



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 23 September 2015

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
28th Meeting 2015, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Sarah Boyack (Lothian) (Lab)

*Alex Fergusson (Galloway and West Dumfries) (Con)

*Jim Hume (South Scotland) (LD)

*Angus MacDonald (Falkirk East) (SNP)

*Michael Russell (Argyll and Bute) (SNP)

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Steve Bastiman (Scottish Sea Angling Conservation Network)

David Fraser

Alasdair Hughson (Scottish Scallop Divers Association)

Richard Lochhead (Cabinet Secretary for Rural Affairs, Food and Environment)

Duncan MacInnes (Western Isles Fishermen's Association)

Kenny MacNab (Clyde Fishermen's Association)

Jamie McGrigor (Highlands and Islands) (Con)

Willie John McLean (Mallaig and North West Fishermen's Association)

Alistair Sinclair (Scottish Creel Fishermen's Federation)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
**Rural Affairs, Climate Change
 and Environment Committee**

Wednesday 23 September 2015

[The Convener opened the meeting at 10:19]

**Decision on Taking Business in
 Private**

The Convener (Rob Gibson): Welcome to the 28th meeting in 2015 of the Rural Affairs, Climate Change and Environment Committee.

Earlier this week, the committee was on Islay and Jura in meetings with tenant farmers, representatives of Islay Estates Company and others. It also hosted a public meeting on the Land Reform (Scotland) Bill. I thank those whom we met for their time and the evidence that was provided. I also thank all those who attended our public meeting for their interest in the bill and assisting us with our deliberations.

I remind everyone present to switch off mobile phones, as they may affect the broadcasting system. Some committee members might consult tablets during the meeting to read their papers.

I welcome Jamie McGrigor, who has come to the meeting for the item of business on marine protected areas.

Agenda item 1 is a decision on taking business in private. Do members agree to take items 5 and 6 in private?

Members *indicated agreement.*

**Agricultural Holdings (Scotland)
 Act 2003 Remedial Order 2014
 (Mediation and Compensation
 Process)**

10:20

The Convener: Agenda item 2 is evidence on the Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014 mediation and compensation process. I welcome the Cabinet Secretary for Rural Affairs, Food and Environment, Richard Lochhead, and his officials. Paul Cackette is deputy solicitor and head of group 2 in the directorate for legal services, and Trudi Sharp is deputy director for agriculture, rural development and land reform. Good morning to you all.

I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): Thank you very much, convener.

I want to make a short opening statement to set out the Scottish Government's position in a number of areas that relate to mediation and compensation. Those areas have been covered in more detail in correspondence with the committee so far, most recently in my letter to the committee of 17 September.

The issue that we are discussing is, of course, of importance to many tenant farmers in Scotland and, indeed, to landlords. It relates to changes to one category of tenancy agreements between landlords and tenants. Prior to 2003, limited liability partnerships could be dissolved with minimal notice, which potentially exposed tenants to the risk of their tenancy agreements being revoked at very short notice. The Agricultural Holdings (Scotland) Act 2003 sought to protect the position of those tenants and transferred their tenancies into Agricultural Holdings (Scotland) Act 1991 tenancies—long-term heritable tenancies with security of tenure and succession rights.

Ten years later—on 24 April 2013—the Supreme Court issued its judgment in the case of *Salvesen v Riddell*, which involved a dispute between a landowner and a tenant over the dissolution of a limited partnership. In its judgment, the court held that section 72(10) of the 2003 act was outside legislative competence, as its effect breached landlords' European convention on human rights property rights. The court provided the Scottish Government with 12 months to put right the defect. The Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014 is the legal remedy that was put in place to address the defect. The order came into force on 3 April 2014.

The remedial order sought to balance the respective ECHR rights of landlords and tenants and allows landlords a means of recovering vacant possession through section 73 of the 2003 act. To bring tenancies to an end, landlords must serve conversion notices. The remedial order contained a cooling-off period in which those notices can be served. That period ends in a few weeks' time, on 28 November 2015. The cooling-off period and notice provisions in section 73 of the 2003 act ensure that tenants who are served with dissolution notices are afforded four and a half years of extra tenure under the remedial order. That means that that runs until 28 November 2018.

The remedial order places such tenants in a better position than they would have been had the 2003 act's provisions not violated the rights of the landlords. In that event, the tenancies would have ended with the dissolution of the limited partnership or shortly thereafter through the operation of section 73. Under the remedial order, the tenant has three further years of tenancies under sections 72A and 73, as I have said.

Landlords and tenants have been and are free to agree private arrangements. If landlords take no action by 28 November this year, the tenancies that are converted under the 2003 act will remain as 1991 act tenancies.

We understand that around 350 notices were served on the night of 3 February 2003. However, only seven cases now remain unresolved to our knowledge. For those remaining seven cases, we have proposed and do propose mediation to encourage and secure positive working relationships between affected landlords and tenants and to find appropriate solutions to support the on-going viability of the affected holdings. The Government initially proposed a two-stage mediation process, with stage 1 focusing on sharing information and clarifying facts and stage 2 offering the possibility of a negotiated solution if appropriate, in the light of the particular circumstances of each case.

