Parliament approves the order, Keith Rollinson's killer will not be allowed free travel on the buses again?

Jim Fairlie: I am sorry, convener, but I cannot answer questions about individual cases.

Douglas Lumsden: Let us not make it about an individual case. Instead, let us assume that somebody who has killed a bus driver is due to be released. Will the order that we are being asked to approve stop the situation where the colleagues of the person who was killed are forced to take that killer back on board free of charge? Can you guarantee that approving the order will stop that situation?

Jim Fairlie: The purpose of the order is to allow Transport Scotland to take actions to remove a bus pass from someone who is committing antisocial behaviour. I am not going to comment on the death of Mr Rollinson and I am not going to go any further with this conversation about him. I think that it is inappropriate and disrespectful. I am sorry, Mr Lumsden, but I am finding it really distasteful, because we are discussing an order that is about antisocial behaviour going forward, not about something that has happened in the past. I cannot give guarantees on anything in relation to Mr Rollinson's position, and I would rather not discuss Mr Rollinson's position.

The Convener: Mr Lumsden, I will try to steer a way through this so that I can understand it myself.

Minister, the draft code of conduct that you submitted with your letter says that acting "in a way that hurts or threatens others" could result in the loss of entitlement to free travel.

Let us take a step back, if I may, minister. If somebody is hurt by a person who is entitled to concessionary travel, the person who did that would be in contravention of your draft code of conduct. Is that right?

Jim Fairlie: Yes, they would be.

The Convener: Right. Under this code of conduct, when the bus company or Police Scotland reports breaking of the rules, Transport Scotland has three options: do nothing; send the person a warning letter; or suspend their free travel.

Jim Fairlie: Correct.

The Convener: Could you confirm whether suspending free travel could be done for the entire duration of the concessionary pass if the hurt were sufficiently serious?

Jim Fairlie: That decision will be made by Transport Scotland as it goes through the process. As stated in the letter that I sent you, Transport Scotland will go through all the procedures that you have just outlined and will give the person the chance to put their case on the incident. Subsequently, it will be for Transport Scotland to decide whether there should be a temporary or permanent removal of the entitlement to free travel.

The Convener: Thank you for clarifying that. The word that I was looking for was "permanent"—that it could be a permanent removal if the offence were considered serious enough.

Jim Fairlie: That would be an operational decision for Transport Scotland to make.

11:15

The Convener: I am not asking you to make the decision, I am trying to understand the draft code of conduct.

I hand back to Douglas Lumsden. Do you have a further question to ask?

Douglas Lumsden: I do. If the antisocial behaviour happens in the bus station and not on the bus, I presume that the code of conduct would not apply and that there would be no basis to remove free travel from that person. Is that right?

Jim Fairlie: This SSI is about during the transport, which is when they are on the bus.

Douglas Lumsden: Do you think that that scope is wide enough or should it be reviewed in the future?

Jim Fairlie: The order that is currently in front of us is about what happens on the bus. If other antisocial behaviour issues need to be dealt with, Police Scotland and the criminal justice system will deal with them.

The Convener: Can I just try to help with this? A lot of buses start from a central depot with a stance that the bus pulls into and then pulls away from. Are you saying that if the antisocial behaviour happened on the stance rather than on the bus, this order would not cover it?

Jim Fairlie: No, it would not. It is about what happens during the travel.

The Convener: It is purely about when the person puts their foot on the bus.

Jim Fairlie: Yes.

The Convener: So, for argument's sake—and I do not foresee myself being in this position—if I were rude and abusive to everyone around me, including the bus driver and anyone else, before I

got on the bus, would I not lose my concessionary travel?

Jim Fairlie: No, you would not, because the instrument is about behaviour on the bus.

The Convener: Okay. I am sorry to jump in, Douglas.

Douglas Lumsden: That is all—I just wanted that clarified, convener.

The Convener: Members have lots of other questions. I will come to Mark Ruskell next.

Mark Ruskell: To be honest, I am still struggling with this. The order does not prevent violent and abusive people from getting on to buses; it only means that their entitlement card will be suspended. They could quite easily walk on to a bus and pay a fare.

I am trying to understand the relationship with the wider conditions of carriage, which apply to everybody who gets on a bus, regardless of whether they are a young person, disabled, an older person or whatever. Most bus companies—all the bus companies in Scotland, I think—have conditions of carriage and they all cover threatening, abusive, dangerous and unsafe behaviour. That seems like the nub of the problem that we are talking about.

Minister, you say that this order is completely separate to any action that operators might take in relation to conditions of carriage.

Jim Fairlie: Correct.

Mark Ruskell: Surely the conditions of carriage are the central issue. It is about why certain people are allowed to travel on buses and yet, potentially, they will abuse people or be rude or abusive. How is the Government dealing with that issue? That is not about what age they are or whether they have a disability; it is about whether they should be allowed on buses—full stop. I am struggling to see how this measure will deter anybody who is serious about abusing people and causing a nuisance on public transport. Do you see where I am coming from?

Jim Fairlie: I see where you are coming from. I think that you are trying to use the ability to remove the bus pass as a cure for antisocial behaviour across society—but it is not. The order is about protecting people who are travelling on the buses. When they are travelling on the buses, if people are carrying out antisocial behaviour, a sanction can be placed on them and that should be used as a deterrent. I hope that very few people, if any, will have their passes removed from them, because the threat of the deterrent should be enough to make them behave in a way that is appropriate.

A letter was received from the following representatives of bus companies: Sarah Boyd

from Lothian Group; Duncan Cameron from First Bus Scotland; Colin Craig from West Coast Motors; Fiona Docherty from Stagecoach Ltd; Alistair Todd from Todd's Travel; Simone Walsh from Scottish Citylink; Sandra Whitelaw from Whitelaws; and Tony Williamson from McGill's. It said:

"There have been queries as to why a national approach to this is required, rather than it being dealt with locally through our own Conditions of Carriage. We believe that as the Concessions Schemes are National Entitlements (rather than determined at the local level) they should be accompanied by a national standard of conduct and potential sanction."

The bus companies are asking the Parliament and the Government to do this for them, but that does not remove their ability to use their conditions of carriage.

Mark Ruskell: Would a better approach not be to have national conditions of carriage that apply to everybody, and to look at ways of enforcing them? This committee received evidence from West Midlands Police, which has introduced a travel safe team on buses, as we are doing with ScotRail, to make sure that the buses there are safe.

We have also had evidence to suggest that those who are perpetrating antisocial behaviour on buses are often males over the age of 22, who are not affected by the concessionary schemes because they are not eligible for them. I am trying to understand the Government's national approach to enforcing conditions of carriage and making progress in that regard.

Last week, the Cabinet Secretary for Justice and Home Affairs announced, in relation to the railways, 11 key actions that have been agreed with the unions to make our railways safer. I am just not seeing it with the approach that we are discussing. I am seeing the bus companies arguing for a restriction on the national entitlement card, but I do not see evidence that that will lead to any behaviour change whatsoever.

Finally, I will ask about the consultation on the code of conduct. Clearly, bus companies have been calling for it to be brought in for a long time and have been part of those conversations. However, have you engaged with organisations that understand young people in particular, such as the Young Scot card operators and the Children and Young People's Commissioner Scotland? How have they been involved? If you are talking about changing behaviours, it is really about getting inside people's heads and thinking about motivations and how you turn the situation around. I am not seeing the involvement of the Scottish Youth Parliament or organisations that work with young people in the production of the code of

conduct, but perhaps you will want to inform me otherwise.

Jim Fairlie: There are a number of different points in there, so you will have to forgive me if I forget some of them. You will have to come back and remind me of the issues that you have raised.

The removal of a pass will not solve all antisocial behaviour. You are absolutely right that there will be people over the age of 22 and under the age of 60 who commit antisocial behaviour, and those people will be dealt with through the conditions of carriage of the relevant bus company.