In practice, it is fair to say—and I think that the committee accepts—that the Government's proposed procedure has not materialised in the way we had envisaged. We asked any party that wished to engage in mediation to clarify whether they wished to claim against the Scottish Government and the legal basis of such a claim before entering into mediation. That was so that we could assess the matter and confirm our position, in order that any participation in mediation by the Scottish Government would be on an open and understood basis about liability.

The offer of mediation was taken up by the tenant and landlord associated with just one farm. That tenant was one of seven who took their

claims to court against the Government, however, by raising a petition in the Court of Session in March 2015. The landlord in the case intimated a claim only on 17 August 2015.

The Scottish Government's position on compensation has always been that we could not comment on or commit to the payment of compensation in individual cases until the basis of such claims had been made known to us. That was the position during the passage of the remedial order, and was reiterated when I wrote to the committee on 5 December 2014.

The current position is that seven tenants have raised a multimillion pound court action against the Government, seeking compensation. The action has been sisted until 19 October and liability has been repudiated. The Scottish Government's position on liability has been consistent from the start: we cannot pay compensation in settlement of a claim that has no legal or factual basis. We have acknowledged that the remedial order may be only part of the solution and have said that the Scottish Government is, and always has been, open to considering all claims presented to us.

At the time of the committee's consideration of the order in 2014, we did not know the basis of any claim that might be brought against the Government in the future. In evidence to the committee, we confirmed that any future case would be considered on its merits, in the light of the particular facts and circumstances. There was clearly never intended to be a blank cheque to pay compensation regardless of liability, and nor could there have been.

Our position remains that, should a claim against the Scottish Government be presented and we take the view that legal liability will arise, we will of course consider the claim in that context. However, in the light of the committee's concerns and those of the tenant farmers, and no doubt of the landlords and their agents, I give the commitment to the committee that I am determined to resolve this quickly if at all possible, provided that we can persuade the landlords and tenants to come into the mediation process.

Given that the next few weeks will be crucial in doing that, we will redouble our efforts to try to make that happen.

The Convener: Thank you very much, cabinet secretary. I invite members to ask questions of the cabinet secretary.

Alex Fergusson (Galloway and West Dumfries) (Con): Thank you for the statement, cabinet secretary, and good morning.

I do not think that it will serve any great purpose to rake over too much of what has happened in the past, but I could not help but notice that you

mentioned the importance of sharing information throughout this process. In the evidence that we have been given, it is quite clear that the process that the tenants and their representatives, and indeed the committee, thought had been agreed effectively ground to a halt after the court cases were tabled, if that is the correct expression. Whether or not that should have had an impact on the mediation process—you say that it has, and I do not dispute that—that information was clearly not shared with the tenants and their representatives. They have been left in an information vacuum since early April, until, as far as I can see, the committee raised the matter with you during the summer recess to kick start the process again.

In previous discussions that we have had, it seems that all the Scottish Government and Scottish Government officials' actions that have been taken since the end of March have been entirely reactive. Can you give us an absolute assurance that you and your officials will now get on the front foot and become proactive in bringing this pretty sorry mess back to the table to try to reach a satisfactory conclusion?

10:30

Richard Lochhead: I certainly assure the committee that we will redouble our efforts to resolve the issue. We are as keen as anyone else is to see a just outcome for those who are involved in the six or seven cases that are still on the table.

Without going back over old ground, I note that there have been a couple of milestones in the process that have affected the pace of reaching a resolution. First, we had to wait for the basis of the claims to be presented to us before the mediation process could start, and that took some time. I will certainly investigate the evidence that has been presented to the committee on the Government's role in contributing to the slow progress. I am concerned by that because it was clearly a contributing factor.

Secondly, when we learned that a court action had been lodged against the Government for substantial sums of money, that changed the environment in which we were operating, and also what we could say and when we could say it. There is a live court action against the Government from the tenant farmers who are involved. That happened in March, and it clearly played a role in the pace of getting the matter resolved.

However, I give you the commitment that I mentioned.

Alex Fergusson: I hear what you say about the court case in March, but the point that I was trying to make is that nobody told the tenants'

representatives that it would have an impact on the pace of the mediation process. You talked about the importance of information sharing and I absolutely agree with you, but information stopped being shared once those court cases came into being. Your officials need to move this on proactively. However, I think that you have given some assurance that they will do so.

Richard Lochhead: We are dealing with a case that goes back to 2003. We put forward the remedial order in the Parliament and we felt, under the circumstances, that it gave the best possible outcome for the tenant farmers, particularly given the minimum period of four and a half years that they would have to remain in their farms. However, we are discussing the matter against a complex backdrop of both legislation and legality. Agents were appointed by the tenant farmers and we have dealt with them over that period. If that has not worked in relation to the sharing of information, that causes me concern, as I said. I will certainly look into that.