Should we have national conditions of carriage? You might be able to do that if you had a national bus company, but we do not. We have individual private companies that have their own conditions of carriage. The concessionary travel scheme is a national scheme that is delivered by the Government through Transport Scotland, so the bus companies are asking for a national approach and conditions of carriage for the scheme itself. That is what they have asked us for.

On how we change behaviour, we are dealing with a wide range of measures. Siobhian Brown has been carrying out work on antisocial behaviour. We will be engaging with education facilities to ensure that young people understand the conditions of the scheme, as well as with older and disabled people, so that they also understand the conditions of the scheme. They will be given that information when they are given their passes.

We have engaged very widely, including with the Scottish Youth Parliament. We did not engage directly with the Young Scot card administrators before we announced that the order was being laid, but there has been a lot of engagement with young people themselves. The Scottish Youth Parliament asked for direct correspondence and engagement with Carole Stewart and her colleague. Carole sat down with the Scottish Youth Parliament to discuss what it meant for those young people.

Some of the SYP members' concerns were about how they felt on buses. We know that there is a wider societal issue of antisocial behaviour, and the removal of a bus pass will not solve all of that, but the SSI will allow us to have in place a deterrent, which has been asked for by the bus companies, by transport users and by the Parliament. That is what we are delivering.

Mark Ruskell: Convener, I would like to ask a couple of specific questions about the code of conduct, if that is okay.

The Convener: As long as you are brief.

Mark Ruskell: The issue that I want to address is quite narrow compared with what is covered in

the conditions of carriage. I know from talking to groups such as Engender that work to tackle violence against women and girls, that they would perhaps call for types of harassment to be specified in the code. At the moment, the code refers to "any kind of harassment". It does not refer specifically to sexual harassment, which we know is a major issue for women and girls on public transport. I am curious about why the code makes a broad reference to harassment without specifying sexual harassment.

The code also mentions indecent language, which I do not think is included in many of the operator conditions of carriage. I am thinking about how members of staff such as bus drivers will police that. What is considered indecent language? What kind of training will be available? It will not be members of the public who will report such instances; it will be hard-working bus drivers and other operatives who will have to make a judgment about whether someone has crossed the line.

Jim Fairlie: You are asking why the code is not more specific.

Mark Ruskell: That was the view that I got when I spoke to Engender about the issue in relation to violence against women and girls. It was surprised that sexual harassment is not spelled out in the code.

Jim Fairlie: It should not have to be spelled out that violence against women and girls is not acceptable. We should tackle that issue at every opportunity and in every setting, not just on buses. It should not be considered only in the context of whether folk get a bus pass. The challenge that we face in tackling violence against women and girls is far broader than that.

The code is laid out in broad terms in order to allow judgment to be exercised as to whether a pass should be removed. As we discussed with the convener, a determination will be made after the process has been gone through. In making that judgment, Transport Scotland will ask the person who has been reported what they believe the situation was. The decision will be made by Transport Scotland.

As far as abusive, threatening or indecent language is concerned, that will be a judgment for Transport Scotland to make, because that is an operational issue.

Mark Ruskell: It is also a judgment that bus drivers will have to make in compiling the evidence for various types of harassment and indecent language.

What kind of national support or guidance will there be to ensure that, regardless of whether we are talking about buses in Aberdeen, Edinburgh or

anywhere else, people will have a full understanding of what the code of conduct means and what evidence will need to be gathered? At a previous meeting, Sarah Boyack raised the issue of people who have Tourette's syndrome. Would what they say be considered indecent language?

Jim Fairlie: If someone uses indecent language and it is then discovered that they have Tourette's as part of the process that is gone through to decide whether their bus pass should be removed, Transport Scotland will come to the appropriate conclusion. It is up to Transport Scotland to make such operational decisions.

The Convener: Several members have follow-up questions.

Monica Lennon: In order for us to make a judgment on the instrument, we need to fully understand the Government's intention. What I am not hearing clearly enough—I am giving you an opportunity to put this on the record so that people who are listening understand the Government's position—is that the Government takes a zero-tolerance approach to not just antisocial behaviour but serious violence and abuse on Scotland's buses.

There are people at home and people at work who are frightened to go on a bus. To have a free bus pass or to be able to use Scotland's buses is a privilege. If people do not respect that and do not have due regard for others, that puts other people at risk and, frankly, it keeps people off our public transport network. Is it the Government's intention to be robust and to be straight with people who are the victims of crime in saying that the Government is on their side and has their back, rather than it just being a matter of the issue being considered by officials and every case being looked at individually?

Colleagues have alluded to very serious crimes that have happened. Mark Ruskell is right to say that we must name crimes such as sexual assault and not just hide such incidents behind the language of antisocial behaviour.

Does the minister agree with the points that I am making? On reflection, to people in Scotland who are behaving badly and who are engaging in criminality, is it clear that the measure that you have put forward today will cover the whole spectrum of behaviour? Does the minister recognise that, if we talk about antisocial behaviour, that sounds like behaviour at the lower end of the spectrum?

11:30

Jim Fairlie: You are talking about two different things. Is there zero tolerance of violence? Absolutely—of course there is and, in particular,

there is zero tolerance of violence against women and girls. I would not be vague about that.

Monica Lennon: Where is the messaging on that? For anyone who is thinking about getting on a bus today or tomorrow and behaving in a way that is beyond the pale, where is the messaging from the Government that that is not acceptable?

Jim Fairlie: Again, messaging goes beyond what the scheme is trying to do. The antisocial behaviour—

Monica Lennon: It is important to understand the policy intention. If the intention is zero tolerance of crime and—

Jim Fairlie: Which is criminality.

Monica Lennon: Yes, so why are we just talking about antisocial behaviour?

Jim Fairlie: We already have zero tolerance of criminality and the judiciary will go through the process to prosecute criminality. What we are talking about is antisocial behaviour, which is a different thing. If there is criminal behaviour, the police and other authorities carry out the processes that they have to carry out to deal with that. This is about giving Transport Scotland the ability to remove the entitlement to a bus pass if somebody is displaying antisocial behaviour, being foul and abusive, hurting someone physically or harassing people in any way.

We are discussing two different things here. I absolutely agree, 100 per cent, that there is zero tolerance of violence; I could not agree more. However, that is not what this is. The direct result of somebody committing violence and then being convicted of a crime is, in all likelihood, that they will lose their use of a bus pass, but that would be incidental to the fact that they have been prosecuted for criminality.

Monica Lennon: You are saying “likelihood”. I do not know whether victims and families affected by crimes that have happened on buses feel that the Government fully has their back on this.

Jim Fairlie: I disagree entirely with that.

The Convener: Sorry—I want to try to help in this situation. I know that Monica feels passionately about this; that is very clear. If somebody commits a criminal offence outwith a bus, how will Transport Scotland know to remove the privilege—I agree with people who have described it as a privilege—of having concessionary travel? Transport Scotland will not know, will it, minister?

Jim Fairlie: Your question is about when somebody commits an offence outside of a bus, but that is not what the SSI is—

The Convener: I know. That is what I am trying to get at.

Jim Fairlie: That is not what the SSI is designed to do. It is not designed to deal with antisocial behaviour across society.

The Convener: However, if the offence is criminality on a bus, they will lose it.

Jim Fairlie: I am not going to say what Transport Scotland's decision would be, because Transport Scotland would have to go through the process. However, if somebody is carrying out criminality on a bus, my expectation is that Transport Scotland would go through the process, ensure that it is being robust and take the appropriate action.

The Convener: Okay. Monica, I apologise if I have been unhelpful. I was trying to find something out. Back to you.

Monica Lennon: It is not about a personal passion of mine; it is about the perception out there in the country. There are many people, particularly women and girls and marginalised people, who do not feel safe on the bus. What I am getting at with the message of zero tolerance is not about us just talking about it in rooms such as this; it is about how the Government gets that message out there. With all the partners that you work with, minister, how will you get it out there loudly and clearly?

We have to deal with the instrument that is in front of us. I have sat in rooms in the Parliament with the minister, cross-party colleagues, bus operators and the police when there has been a genuine request to the minister to act in an urgent manner. Sadly, I do not think that we have seen that today, but we are where we are.

I want to ask about the right to review. If someone who has been told that they can no longer have their bus pass because of their conduct can ask for a review or an appeal, what criteria will Transport Scotland look at? In what situation could someone who is a violent killer or someone who has sexually assaulted women and girls on a bus be successful with that appeal?

Jim Fairlie: First, I will push back on what Monica Lennon said to me, which is that the scheme was asked for urgently and that it has not been delivered well. It has been delivered as quickly as was possible. As we go through these conversations, the complexity of what is involved is quite clear—it is not simply a case of somebody being able to say, "I'm having your bus pass." It is far more complex than that. Several issues must be considered, and it will take time to get it right. If we want speed, we can get it, and we will get a scheme that will not work in the way that it is expected to work, or we can ensure that it is done

properly so that people get a full understanding of what it will do.

Secondly, on the question that you have asked about the reviews, those will be an operational decision for Transport Scotland, which will work with partners—including operators and the young and older people who will be affected by the scheme—to work out the appropriate results. Those partners will look at the operational aspects in order to get the process to where it needs to be. The SSI is about giving the power to be able to do so, and it is not unusual for us in the Parliament to work through the guidance and policy development with the partners that will be on the ground doing it.

Monica Lennon: I must come back in. I will try to keep my remarks short. I am listening carefully, minister, but every time that you are asked for clarification, you seem to delegate that answer somewhere else. The Parliament will want to know what we are being asked to support, both today and when the matter goes to the Parliament. I will not mention individual cases, but members of the Parliament will have in their minds cases of very serious violence and sexual assault, and other cases, in their constituencies or regions. However, you are not able to tell the Parliament what your intention is.

You are the minister, you have the responsibility and a lot of influence here, but you do not know what criteria would be available or when it would be acceptable for someone who has sexually assaulted a passenger or a bus driver to retain a bus pass or win an appeal. It seems that you have no view on that and are happy to leave the matter to others to decide on in the future.

Jim Fairlie: I am sorry, but you are mischaracterising what I have said—

Monica Lennon: So, you do have a view. Will you please tell us what it is?

Jim Fairlie: It is not about whether I have a view. It is about the process that we are putting in place and about the fact that the Parliament and stakeholders are asking us to put an SSI in place to allow the Government and Transport Scotland to go through a process to remove somebody's right to have free bus travel.

I am afraid that you are completely mischaracterising what has been discussed, which is unfortunate, because I hoped that, given that it has been a demand from the entire Parliament, we would get to the point at which the SSI gets passed.

Monica Lennon: This is called scrutiny. In what situation, minister, do you think that it is okay that someone who has seriously harmed a passenger or a bus driver should be allowed to retain their

free bus pass or win an appeal to get it back? Please tell me in what circumstance that is okay.

Jim Fairlie: We have already discussed that. If an incident takes place on a bus, Transport Scotland will scrutinise that in conjunction with the discussions that it has had with stakeholders about whether it is appropriate to remove a bus pass. We will not sit here and give a prescriptive list.

I have also said that the instrument is deliberately broad to allow the proper scrutiny by Transport Scotland, in its wisdom, to decide whether the pass should be removed.

Monica Lennon: As you have designed the instrument, there will be discretion for civil servants to decide that someone who has committed a serious crime and caused harm to others would be able to continue to use the bus with a concessionary travel card.

Jim Fairlie: That is not what we have done; again, you are mischaracterising what has been said. The draft code of conduct is quite clear that someone could lose their pass if they

“act in a way that hurts or threatens others.”

It includes some examples of that, such as hurting someone physically, which is a criminal act; using abusive, threatening or indecent language; any kind of harassment, such as racial abuse; and how it would be decided that it is antisocial behaviour. Mark Ruskell asked what would happen if someone was using indecent language and they have Tourette’s. Transport Scotland officials will have to look at that before any decision is made about whether to remove the individual’s bus pass. Those decisions would have to be made on an individual basis.

More importantly, I very much hope that the code will act as a deterrent and that it will not be a normal process to remove someone’s bus pass. It is about antisocial behaviour on buses; it will not solve the criminal justice system across Scotland.

Monica Lennon: I will hand back to the convener, but it is unfortunate that the minister has been extremely vague. We are designing a process that could allow for any number of outcomes. I am asking the minister not to get drawn into individual cases, but whether it is his intention that someone who has committed a serious crime on a bus or has displayed antisocial behaviour could retain their right to use their bus pass. He cannot rule that out. I feel that it is a straightforward question.

The Convener: We have taken it round the houses and I am not sure that we have got any further or that you have received a satisfactory answer. I have to move on to other questions; I apologise, Monica.

Michael Matheson: Good morning. I want to step back from the exchange with Monica Lennon and deal with the process. If an individual committed an offence on the bus, what evidential threshold would be used for determining any decision to remove their bus pass?

Jim Fairlie: Again, that will have to be worked through with Transport Scotland’s officials and stakeholders, and it would have to be done on an individual basis, because there is a huge amount of complexity in this area. I cannot tell you what the exact threshold will be, because it would have to be worked out individually.

Michael Matheson: I am not asking for the exact threshold. I presume that the decision would be made on the balance of probabilities, rather than a requirement that the evidence was beyond reasonable doubt. I am trying to establish the evidential threshold.

It would be a civil matter, not a criminal matter and, therefore, I presume that the threshold would be the balance of probabilities. A criminal matter in the courts has to be proven beyond reasonable doubt but, obviously, a court of law will not be determining those matters.

Jim Fairlie: As I said in my opening exchange with the convener, 95 per cent of buses in Scotland now have closed-circuit television. There will be reports from the driver and potentially other passengers. When a report is made, the evidence will be presented to Transport Scotland’s officials, who will go through the process to work out whether or not the balance has been crossed that would allow someone’s pass to be taken away from them.

Michael Matheson: I will ask the lawyer who is at the meeting, Kelly Minio-Paluello, what threshold is intended for the scheme to operate?

Kelly Minio-Paluello (Scottish Government): As you said, it would not be a criminal matter, so there would not be a requirement to have that evidential basis. Transport Scotland, in consultation with stakeholders, is working through a proper, fair and accountable process.

Michael Matheson: So, decisions would be made on the balance of probabilities

Kelly Minio-Paluello: There is no requirement—

Michael Matheson: If it the threshold was going to be beyond reasonable doubt, you would have to call witnesses—

Kelly Minio-Paluello: There is no requirement for a matter to be proven beyond reasonable doubt, as it is not the same process as for criminal matters.

Michael Matheson: If there was that requirement, you would have to be calling witnesses, et cetera, so decisions will have to be made on the balance of probabilities. Surely, that is the settled position.

That means that, if someone commits an offence on a bus and they are subsequently convicted for it in a criminal court, they will lose their pass. It does not matter what the offence is. As soon as that person is convicted, they will have been convicted on a higher threshold than is required for the removal of their bus pass. It seems to me that, if someone commits a serious offence on a bus and they are convicted of it, they will lose their pass—without a doubt.

Jim Fairlie: And I have said that that would be my expectation, but it will not be a ministerial decision.

11:45

Michael Matheson: I understand that—I am not asking whose decision it is. I am just trying to establish the point that there has to be an evidential threshold, and that that evidential threshold has to be the balance of probabilities. Indeed, I cannot see how you can do it any other way, unless you are going to set up a court of law just to deal with bus passes. If someone commits an offence on a bus, and they are subsequently convicted of it in a criminal court, their bus pass will go, because they will have exceeded the threshold that would justify its removal. We should be clear about that, and I think that that deals with the question whether someone who commits a sexual offence on a bus and is convicted of it will have their bus pass removed. Of course, that will have to be referred into the system for it to be initiated.

That brings me on to my next question, which is about the review mechanism involved. I presume that these matters will go back into Transport Scotland for review, but I also presume—and I appreciate that you might not have the detail of this yet—that any decision maker reviewing a matter would be outwith the original decision-making process, either in a different part of Transport Scotland, the Government or elsewhere. I presume that the intention is to separate that decision-making process and the individuals involved in the previous decision-making process.