Jim Hume (South Scotland) (LD): Good morning, Mr Lochhead. I am trying to get to the bottom of why there has been a change. I have had evidence from tenants who have, unfortunately, been involved in this sorry mess. Mediators who were appointed by Government officials were working with them, but that suddenly stopped overnight and the tenants could not communicate with them in any respect whatsoever.

It seems that the Scottish Government made a change almost overnight. When you gave evidence to us—this is mentioned in our report of 7 February 2014—there was recognition that some compensation may come forward, but even so, at that stage, you were committed to funding mediation. You stated that it would cost an estimated £40,000, and I remember that we thought that that figure was quite low, because it was for all the cases. You said that, if the cost went above £40,000, you would cover it.

Is it the cost that has arisen from the mediation that made you change your mind on helping people with the mediation, or is that a reaction to what you knew would happen—that some tenants would look for compensation from the Government?

Richard Lochhead: It is not the cost of the mediation. We told the committee that we would make £40,000 available for the mediation process. Part of that has been used up and part of it is still available, so clearly it is not a cost issue.

On compensation, no one wants to be caught up in messy court actions. We do not want tenant farmers to find themselves in that position and the Government does not want to end up in the courts

in relation to an action from tenant farmers due to something that happened back in 2003, which we are doing our best to fix in a just way. We have to remember that the Supreme Court found in 2014 that the landlords were the injured party. Therefore, there are not just the tenant farmers to consider in terms of compensation, but the landlords as well.

The mediation process would therefore have to involve both tenant farmers and landlords, as well as the Government, and we are unable to put ourselves in the legal position of going into that environment with an open cheque book, so that has clearly been a sticking point. We need the mediation process to work in such a way that we do not have an open cheque book backed by the public purse to pick up any compensation costs for both tenant farmers and landlords who have been found to be the injured party by the Supreme Court and who are seeking compensation. The purpose for which I said that the Government was willing to keep compensation on the table is simply that, if there is a legal liability for the Government, rather than fight it through the courts with the tenant farmers, it would be in everyone's interests to reach a settlement through the mediation process. That is why I was willing—and remain willing—not to take compensation off the table; it would clearly be a better alternative in some circumstances than fighting a messy action through the courts.

Jim Hume: I appreciate that answer, but we are talking about two different things. The mediation is between the tenant and the landlord, and we must ensure that that continues. I appreciate that the Scottish Government may now have had second thoughts and may be concerned about mediating in case it leaves itself open to compensation claims, but what we really need—I had hoped that the minister would be able to come to the table today with something—is a solution that allows mediation to continue, which might involve bringing in independent mediators, rather than stopping help with mediation overnight, which seems to have happened several months ago.

Richard Lochhead: We now find ourselves, even in the past few days, in a better position in terms of mediation. I hope that we will be able to move forward, as we have had an intimation from the tenant farmers that they are willing to take part in the mediation process. I am keen for that to happen, and for it to happen as soon as possible.

Jim Hume: As far as I can see from the letters that I get from tenant farmers, they have always been keen to participate in mediation.

Michael Russell (Argyll and Bute) (SNP): The judgment in the Supreme Court recognised that any adverse effect on the rights of tenants resulting from the decision would need to be

resolved via a “fair and constructive” process agreed by the Parliament and guided by the Scottish ministers. When the committee reported on the remedial order, it made two points that are germane to that. It said that the Government must accept liability for anyone who is financially and/or personally disadvantaged by the remedy put in place, and for any stress suffered by those involved. It went on to say that it was important that the enactment of the proposed draft order did not lead to a drawn-out compensation process and should be concluded as timeously as possible.

The situation now is that all three of those objectives are in some danger of not being achieved. What I would be looking for, what the tenants are looking for and what I imagine the committee is looking for is an assurance—which, to be fair, the cabinet secretary has given, although I want to be explicit about it—that the Government is still committed to the fair and constructive process, that it accepts, by negotiation, that there is liability for those who are financially or personally disadvantaged, and that it is committed to doing something about the process, because it seems to me that the process has gone badly wrong.

Whatever the reason for that is—it is not what we are here to talk about—it means that tenants are now unsure about the future and what lies ahead. Some may have the prospect of another three years, but they are not sure of the process. They need information, the legal process needs to be speeded up, and there needs to be a commitment in public that the issue will be resolved within the parameters that were set by the Supreme Court and accepted by this parliamentary committee and by the Parliament when the report was given. The parts of the report that I have cited are not just observations; the report was accepted by the Parliament, as were the remedial order and the judgment, so those are commitments that need to be honoured.

Richard Lochhead: I give the committee the commitment that I will do my utmost to resolve the issue in an equitable and fair manner and that I will review the process that will help to achieve that. I am not saying that, in the chain of events that has got us to where we are, the Government is completely blameless, and if there are issues with the process or with communication, I will investigate those concerns. However, it is clear that a sequence of events that were outwith our control has also influenced the pace of progress.