Jim Fairlie: I can absolutely tell you that the first part of what you have asked about—the review process—is still being developed. Carole Stewart works at that more operational level, so she might something further to add on whether the person involved will be independent of the first decision that was made.

Carole Stewart: The review process would require a further independent review of the

decision that was taken and the length, or duration, of the suspension or withdrawal of the card.

Michael Matheson: So, an independent person would review the matter.

Carole Stewart: Yes, they will be separate from those involved in the first decision.

Michael Matheson: What exactly will the individual whose bus pass is potentially being removed receive? They will receive notification from Transport Scotland, but will they also receive details of the evidence that has been submitted by either the bus company or the police in support of the removal of the bus pass, so that, when they respond to any application, they will understand the details of what they are responding to?

Carole Stewart: Yes. A letter will be issued to the person subject to a suspension process, setting out a summary of the situation, the decision that has been taken and the process for requesting a review of that decision.

Bob Doris: Good morning, again, minister—it is just about morning still.

Those were really interesting and important exchanges that you have had with Monica Lennon and the deputy convener, and I have written down the phrase “independent from ministerial decision making”. You were asked to make some quite specific judgment calls by Douglas Lumsden with regard to instances in which a bus pass might be removed, and you were then asked to confirm the removal of a bus pass in respect of some quite disturbing crimes.

I felt that, during those exchanges, the point that you were trying to make, without actually spelling it out, was that you could not confirm those things, because that would mean waiving your commitment to ensuring that the decision making of Transport Scotland was independent from ministerial interference. It would be helpful if you could say whether that was or was not the case.

Jim Fairlie: You have put it far more eloquently than I did. Yes, those are not ministerial decisions; they will be operational decisions for Transport Scotland.

Bob Doris: I think that that was helpful. The exchanges were important, but I just wanted to bottom that out and get it clarified.

On balance, I welcome the rather broad nature of the code of conduct. Again, it was important to hear about specific examples of unacceptable behaviour that could be put into it, but I was left thinking that, as soon as we start to list types of unacceptable behaviour against certain groups, one group is going to be missed out. If you are a disabled person, and that is not covered by the list, or if you have another protected characteristic that

is not on the list, some issues might arise in that respect. Therefore, it is right to keep the code broad.

In order to operationalise the changes, will guidance be produced to support Transport Scotland in making decisions in cases that might involve gender-based violence, abuse, ableism or similar issues? Can you tell us a bit more about the guidance that would support such decision making?

Jim Fairlie: What I was trying to say earlier is that there will be very wide engagement on the operational side of the issue. Those discussions with Transport Scotland will cover a very broad spectrum of things, so that we have the fullest understanding of how the changes can be implemented. The issue is complex, and a number of people have made the very simplified demand that we should just get the bus passes off them, but it is not that easy. There is a lot of complexity to consider.

Carole Stewart and her colleagues will take time to work through it all. Making the changes is taking so much time because we need to work our way through all those things and ensure that we understand people's positions and put in place proper guidance.

Bob Doris: To push a bit further on the idea of guidance, I will give an example of a theoretical instance—one that, unfortunately, will occur in practice—in which a racial slur is used and which, in context, is clearly intimidating and designed to hurt and offend an individual. It might be considered harassment and offensive under the broad code of conduct, but the offence will not be written down on a list anywhere—that is the point that Ms Lennon made. Will the guidance be expanded a little further—without a definitive list being produced—to give examples of incidents that could be subject to action?

Jim Fairlie: Carole Stewart will be working on that. Where will you take the guidance from there, Carole?

Carole Stewart: We will produce guidance for the 2.4 million scheme users. We will also produce guidance for, and provide support to, bus operators and ensure that bus drivers are trained to understand the policy and processes. Within Transport Scotland, we will also develop a decision-making framework to help guide decisions.

It is perfectly possible to use some example scenarios in the guidance for passengers and operators in order to indicate how a particular incident would be dealt with under the procedures and what its outcome would be through the review process. It would be helpful to use examples.

Bob Doris: Okay—that gives a degree of reassurance.

Earlier, Mr Ruskell raised conditions of carriage. In a previous session, I remember that I told you, minister, about having read First Bus's conditions of carriage. I will not repeat the contents, but I wonder whether the argument is a bit of a red herring. In my experience as a constituency MSP dealing with antisocial behaviour on buses, I rarely have discussions about conditions of carriage.

First Bus has been excellent in relation to routes where there could be issues, and a bit of good-quality driver training and driver continuity—so that the same drivers are on the same routes consistently, are experienced, and know what to expect and how to handle it—has made a real difference. First Bus has also delivered good driver training and built good partnerships with Police Scotland and with local organisations in an area where there could be pinch points and specific localised issues with antisocial behaviour. There are key risk times in the day and night when antisocial behaviour is most likely to flare up, and improvements could be made in key areas in order to deal with such behaviour at bus stops, but at no point do we say, "Let's get the conditions of carriage out."

The reason that I put that on the record is that this is fundamentally about sharing best practice—reflecting Mr Ruskell's important point about how we deter antisocial behaviour, which is not age-specific—and about how bus companies and local partners can do so to reduce and tackle antisocial behaviour in ways that go beyond simply withdrawing the bus pass. Withdrawing passes is important, but the issue is also the wider environment. Is there any on-going work on that?

Carole Stewart: Yes. We have a bus antisocial behaviour stakeholder group run by the Confederation of Passenger Transport. We have had discussions around strengthening operators' conditions of carriage and on the potential for the code of conduct and the power contained in the SSI to be incorporated in those conditions of carriage.

Those in the bus industry are not just working with us on the SSI and the suspension procedure in isolation; they do a lot of work in communities. They go out to schools and provide information on using buses safely and responsibly. They try to build up relationships between bus drivers, bus operators and people on their regular routes.

We are also in discussion with operators on enhanced communication around safety and zero tolerance of antisocial behaviour on buses. The conditions of carriage and the suspension process are not the only policy or mechanism that we are

working with; there is a package of measures to try and make things better.

Bob Doris: That is helpful. I just wanted to get the point on the record. On the idea of looking through the conditions of carriage in minute detail, the minister said in the previous evidence session that that is not how we tackle antisocial behaviour and emphasised a wider approach. Mr Ruskell will probably agree here. I believe that the power to withdraw bus passes in a structured and considered fashion should be afforded to Transport Scotland.

Colleagues have spoken about concerns that the measures must be specific to conduct on a bus. I think that, because of the complexities at play here, that has to be the case, as a starting point. Without setting the hares running, minister, could you envisage a case in a few months' time or a few years' time where it is clear that there are hotspots at bus stations and bus stops where a group of people with national concessionary cards are congregating? They could be of any age—they could be older or younger; it is not always young people—and they may be causing a disturbance when seeking to board a bus or after disembarking from a bus. Could some discretionary powers be afforded in the future to consider withdrawing concessionary entitlement in a more considered fashion?

Jim Fairlie: That would be for the Parliament to decide in the next session. There is a lot of on-going work around antisocial behaviour that should tackle those things. There is on-going work with the Convention of Scottish Local Authorities, Police Scotland the bus companies on hotspots. If there are hotspots, they will be known to the local communities. There is on-going work on that, and there is an independent working group. I think that five recommendations came out of that work on antisocial behaviour—not on buses, but on antisocial behaviour in general.

This is a problem that we need to tackle more widely, but the SSI is specifically about action that we can take on people who are using their bus pass and committing antisocial behaviour while they are using that pass.

The Convener: Kevin, we will come to you next. I will then give Mark Ruskell one question, Monica Lennon one question and me one question—I am limiting myself to the same as you two.

Kevin Stewart: Much of what I was going to ask, which was on evidential thresholds, has been covered by the deputy convener. That questioning has nailed that point, I think.

Minister, you are a sensible man—you are a man of common sense, I would say—but you are dealing with an order that is bus related only. I

think that we get that. A huge amount of other issues have been raised today that are not dealt with by the order before us and that could never be captured by it, in my humble opinion. However, you can see the strength of feeling in the room. I am quite sure that you will undertake to relay that strength of feeling to justice colleagues in particular. It may well be that the Crown and the judiciary need to consider sentencing, if possible, to remove bus passes.

I have a simple question. Will you relay to justice colleagues some of the strength of feeling that has been expressed today? Will you talk to them and ask them to speak to the Crown and the judiciary to find out whether anything else would be required to remove bus passes from folks who are committing antisocial and criminal acts outwith buses?

12:00

Jim Fairlie: I absolutely give that commitment, and I have already agreed to meet Ms Constance about the issues that we are discussing. I am in no doubt about the strength of feeling that is in the room regarding the antisocial behaviour that is being experienced across society. It is not my intention to diminish anything that anyone has said or for it to come across that I am doing that, because I get all the issues that have been raised. However, the order will not deal with those issues, because there are wider societal problems that we need to deal with.

I will take on board the specific point about whether sentencing should include the removal of bus passes, and I will raise it with the Cabinet Secretary for Justice and Home Affairs—I have a meeting with her later on to discuss what we are discussing in this meeting.

In no way would I diminish any of the points that have been made today, and I take them all on board.

Kevin Stewart: In those discussions, it might be found that the removal of bus passes in such cases would require further legislative change that is outwith your remit. However, thank you for that commitment.

The Convener: Mark Ruskell, please make your question short.

Mark Ruskell: The code of conduct that is in front of us was published in January 2026. I am interested in how it will develop over time, and I am also interested in how many cases Transport Scotland will deal with every year based on the code of conduct. There is a franchise of 2.3 million people who have concessionary cards. Would you expect the number of cases to be about a couple

of hundred, a couple of thousand or more than 10,000?

We have heard today that the whole process of reviewing evidence, making a judgment and allowing appeals from cardholders could be quite time consuming. I am trying to understand what the numbers would likely be. It could be that a whole department would need to be set up to independently review the cases that come forward, particularly if the code of conduct includes—as in the current draft—reference to “indecent language” on buses, because that could involve huge numbers of people.

Jim Fairlie: Are you effectively asking me whether we have done any modelling on how many bus passes will be removed as a result of the code of conduct?

Mark Ruskell: Yes.

Jim Fairlie: We have not done any modelling on the number of passes that would be removed. As I said, there is a lot of complexity involved in this issue. Officials will go through the operational process of working out what removing bus passes would mean.

Carole Stewart: We have had many discussions with Transport for London, which runs a similar suspension and withdrawal scheme for its Zip Oyster concessionary card, which applies to 11 to 15-year-olds in London. There are about three times more passengers who use our national concessionary travel scheme than use the London scheme, and there is one full-time member of staff in London.

Mark Ruskell: Is that for the 11 to 15 scheme?

Carole Stewart: Yes. I am just giving those figures as a baseline to start with. However, we do not know how many cases will come through until we try withdrawing passes. Our national concessionary travel schemes are quite unique in their scale and scope, so we will need to see how withdrawing passes will work when we begin to operationalise it.

The Convener: There you go, Mark—that was your one question. The next question is from Monica Lennon.

Monica Lennon: Given the serious nature of some of the questions about serious types of crime and antisocial behaviour that have been asked in this meeting, it is regrettable that there has been a lot of mansplaining at the committee today. Two former transport ministers have come to your rescue to some extent, minister.

I tried earlier to get clarity on the Government’s policy intention. I understand the scope of the statutory instrument and I understand what the Parliament will be asked to vote on. However, as

someone who has sat in a room in this Parliament with you, minister, and with other stakeholders who want urgent action taken to reduce and tackle violence on our buses, I am asking about the Scottish Government’s position and your position as the minister. I am not asking what you will do about wider societal violence or gender-based violence; my question is about buses. You have now been asked about holding discussions with justice colleagues on what could be done through sentencing. My question is whether, before getting to this point today, the Scottish Government considered what other action could be taken to provide for a situation in which violent criminals who have committed crimes on buses in Scotland would face the automatic removal of their bus pass—that is, would lose the privilege of having one. Was that considered? If so, why was it dismissed as an action that could be taken during this parliamentary session?

Jim Fairlie: I do not believe that it was considered as a stand-alone thing. I believe that we took the findings from the round tables and the discussions that we had with various stakeholders and decided to look overall at the removal of bus passes in the case of antisocial behaviour. No specific thinking was done about criminality and the automatic removal of a bus pass. That is my understanding, unless Carole Stewart can tell me something different.

Monica Lennon: I think that your official is nodding in agreement with you. That is a clear answer, so I thank you, minister.

The Convener: I will reiterate a question that came up the last time that you brought the draft instrument to the committee, minister. It relates to children who use their bus pass to get to school and might, if the concessionary aspect was removed, have no ability to get to school. What thought have you given to that since our meeting some three weeks ago?

Jim Fairlie: We discussed that, but I reiterate that children who use their bus pass to get to school have a right to get to school via the local authority. Those are two different issues. However, the operational aspect of the code of conduct will look at all the reasons for, and implications of, the removal of a bus pass. We would rather that it be used as a deterrent, so that it does not happen. However, if it does happen, the young person will have a right to get travel from their local authority if they live beyond 3 miles away from their school. The two schemes are not the same and should never be regarded as such.

The Convener: That is all our questions on both instruments.

We now move to agenda item 4, which is a debate on motion S6M-20454, which calls on the

committee to recommend that the draft National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) (No 2) Order 2026 be approved. For 100 per cent clarity, I note that this is the order that relates to the money for concessionary travel—the names of the two instruments are very close.

I call the minister to speak to and move the motion.

Jim Fairlie: I have nothing further to add, convener.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) (No. 2) Order 2026 [draft] be approved.—[*Jim Fairlie*]

The Convener: I invite contributions, including just statements, from members.

Minister, as no one wants to speak, I now invite you to sum up and respond to the debate—although as there has not been a debate, you may just want to conclude.

Jim Fairlie: I will conclude.

Motion agreed to.

The Convener: I invite the committee to delegate authority to me as convener to approve a draft report for publication.

Members indicated agreement.

The Convener: Item 5 is a debate on motion S6M-20799, which calls the committee to recommend that the draft National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026 be approved. The order relates to concessionary travel and the removal of passes.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026 [draft] be approved.—[*Jim Fairlie*]

The Convener: Does anyone want to say anything?

Douglas Lumsden: I will be brief. I fully support the order, but I must say that I have been disappointed by some of the minister's answers. We all agree, I think, that if somebody does something criminal, losing their pass should be automatic. However, I have slight issues over the clarity of the situation when it comes to people getting that pass back.

Today, I raised the case of a 16-year-old who killed a bus driver in Elgin. When they are released, they will still be under 22 and entitled to free bus travel. The minister should have been

able to say that that individual would not have the privilege of that entitlement returned. The order, which we are being asked to recommend approval of today, should allow that to happen. I feel for the driver's colleagues, who will probably have to see that individual again and take them on their bus, and for the driver's widow. It should have been easy to say that Keith Rollinson's killer would not get that free entitlement again, and it is disappointing that the minister has not been able to rule out their getting their pass back today.

Monica Lennon: I will support the order today, because I recognise the broad aims that the minister has set out. I would have liked to hear more clarity about how the order will work operationally and what criteria will be considered for reviews or appeals. We got there towards the end, but I am disappointed by the missed opportunity to take further action. It sounds as if the issue should have been discussed more closely with the Cabinet Secretary for Justice and Home Affairs, who the minister is to meet.

We have heard about what could happen in the next parliamentary session, but the issues have been discussed in the Parliament over the past couple of years, with strong interest from different parties and from lots of stakeholders. I feel that lots of victims and families will feel disappointed today.