The Government's approach has always been twofold. First, there was the remedial order itself. We went to great lengths to ensure that we were not in a situation where tenant farmers would have to leave their farms quickly. The remedial order has allowed four and a half years of extra tenure

than may otherwise have been the case, including the 18-month cooling-off period. Other than one well-documented case, my understanding is that no notices to quit have been served. We still have the few weeks left until the conversion deadline that the landlords have the opportunity to take advantage of.

The second stage of the process is finding a way of resolving the issue so that we do not have a situation where farmers feel vulnerable and face leaving their farms, if that can at all be helped.

Michael Russell: They presently feel in that position, as you know. Getting that remedy within a very short timescale is what is required. I am sure that the committee will want to hear back from you over the next few weeks that the timescale has been observed.

Richard Lochhead: The final comment that I want to make in response to Michael Russell is that I will do that, but clearly there are other parties in the process. There are the landlords, who, under the Supreme Court judgment, are the injured parties, as well as the tenant farmers and the Government. Hopefully, we can all play a constructive role in getting us to where we want to get to.

Claudia Beamish (South Scotland) (Lab): Good morning, cabinet secretary. The clarification that you have given will be helpful to everybody, because the confusion that has preceded has not been in the interest of anyone, whether landlord or tenant.

I want to highlight the case of one constituent, without going into any detail about it, simply because there is a notice to quit by 28 November of this year.

The Convener: Can we be very careful about matters that may be sub judice?

Claudia Beamish: Thank you for that reminder, convener.

I appreciate that it is a complex case and that it is not appropriate to discuss it here but, given the timescale, it would be helpful for that tenant to have a commitment from the Scottish Government to at least look into the case urgently, even if it might not be possible to resolve it satisfactorily, to see whether anything can be done to support the family, who face an eviction order.

Richard Lochhead: I will look at the details of the case and whether there is any prospect of a role for the Government. I understand that an offer of mediation has been made in that particular case. For obvious reasons, I will not go into detail, but the circumstances around the case do not relate directly to the remedial order that we are discussing today. However, it is a sensitive case and, therefore, I will look at it.

Claudia Beamish: I appreciate that. Thank you.

Graeme Dey (Angus South) (SNP): Alex Fergusson talked earlier about proactivity in the process. The cabinet secretary said a few seconds ago that we need the landlords to engage in the mediation process as well. Will Government officials proactively approach the landlords concerned to encourage them to engage, rather than simply sit back and see whether the landlords are prepared to do so?

Richard Lochhead: Yes, we will do that. A lot of the communication at the moment is going through legal agents on behalf of the various parties but, in light of today's comments in the committee, we will redouble our efforts to make sure that communication is good.

Jim Hume: I heard mention of a commitment to get the mediation going again. Can the cabinet secretary forecast a timetable for that process to occur? Is that a possibility at this stage?

Richard Lochhead: The email to which I referred arrived only yesterday—sorry, it was in the past 48 hours. We will respond to that email and try to push things forward as quickly as possible. On the overall timescale, I indicated earlier that the next few weeks are crucial. The sooner we get that going the better.

10:45

Sarah Boyack (Lothian) (Lab): I have just a quick question. Where does the policy lie now, and will the Government's intention in that regard be addressed in the Land Reform (Scotland) Bill, which the Parliament is currently scrutinising? After all, the policy in the 2003 act failed, and since then there has been the remedial order. What is next as far as policy development is concerned?

Richard Lochhead: A couple of issues arise out of that question, the first of which is the sensitivity that we need to show with regard to ECHR and property rights. Clearly, that is what the Supreme Court judgment was based on, and the matter should give us all pause for thought with regard to future legislation. After all, I do not want to end up in a few years' time with the forthcoming land reform legislation, which contains provisions on agricultural holdings, putting us in the same position that we are in now as a result of the 2003 act. I have to be conscious of that matter in taking forward the policy.

The second point is that more work will have to be done on limited partnerships, which is an issue in which the committee has taken an interest. However, the situation has been made complicated by the fact that the agricultural holdings provisions in the Land Reform (Scotland)

Bill focus on other dimensions and not specifically on limited partnerships.

Claudia Beamish: On a point of clarification, I understand that the petition for judicial review that was lodged in March is one of the reasons for the failure to move forward. Will its existence impede the mediation and compensation process that we have been discussing? I am not quite sure what has changed in that respect.

Richard Lochhead: My understanding is that the petition impedes the process, in as much as we have to be careful about the extent to which compensation can be discussed in the mediation process. Any admission of liability in the mediation process will impact on the court action. In layman's terms, if there were a multimillion-pound court action in the background and we were to admit any kind of liability during the mediation process, that would influence the Government's defence in the court action.

The Convener: As there are no more questions, I thank members, the cabinet secretary and his team for the discussion. We have explored the communication issues between the parties. The committee's work has, I hope, helped to bring some clarity to the process of Government. I hope that we can bring about an effective and timeous remedy to a matter that all of us, particularly the parties concerned, feel very aggrieved about.