Jim Fairlie: I would like to understand what opportunity you think has been missed in terms of what we are trying to achieve with the order. I have not, in any way, tried to minimise the points that you have made during the discussion. The order has the specific function of removing, for antisocial behaviour on buses, passes from people who are entitled to them. There is massive complexity even within that, which is why it is taking time. I accept that the issue has been discussed for a number of years. However, proper and thorough investigation is still required as to whether it is the right thing to do, and, if so, how to do it. That is why we are here now.

I am curious, and this is not a gotcha question: what is the missed opportunity here, and what would you rather see going forward?

Monica Lennon: I hope that I have been clear with the committee and the minister that I will support the order today, because it is the option that is in front of us and to delay action on it would not be the right thing to do. However, for the benefit of the record, I am saying that the Government has missed the opportunity to take more robust action to address the issues that Douglas Lumsden raised.

I will not go into individual cases, but I have put to the minister today that, where it is very clear that individuals have perpetrated extreme violence or sexual assault on a bus, they should not be

allowed the privilege of a free bus pass. I think that it is within the gift of the Scottish Government to have such a view, to state such a position, to take legal advice and to work across Government to get the right people around the table. I also feel that the meeting with the justice secretary has come a bit late in the process.

I will vote for the motion today, but I would have preferred to see a much more robust package of measures from the Government to target these most serious crimes, so that, where they are committed, the victims and the survivors can see that Government is respectful of their feelings.

12:15

Jim Fairlie: Again, as I said in my response to you, it is my expectation that that is what would happen. As Bob Doris pointed out, there is no ministerial direction here—it has to be an operational issue for Transport Scotland. As a minister, it is my expectation that such criminal acts would result in the loss of the bus pass. However, Douglas Lumsden has made the point that we would then be looking at retrospective decision making. I am not going to talk about the individual case, but he is talking about retrospective decision making, and that is not something that I can talk about right now.

I will have conversations with the Cabinet Secretary for Justice and Home Affairs with regard to all the things that we have talked about today. A huge amount of work is already going on in the Scottish Government that is well beyond the scope of the order, and nobody is going to defend the rights of women and children more than me or my colleagues in the Government—we have been very proactive in doing so. I am more than happy to continue working across Government, if that is what Monica Lennon wants to happen.

The Convener: Minister, that was a statement; an intervention is usually a question, so I will ask Monica Lennon to conclude what she was saying, so that I can go to Mark Ruskell.

Monica Lennon: I think that I have been clear in making the point about my intention with the order. From what I have heard, I believe that the Government has failed to look at the issue in a wider sense. The discussions with the justice secretary could have happened earlier in the process. I will leave my remarks there, convener.

Mark Ruskell: It is clear that when individuals carry out serious criminal behaviour and end up in court, it should be in the gift of the courts to restrict their access to a bus pass, or even to public transport full stop, should they consider that appropriate. That is the way to deal with criminals who are going through the criminal justice system.

With regard to the order, which is about concessionary bus passes, I cannot see how it will make any difference whatsoever to that criminal behaviour—not one jot. All that we are saying, in effect, is that somebody does not have a free bus pass any longer, but they are still at liberty to get on board whatever bus they want. They are still at liberty to be in a bus station or throw bricks at a bus from the side of the road, as we have seen in Clackmannanshire and in Edinburgh.

The order will not change anything, but it will set up a very costly bureaucratic system—

Jim Fairlie: Will the member take an intervention?

Mark Ruskell: In a second. The order also poses the risk that we conflate bad and discourteous behaviour on buses with serious criminal behaviour. Even though we have a revised code of conduct in front of us that focuses more on criminality and harassment, there is still a danger that judgment calls will be made and that bad behaviour on buses will be conflated with criminal behaviour. At the end of the day, the order will not make any difference at all.

I would like the Government to put in place the approach that has been taken on the trains with the ScotRail travel safe teams. I know that the Government has worked very closely with the rail unions on that, and I think that a better approach can be taken on buses, learning from that experience on the trains, but I just do not see the order making any difference at all.

I will not stand in the way of the order—I will abstain—but I tell you now that I do not think that it will make any difference at all, and that there will still be risks and dangers. The real issue here—restricting people who have shown clear criminal behaviour—will still exist and will not be addressed by whether somebody is going to pay a quid to get on a bus or get on the bus for free.

Minister, did you want to come in?

Jim Fairlie: I was merely going to ask whether the member accepts that this is an opportunity to put a deterrent in place for antisocial behaviour. However, he has made his position clear, so that is probably a moot point.

Mark Ruskell: I respect where the minister is coming from, and I suspect that we are not that far away from each other on this, but I just cannot see the deterrent. Those people will swap cards with their friends, and they will try to get on the bus whether they have a card or not.

People who are involved in serious antisocial behaviour will do what they do. They will continue to throw stones through the windscreens of buses and they will continue to cause havoc at bus

stations until we have an approach that deals with the root causes of antisocial behaviour, brings those who have been involved in criminal activities to justice, and deals with some of the underlying causes. I am sorry, but I do not see the order as part of the mix. I will not stand in its way, but I will not vote for it.

The Convener: I am just looking around the room—I see no other member wanting to comment. I will comment and then go to the minister. I say at the start that I will not take any interventions.

I have been a convener in the Parliament for nine years and I have sat through the consideration of numerous SSIs during that time. I have been supportive of a lot of them, and I have not been supportive of some of them. In those nine years, there is only one SSI that has come back after it was rejected, with the motion not moved the first time because it was quite clear that the policy behind it was immature and not properly thought out. It has happened only one time—with this order.

We waited and were told that a draft code of conduct would come to the committee. The draft code of conduct was submitted with a letter from the minister. I have to say that the draft code of conduct, as produced to this committee, is poor in content and unhelpful in a lot of respects, because it raises more questions than it answers. I was extremely grateful for the input of the deputy convener and Kevin Stewart in explaining to the committee some of the things that the minister was unable to explain.

I want the order to be approved, and I will vote for the motion on the basis that I agree with the principle of the order. Do I think that it is ready to be implemented? No, I do not. If the order is approved, it must be implemented by 24 March. That allows the Government 28 working days to come up with a code of conduct that works well and is able to support the order. Do I believe that that can happen? No, I do not.

I have to say—and it is really sad that I have to say this—that in my time in the Parliament, the consideration of this order has proved to be the most difficult thing to convene, and it has perhaps shown the Parliament at its worst when it comes to dealing with SSIs. Those are strong words, and I do not say them lightly.

Minister, I will come to you now, if you would like to comment.

Jim Fairlie: I hear the convener's points. I will go back to Mark Ruskell's comment that he will not support the order but will abstain, and that is absolutely his choice. People will swap their cards, but if they do that, it is fraud and therefore a

criminal act. The purpose of the removal of a bus pass is to crack down on antisocial behaviour. It is, I hope, a deterrent more than anything else.

With regard to being able to lay an SSI as a completed piece of work, the convener is well aware that, quite often, we will lay an SSI and then develop the policy and its workings as we go forward. This order will be ready to be implemented by the autumn of this year. There has been a demand for us to lay the order in order to put out the message that antisocial behaviour on buses will be tackled. The order is the first stage of the process. A tremendous amount of work has already gone into it and a tremendous amount of work will continue to go into it in order to make it operational by the autumn of this year.

The Convener: Thank you. The question is, that motion S6M-20799 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Motion agreed to,

That the Net Zero, Energy and Transport Committee recommends that the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026 [draft] be approved.

The Convener: I invite the committee to delegate authority to me as convener to approve a draft report for publication. Are we agreed?

Members indicated agreement.

The Convener: Gosh, I thought that you were all going to pause then. I thank the minister and his officials, and I suspend the meeting until 12.30 to allow a changeover of witnesses.

12:24

Meeting suspended.

12:30

On resuming—

Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026 [Draft]

The Convener: Welcome back. Item 6 on the agenda is consideration of a further draft Scottish statutory instrument, on which the Delegated Powers and Law Reform Committee has made no comment.

I welcome Gillian Martin, the Cabinet Secretary for Climate Action and Energy, and her supporting officials Joel Hankinson, who is the head of Energy Act implementation in the offshore wind directorate, and David Moffat, who is a solicitor for the Scottish Government.

The instrument is laid under the affirmative procedure, which means that it cannot come into force unless the Parliament approves it. Following the evidence session, the committee will be invited to consider a motion recommending that the instrument be approved.

I remind everyone that officials can speak under this item but not in the debate that follows. Would you like to make a brief opening statement, cabinet secretary?

The Cabinet Secretary for Climate Action and Energy (Gillian Martin): Thank you for the opportunity to speak to the instrument. I will try to be as brief as possible. Under the current habitats regulations, projects that affect protected sites must secure compensatory measures that are targeted specifically at the impacted habitat or species. In practice, only a limited range of measures can be evidenced to that standard, which creates a significant constraint for offshore wind development and puts climate and energy security ambitions at risk.

As a result of the passing of the Energy Act 2023, which was introduced by the former Conservative Government and delivered by the current Labour Government at UK level, we can now lay this Scottish statutory instrument, which introduces a more flexible approach but with strong safeguards. The core habitats regulations assessments remain, but new environmental safeguards will be brought into place and projects with potential adverse effects must still secure robust compensatory measures.

The SSI enables compensatory measures that support the wider UK marine protected area network, not only the impacted feature. Additional safeguards include the establishment of a compensation hierarchy to prioritise like-for-like measures but also enable wider alternatives when

they are appropriate and offer enhanced ecological benefits.

We will publish guidance on how to apply the legislation and hierarchy and will review both regularly to ensure that the framework remains robust, transparent and responsive to new evidence. That guidance is being developed collaboratively with the UK Government and key stakeholders to ensure that it is grounded in scientific and industry expertise.

The SSI applies to Scotland's inshore region, with a corresponding instrument to be introduced by the UK Government for offshore waters. The two instruments have been designed to align closely, and the guidance will apply across both inshore and offshore areas to support a consistent, joined-up approach.

The Convener: The deputy convener has the first question.

Michael Matheson: Good afternoon, cabinet secretary. The instrument is an important step, given the challenges that the previous regulations have posed for the development of projects. I suppose that one of the key issues will be the governance process for the decision making on where mitigations for a particular project can be put in place and how that process will be managed and prioritised. How will that governance process operate in order to decide where an alternative form of mitigation could take place? How will that work on a four-nations basis, given that it is possible that mitigations could take place across the whole of the UK?

Gillian Martin: In practice, the governance associated with the process is still the normal consent process, which is about the habitats regulations and the compensatory part of any kind of application for consent. As at the moment, developers will have to produce plans on what they intend to compensate on and the data associated with that, but the difference is that they will be able to include wider measures.

The hierarchy is very important in that process: at the top, developers must consider like-for-like measures wherever possible and applicable, but those measures might be augmented by other measures in tiers 2 and 3 of the hierarchy. The marine directorate consents unit will analyse all the data and plans that are put forward. Developers will be able to get advice on that from the marine directorate and also from NatureScot.

Developers can put forward their own plans, and their application will be judged on those plans, but they can also apply to the Scottish marine recovery fund. There is a strategic recovery fund for the whole of Scotland that will enable large-scale and strategic projects to take place. There will be a

range of particular workstreams that might be able to be applied to and funded as part of that.

The decisions, which are made on the habitats regulations and will have due regard to the hierarchy, will still be made by the marine directorate licensing operations team—MDLOT—but will come to ministers, along with all the advice, as is usual.

Michael Matheson: The hierarchy is helpful in trying to understand part of the process. Outwith the direct project, who will decide what the mitigations to offset the habitats impact of the project should be? Will the developer put forward the proposal on, for example, plans to do stoat or rat eradication on a particular island? Or will the developer accept that it cannot mitigate it all within its particular site and therefore seek advice from a third party, through the Scottish Government, to direct what the mitigation should be? I am trying to understand what that process looks like.

Gillian Martin: You are right that the developers will put forward their own plans. However, their own plans might not be sufficient, or they might discover, as they are working to put forward their plans, that there are not enough compensatory, like-for-like measures—those at the top of the hierarchy—in order for them to deliver adequate compensation. I will bring in Joel Hankinson on this point; he might have more detail on it, as he has been working heavily on the governance and policy around this. Developers will be able to engage with the marine directorate and also with NatureScot, both of which will have an impact on what the marine recovery fund will deliver, so they will be able to suggest mitigations. Joel will have more detail.

Joel Hankinson (Scottish Government): There will still be two alternative ways in which strategic compensation or compensatory measures could be brought forward under the new regime. The ability for offshore wind developers to individually propose compensation to offset their adverse impacts will remain. They can bring forward either wider measures or like-for-like measures, and they will go through the ordinary consenting process as part of that, engaging with—as Ms Martin said—MDLOT and statutory nature conservation bodies to understand that.

The marine recovery fund is also being explored as a mechanism for delivering strategic compensation. That would be a voluntary mechanism established by Government that will require its own governance process to look at the impacts of strategic compensation and how it can be delivered effectively. That will need a different type of advisory group or monitoring framework or approach.

On the question about wider governance, when we went out to consultation, we proposed two things. The first was a mandatory review period on a five-year cycle across the UK as a whole, including working with the UK Government, in order to understand the impacts of the legislation and where we might need to make changes. We will be working very closely with the UK Government as part of that process.

We also proposed the establishment of a technical advisory group to look at how we approve strategic compensation to go into a marine recovery fund, for example, and how we understand what further research needs to be undertaken. That work is still being developed at this stage, so we can return with further information in due course. It is very much a case of live policy development at the moment.

Gillian Martin: I add that there will also be analysis of the impact of the compensatory measures. The committee will be very familiar with the Scottish marine energy research programme, or ScotMER. The data associated with applications, and the data that goes into ScotMER about the marine environment, biodiversity and the impact on species, will also feed in to the analysis of the impact of all the compensatory measures that have been made, so that that forms part of the wider analysis. We will also share learning across the borders of the four nations.

Michael Matheson: There are only so many mitigation measures that can be put in place, so there will be only so much mitigation that can be done. Given the Scottish Government's ambition to reach 40GW of offshore wind by 2040, where we are in the delivery pipeline in Scottish waters, as well as there obviously being a pipeline in England and Wales, what will be the process to ensure that it is not simply a case of first come, first served? If you drop all the scope mitigations that could be put in place outwith your own project, that could result in projects further down the line finding that there is not much left for them to do. It will not be quite like that—I am putting it in a fairly crude way—but I am trying to think about how we can ensure that we are giving as much scope as possible to maximise the process in a way that keeps in mind that it will be way into the 2030s before some projects are delivered and that there is a need to ensure that there are still some mitigation measures that they can help to support, when it comes to the point at which they need to do that.

Gillian Martin: Biodiversity loss is happening across many parts of the food chain, particularly those associated with seabirds. As data improves and science develops, I imagine that we might be able to take more suites of measures to protect seabirds from the various stresses that they face.

That sharing of knowledge will be very important. Also, as I said, we will look every five years at whether the approach is workable, which is really important.

You make an important point. Obviously, there is some work that can be done now on a like-for-like basis. Will those measures be sufficient to stop the decline in the seabird population? Possibly not, but other measures may come through that might have an impact on the seabird population. This is way into the future, but we could even be looking at some strategic stuff around the impacts of avian flu, for example. Predator eradication and invasive species work is very time-consuming and costly and will take decades to keep on top of. Managing and eradicating invasive species will not be fixed in the next five years—it will require constant maintenance. That is like-for-like work.

Moreover, mitigation will not have to happen only in the geographical area where the development is. It could happen across Scotland, in any area in which a particular type of species is nesting, breeding or feeding. There will be quite a lot of scope.

The other thing is that it is about the entire UK marine protected area network. We are further ahead in our marine protected areas in Scotland, but species do not care about borders. Where they are and where they move to could be any part of the UK waters. That is why the strategic approach might yield more ambition in relation to taking away the stressors to marine life.