I suspend the meeting to allow for the changeover of panels.

10:48

Meeting suspended.

10:52

On resuming—

Marine Protected Areas

The Convener: The third item on our agenda is evidence on marine protected areas. We are joined by representatives of the fishing sector. It will be useful if our witnesses introduce themselves.

Duncan MacInnes (Western Isles Fishermen's Association): I am the secretary of the Western Isles Fishermen's Association.

Willie John McLean (Mallaig and North West Fishermen's Association): I am here on behalf of the Mallaig and North West Fishermen's Association, and I am a fisherman as well.

Kenny MacNab (Clyde Fishermen's Association): I am chairman of the Clyde Fishermen's Association.

Alasdair Hughson (Scottish Scallop Divers Association): I am chairman of the Scottish Scallop Divers Association.

Alistair Sinclair (Scottish Creel Fishermen's Federation): I am national co-ordinator for the Scottish Creel Fishermen's Federation.

Steve Bastiman (Scottish Sea Angling Conservation Network): I am conservation officer for the Scottish Sea Angling Conservation Network.

David Fraser: I am a scallop fisherman.

The Convener: Good morning to you all, and thank you very much for being here. We wish to explore issues related to the creation of MPAs. First, we are interested in the effectiveness of the consultation process. It has been alleged that the earlier consultations by Marine Scotland were not reflective of the reality of the economic impacts of MPAs. You do not all have to answer, but if you indicate to me that you wish to do so, I will bring you in. What is your understanding of the provenance and range of the consultation process?

Duncan MacInnes: Fortunately, Marine Scotland and the fishing industry had considerable dialogue over a number of years on the locations of marine protected areas. Marine Scotland also consulted extensively in the wider communities, and those events were well attended throughout Scotland. It was clear that, from a fishing industry point of view, a clear balance had to be struck between protecting the marine environment and protecting the economic importance of the fishing industry.

Marine Scotland went out to consultation and during that process gave its preferred options,

which very much mirrored the way forward that the fishing industry had agreed to at consultations throughout Scotland. The preferred option was to strike a clear balance that sacrificed some fishing areas but ensured full compliance with the relevant European Union regulations for protecting the features for which the sites were being designated.

However, when the response to the consultation came back, the cabinet secretary said that it was “ambitious”. From a fishing industry point of view, we in the Western Isles and the many other communities on the west coast are all conservationists: we want to protect the marine environment. The approach that was proposed by the Scottish Government at the time was draconian, in our view, and would have resulted in severe loss of jobs in many coastal communities, both on land and at sea. From our point of view—other witnesses can speak up for their own areas—the economic impact that was being circulated in the Government’s response to the consultation paper was a gross underestimate.

The fishing industry’s environment is shared between mobile gear and static gear operations, and the main added employment opportunities in the areas concerned are created in scallop processing and nephrops—prawn—processing. Measures are proposed for a total ban on static gear—fishing with pots—in east Mingulay, which is an area off Barra. There are two vessels there that gross up to £250,000, but the economic impact that was estimated by the Scottish Government was only £19,000. There is something seriously wrong about the difference between £19,000 and £250,000. As I said, two vessels are involved there. They employ 10 local people, three of them in Barra. One skipper has said that there is no question whatsoever: he will have to sell his vessel. The other vessel is the newest Vivier boat in the Western Isles and it employs seven local people. Its skipper is questioning the viability of the vessel.

The proposal was to put a prohibition on set nets—nets that are set on the sea bed—at all the sites. In the Western Isles and in other areas, including islands such as Tiree, people having been fishing for crayfish with set nets since 1978. Clearly, that is done on a seasonal basis. There were discussions at public meetings about set nets; as well as the adoption of the seasonal approach, a zoning approach was suggested, whereby there would be no set nets in the shallower water where there is greater risk of interaction with birds and the like.

I will give the example of a vessel going to St Kilda to fish. Crayfish is the most valuable shellfish species in Scotland and may represent 40 per cent of the value of that boat’s catch. If the

vessel’s catch is reduced by 40 per cent, it will not go to St Kilda; instead, it will put additional effort on fishing inshore stocks. Similarly, in Wester Ross, where—

11:00

The Convener: We cannot go through every MPA.

Duncan MacInnes: That is fine. I am saying that, from a fishing industry point of view, we are conservation minded. In the Western Isles, we have been taking a very conservative approach and are leading on a number of Scottish Government conservation initiatives. There is a way to accommodate the fishing industry’s interests while protecting the features for which the sites are designated.

The Convener: We intend to get to the bottom of that. On the effectiveness of the consultation process, it has been suggested that one set of understandings was agreed to, but when the MPAs were presented you saw another set. Do you agree? I do not know whether that question needs to be answered by all panel members.

Willie John McLean: I will say a bit about the process for the small islands MPA. I attended a lot of meetings. We sat down with Scottish Natural Heritage and Marine Scotland, went through things and they pointed out the features that had to be protected. At the initial meetings, we were not happy, so we went back and had another meeting. That meeting was well attended by fishermen. SNH and Marine Scotland again showed the features of the MPA. It was agreed to protect the features and to put a buffer zone around them. The fishermen proposed different areas to add to the MPA. We left the meeting saying, “Yes, we can work with these people. It’s good that we’ve all come to an agreement.” However, down the line, we were informed, “Sorry—we’ve overlooked something.” Following that, the whole 800km-odd sea habitat was added back in, including the bits that we had suggested.

We have never seen any video evidence of the impact of fishing on the features, including on fan mussels, other mussels and the sea habitat. I asked for that evidence at the meetings that I attended. We are a bit concerned, because there is nothing to stop the organisations coming back and closing off more of the area and saying that the fishing is affecting it.

In 2009, remotely-operated vehicles with cameras were put down in the areas. They have checked all the features every year. We have never been shown videos that show that the features are in decline because of fishing. It is unfair to force the MPA on people who have not seen that. We have a vested interest in looking

after the area because we have fished alongside the features for 50 years.

The Convener: Thank you. We will be hearing more from you.

Kenny MacNab: I would like to make one thing quite clear. There has been talk in the press that the mobile sector of the fishing industry does not want MPAs. The complete opposite is true. The Clyde Fishermen's Association agreed with the concept of MPAs right at the beginning, which is why we took part in the consultation process. We thought that that had gone very well. I have spent countless hours and days in meetings on the MPAs with Marine Scotland and other people. So, too, have many fishermen, who took time off work—they lost days fishing—to do that.

We thought that we had got somewhere and that we had reached an agreed position with SNH, which is the scientific body that advises the Scottish Government. It was quite happy with how things were going. We were completely floored when the cabinet secretary announced his ambition. After spending three and half years on the consultations, we all felt let down.

The Convener: Which areas are you talking about?

Kenny MacNab: I am talking about the south Arran MPA and the one from Loch Sunart down to the Sound of Jura.

Alasdair Hughson: The Scottish Scallop Divers Association was formed only relatively recently. We did not have a seat at the table through the initial negotiations about MPAs and became involved only at the meeting in Inverness at the beginning of this year. We do not have the issues with the MPAs that some of the other fishing groups have, so we have no complaints about the process.

Alistair Sinclair: The Scottish Creel Fishermen's Federation was not engaged with Marine Scotland and the MPA process from the beginning; we took part only in the last two meetings, when it was a done deal. I have to accept what Kenny MacNab said about what the Clyde Fishermen's Association had signed up to being changed—in other words, Richard Lochhead moved the goalposts somewhat. He has done the same in Loch Fyne.

The Convener: Why were you not involved at the beginning?

Alistair Sinclair: We were not involved primarily because the Scottish Creel Fishermen's Federation was not in existence at the beginning of the process.

The Convener: That is understandable.

Steve Bastiman: The Scottish Sea Angling Conservation Network has been involved right from the start. The process makes tremendous demands on an organisation that is staffed purely by volunteers, so I have a lot of sympathy for fishermen who have taken time off from their boats, because we have had to do exactly the same.

In general, we have restricted ourselves to considering areas in the near-shore environment in the MPAs rather than those that are way out to sea, because sea anglers are in the near-shore environment.

We found that the process was fine—it had its ups and downs but it seemed to go quite well; it was productive and reasonably transparent—until it came to Luce bay. We were initially shown a proposal that had Luce bay with what could be described as a hole in the middle, which we call the Polo model. In that model, the mobile sector would work in the middle but not in the surrounding area. That was perfectly acceptable; we could support that because the periphery of Luce bay is where sea anglers work. There are reefs and hard rock there.

Then, in November last year, the model was changed. It was the Polo model at a meeting that I attended on 6 November but it changed on 7 November without any discussion with us or, as far as I am aware, with any other conservation or fishing groups. I do not even know whether the commercial sector was involved. That model was taken down to a meeting in Luce bay, where another new proposal was offered—the preferred option that was referred to earlier. The commercial sector there did not find that model acceptable, so a new shape was formed.

The model seems to be a moving target and there seems to be no reason for that. We have had no real explanation for why the changes took place. It seems that there is stuff going on in the background. I do not know to what extent the commercial sector or other conservation non-governmental organisations are involved but, all of a sudden, the process ceased to be transparent in relation to Luce bay.

David Fraser: Every one of the MPAs where we operate will affect me. We took time off, sat down with Mr Lochhead and made suggestions that would have allowed everyone to make a living. However, all the suggestions that we have made have been ignored. If the proposals go ahead, more than 30 per cent of my boat's turnover will disappear—just like that.

The Convener: We have to try to structure the discussion so that we get to the bottom of the matter. The effectiveness of the consultation process, which is the subject that we started off

on, may lead to other questions, but we will move on to discuss socioeconomic factors and compensation issues later, at which time we might be able to begin to address some of these matters and the particular effects of specific MPAs.