The Convener: I am sure that I do not need to remind everyone about the time. The clock is not stopping for me—it never has done—and time is marching on. The next question comes from Mark Ruskell.

Mark Ruskell: I think that the deputy convener has covered some of the areas that I wanted to go into, and I listened to the responses.

I have only one question. I noticed that the responses to the consultation were quite divided—environmental non-governmental organisations were not really supportive of the measure and there were some concerns from the fishing sector as well, but the renewable energy sector was very supportive. Given what you have described in relation to the hierarchy and the need to look at the issue more strategically, how do you see those interests coming together? It is clear that the industry will probably run out of options for setting traps on islands to remove invasive species.

There will be a need for serious investment in ecological restoration across the seas, which will require environmental non-governmental organisations and others coming to the table, working with the industry and coming up with some

really big ideas that go way beyond what is being discussed at the moment. How do you ensure that that input is there and that you are not just having a circular conversation with the industry?

12:45

Gillian Martin: What you have highlighted is extremely important. Some of the ENGOs might be reticent about the regulations, but they have to be in the room, along with all the stakeholders that are associated with the marine environment. One major advantage of that is that the ENGOs and the associated scientific community will be able to work with us on the compensatory measures.

At the moment, the hierarchy is a proposal. We have not bottomed out all the actions that might be in the hierarchy, but the actions that are associated with all tiers of the hierarchy will be done in consultation with all stakeholders. Where there is an ability in the future to redevelop the hierarchy—the instrument will be reviewed every five years—we will be able to constantly analyse how the compensatory measures are working and whether we can do anything more. We might be able to add additional actions to certain tiers of the hierarchy. Given that there will be a marine recovery fund, the chances are that there will be an awful lot more funding associated with doing some of the bigger interventions. Every stakeholder that is associated with the marine environment needs to be around the table, because we cannot go forward without all that expertise.

Joel Hankinson: To expand on that, we are in the process of drafting the guidance that will underpin the instrument and we have committed to engaging with ENGOs and other stakeholders as part of that, because we want them to meaningfully contribute to how the hierarchy works in practice and how it can be a meaningful safeguard. At the same time, we are progressing a series of research projects to look at what compensatory measures could be taken forward as part of the work. Again, we engage with ENGOs and other interested stakeholders as part of that.

I do not expect the research that we are doing to be the end of the story—we will have to do more. As part of that, we will continue to engage with those stakeholders. We are fully cognisant that they know things about our marine environment that we do not necessarily know and that there are positive things that we can do. We can learn a lot from them, and we want them to be part of the journey.

The Convener: Monica, you have a chance to ask another question, later. Are you happy to take that opportunity, or do you want to come in now?

Monica Lennon: I will wait.

The Convener: Perfect. Douglas, you have a question.

Douglas Lumsden: It is only brief. The Scottish Government policy note says:

“The policy is anticipated to have a negative impact on fisheries.”

When I talk to people in the fishing industry, they are concerned that mitigation, perhaps for a wind farm down in the south of England, might end up restricting fishing off the north-east coast. What discussions have you had with the fishing industry about that? How can you give it some reassurance that the sector will not be adversely impacted by what happens elsewhere?

Gillian Martin: All the conditions that are associated with compensation from the developer will go in to MDLOT at the Scottish Government. To be honest, I cannot see a situation in which the scenario that you have described would happen, because we have developments of our own for which we need to find compensatory measures.

Regarding our general engagement with the fishing sector, it will have, and already has had, opportunities through that engagement to help to shape the compensation measures that have been structured. We have already been working with it. There will be engagement on the proposed measures, opportunities to provide that detailed knowledge about fishing activity and local marine conditions, and we would work with it on any intelligence and data that it might want to provide on fish species. We need to ensure that all marine industries are able to co-exist, so marine spatial planning will be very important, and the committee knows very well the work that has been done in that area.

The marine stakeholders in general have been involved in the development of the instrument and all the underpinning policy, which was done on a four-nations basis as a result of the Energy Act 2023. They have been able to input into that.

Another aspect of the matter is that, when it comes to any consultation on particular developments, representatives of the fishing industry can also put their submissions in to MDLOT, on a case-by-case basis.

Douglas Lumsden: What, then, is the negative impact that you anticipate that your policy will have on fisheries?

Gillian Martin: The policy note is highlighting that there is that potential. We will work to avoid that as much as possible so that all marine industries can co-exist. All the impacts on any part of the marine sector are taken into account by MDLOT as an application goes through the consenting process.

The Convener: I think that that has also answered my question. I am not sure whether your question on coastal communities has been answered, Monica, or whether you want to come in.

Monica Lennon: That has been covered. I am mindful of the time, so could I get just a word or two about the role of NatureScot? We heard from it earlier. Given the new governance structures around this and the four-nations approach, do you see any particular challenges for NatureScot in relation to this work?

Gillian Martin: I was not able to see NatureScot's part of the meeting but I hope that it was able to give you comfort that it is preparing for this work and that it sees it as positive. NatureScot is looking at structuring its operations to ensure that it has in-house expertise, so that it can work with developers and signpost them to the best compensation measures that might be available to them. It has been preparing for this. As I said, the Energy Act 2023 was introduced in the previous UK Parliament, so all the agencies across the UK have been preparing for a few years for the eventuality that we will have this flexibility and new hierarchy.

Joel Hankinson: To expand on that, statutory nature conservation bodies across the UK, including NatureScot, have been closely involved in the development of the policy and the approach that we are taking. We have had regular discussions with NatureScot about what we are trying to achieve and what its potential role could be in that. As I mentioned previously, we are still working through what that governance structure—the technical advisory group that underpins the policy—could look like in practice, but we very much see a role for SNCBs as part of that process.

Monica Lennon: That is helpful.

The Convener: I am sure that the cabinet secretary will want to review the evidence that we heard from NatureScot this morning and be convinced that it is ready for the policy. I will leave it there. Do you have a follow-up question, Mark?

Mark Ruskell: I am fine.

The Convener: No member has indicated that they have any other questions, so we move to item 7, which is a debate on motion S6M-20459.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026 [draft] be approved.—[Gillian Martin].

The Convener: Does anyone want to say anything?

Douglas Lumsden: I will be very brief because I know that time is against us. I find it very difficult to support something that says in black and white that there will be a negative impact on fisheries.

I also have concerns about the governance arrangements that the deputy convener asked about. I do not think that they are all there yet—that is perhaps not to be expected—but I would like to know more about them.

I have a concern that all the available compensations in Scotland could be used up for projects that are actually in different parts of the UK. You might think that that is okay, but I have concerns that especially the fishing fleet will be impacted by things that are taking place miles away. It seems that the only compensation that it will be entitled to are measures such as marine litter removal. If there is going to be an impact on the Scottish fishing fleet, I think that proper monetary compensation should be put in place for those people whose livelihoods will be affected. I hope that that will come in in future SSIs or legislation. As it is, I cannot support the instrument.

The Convener: Can you sum up and respond to the debate, cabinet secretary?

Gillian Martin: I will just respond to that point. The governance framework will be set out after the SSI is approved. The governance framework is not in the instrument. That work is on-going. The compensatory framework and the hierarchy will be developed with stakeholders.

The Convener: Okay, thank you. [*Interruption.*] Sorry?

Douglas Lumsden: I was going to ask for an intervention.

The Convener: You were too slow—the cabinet secretary came to the end of what she was saying.

The question is, that motion S6M-20459, in the cabinet secretary's name, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 0, Abstentions 2.

Motion agreed to,

That the Net Zero, Energy and Transport Committee recommends that the Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026 [draft] be approved.

The Convener: The committee was a bit slow last time, so let us see if we can be quicker. Is the committee happy to delegate authority to me as convener to approve a draft of our report on the SSI for publication?

Members indicated agreement.

The Convener: You are. Good. Thank you so much. Thank you for attending, cabinet secretary and officials.

12:56

Meeting continued in private until 13:45.

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