Michael Russell: I want to press the witnesses on the issue of the consultation process so that what happened is a bit clearer. Can any of you explain what happened between the part of the process in which you were discussing things with Marine Scotland and felt that you were making progress in achieving an understanding, and the final proposals? How long was that period, what happened during it and what do you think took place? There is a big difference between some of the conservation charities' understanding of the process and the way that you have described it. I want to get your perception of what happened.

Kenny MacNab: When the consultation had finished, there were three options. We thought that the option that SNH had chosen and that the commercial sector was happy with was what we were going to get. We were not informed by Marine Scotland or by the cabinet secretary that anything different from that would be done. Otherwise, we could have made more representation. We were not informed.

Michael Russell: Why did you think that you were going to get that option? What led you to assume that?

Kenny MacNab: Nobody told us otherwise.

Duncan MacInnes: I imagine that, when something is put out for a consultation process and there are comments on the preferred options, those will be considered by all stakeholders and the Scottish Government would be minded to go with the preferred options that come out of that consultation.

No reason has been given why those preferred options were not chosen. They clearly met all the regulatory requirements for protecting the marine features or they would not have been our preferred options in the first place. As far as I am aware, nothing has come across to industry to say, "Our preferred option has changed to option 3." The preferred option was the one that had the least economic impact on the future of commercial fisheries while giving protection to the features as well.

Michael Russell: In your experience of negotiating with Marine Scotland, was that a unique experience? Have you had previous difficulty in getting agreement, or have you had agreement and then found that something changed? We need to know the context.

Duncan MacInnes: I have been involved in fishing for 40 years, and I have been ashore for 25

years. I can say that this is the worst situation that I have seen come through from a consultation process in all my time since the formation of the Scottish Parliament and in negotiating with Marine Scotland, and going back to the Scottish Office prior to that.

We can look back at the Inshore Fishing (Scotland) Act 1984, which is one of the acts that we are talking about, to see the way that fishing has been managed and enforced within marine protected areas. I will give an example of when the Scottish Office introduced something in the Western Isles that the fishing industry did not agree with. There was a total prohibition on mobile gear in Broad Bay. I have photographs that were given to me by Marine Scotland scientists—all that is there now is starfish. At the same time, the fishing industry in the Western Isles agreed with the Scottish Office that there would be a seasonal closure approach to the Sound of Barra. Similar kinds of landings were coming from both areas in 1984, but now there is nothing but starfish in Broad Bay, while £0.25 million comes from the Sound of Barra. Seasonal closures are a sensible way forward. With them, we can reduce the impact of fishing in marine protected areas. With zonal arrangements on depth, we can remove or prohibit an activity. Those approaches are very much in line with the interpretation of how the management of such sites should be.

11:15

Willie John McLean: When we went through the process, the fishermen took in their own charts. The fishermen have vast experience, as they have fished in the area for 50 years. Boats that are over 15m are monitored by Marine Scotland, so it had all that information, which was overlaid on a chart of the proposed marine park. We could see clearly that the boats did not fish the areas that were up for protection. Because of that, there was agreement, after a bit of give and take on everyone's part, and the proposal was put forward. However, when it came back, we learned that it was not to be.

Since then, we have been asked to submit information—our vessel monitoring system data, earnings and everything. It is quite difficult to get data from Marine Scotland. In the initial meetings, Marine Scotland had all that data available and produced it, but it seemed to be difficult to get the information after we had met Mr Lochhead and he proposed that, if we produced facts and figures, the Government would look at them. When we approached Marine Scotland, it took weeks and weeks to get the information.

Michael Russell: Do you think that that was a deliberate tactic on the part of Marine Scotland?

Willie John McLean: I do not know. When I inquired about my VMS data, I was told that getting it would be a long drawn-out process. I had gone back over my fishing diaries, where I put down the dates in each month and year when I fished in the area. I thought that it would have been easy enough to retrieve that information from the computer, but I was told that it would be awkward for Marine Scotland to retrieve it.

Michael Russell: What would the data have proved?

Willie John McLean: It would have proved where we fished and the economic side of things. It had been said that only about 1 per cent of the area was fished, but in effect we fished 20 to 25 per cent of the area.

Michael Russell: Can I be clear? You are explaining your difficulties with Marine Scotland, and you are saying that there was a difficulty with the consultation.

Willie John McLean: Yes.

Michael Russell: There has also been a difficulty with the information that Marine Scotland brought forward to justify the socioeconomic arguments.

Willie John McLean: We were given a timescale, with the extended period, and because of the timescale everyone wanted to get new information out, but it was slow in coming out.

Michael Russell: The issue is that the socioeconomic arguments will have a bearing on compensation, which we will come on to discuss, and it is crucial to know which figure is correct.

Willie John McLean: You can clearly see the figures in the paperwork that validates what has been said.

Michael Russell: David Fraser suggested that it was a third of his income—

David Fraser: That is on one vessel. It is nearer 50 per cent for the other vessel.

Michael Russell: Have you produced that data?

David Fraser: Yes. I have written down every fishing operation in my diaries for the past 20-odd years—it drives my wife mad. It is also recorded in the VMS data, because both boats are over 15m. My boats have not always been over 15m, so you will have to trust me when I say that fishing in all those places has been my pattern for most of my working life.

Michael Russell: And the data from Marine Scotland on what you would lose is not the same as your data.

David Fraser: Initially, it was not the same. I think that Marine Scotland maybe used a previous year. Michael McLeod intimated that he could see that I was telling the truth for 2014. Before that, my boats did not have VMS, so there was no way of proving it, but it is easy to prove for 2014—it was 30 and 50 per cent; it is quite straightforward.

Steve Bastiman: I make a reflection on the process. It began as a consultative process, with a series of workshops and meetings, and representatives from a variety of bodies gave their thoughts. However, the model seemed to get broken once the proposals went out to consultation—it ended up being a series of individual meetings.

Proposals were put forward on the least economic impact to the fishing industry, as we have been told. However, there was no assessment of the impact on the sea angling industry and it became very unbalanced. That makes many people feel that back-door deals were being done and there was favouritism and so on. I am not saying that that was the case, but that is the feeling that has been created. That means that a lot of support is lost, for the process and for working with the Scottish Government to try to address the issues. The Government goes off on its own way and then comes back with the answer, but there is a whole lot of stuff missing in between—no one knows how it got to the answer.

Kenny MacNab: We are going on about the information on percentages that Marine Scotland produced to justify the MPAs but, since the minister announced the MPA proposals, it has been proved that much of that information is flawed. The majority of the mobile fleet that work in the marine protected areas are below 15m, so Marine Scotland has no information on them—there is no VMS data. Where did those percentages come from? Were they just plucked out of the air?

Marine Scotland was working with landing details. When we started questioning Marine Scotland about some of the information, we could not get straight answers. One of the most important things is that almost all of the MPAs—I think that Willie John McLean would back me on this—provide shelter for boats when they are fishing. For example, the south Arran MPA is really important to boats on the Clyde—if there is a westerly wind, boats can fish on one side and, if the wind is easterly, they can fish on the other. Many of the vessels are under 15m and are not capable of going out in bad weather, so the MPA will lead to a safety issue.

There is a safety issue for the mobile fleet in every MPA. When we met the minister on 6 July, representatives of Marine Scotland were present and I asked them in particular whether safety or

the weather were taken into consideration when the study on the economics of MPAs was carried out. The answer that I got was, “No, it wasn’t considered”.

The Convener: We will move on to Dave Thompson and then Claudia Beamish.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): Are we still on the topic of the consultation, convener?

The Convener: No, I think that we have heard quite a lot on that.

Claudia Beamish: I want to ask about the consultation.

The Convener: Okay, on you go.

Claudia Beamish: I want to highlight a different perspective that we have not heard today because of the interests that are represented on the panel, and I would value any comment on it. Scottish Environment LINK, in commenting on the consultation, said:

“We have made our views clear via consultation and still maintain that the scientific evidence justifies greater restrictions in some sites; for example, we contend that the prohibition on mobile demersal gear throughout the South Arran MPA would be the most appropriate form of management. The measures therefore contain compromises and we acknowledge a progressive balance has been struck.”

I am asking for comment on that because it is important that we understand that a range of organisations put in evidence to the consultation and there are other views and perspectives. Is this not a compromise?

Kenny MacNab: Are you asking about the south Arran MPA?

Claudia Beamish: I am asking the question generally. That was just an example to show that others have put in their perspectives, based on the science as they see it. We have not yet got to the socioeconomic discussion, which the convener will lead off after this. I am asking about the consultation process.

Kenny MacNab: We thought that we had compromised, but it did not turn out that way.

Claudia Beamish: That is from your perspective.

Kenny MacNab: Yes.

Claudia Beamish: However, from the conservation perspective, others see it as not going far enough and being a compromise as it stands. That is what I am asking about. Does anyone else on the panel want to comment on that?

Alistair Sinclair: Many people in the creel sector believe that the MPA process has not gone

far enough. There is an appetite to reinstate the 3-mile limit on the west coast. I know that that is a difficult subject, but there is an appetite for that among the creel fishermen. Because of the activity of the mobile sector operators, they are being pushed either further out or up the beach. When they start moving up the beach, their activity becomes economically unviable, because they are not likely to produce a worthwhile catch and earn a living, and if they move further out to sea they are subject to the vagaries of gear conflict and suffer economic loss through the loss of gear that they cannot insure.

There is, therefore, an appetite among many on the west coast for the 3-mile limit to be reinstated. I stress that that is a west coast creel fisherman’s approach to what is going on; the situation on the east coast is a completely different animal. The MPA process is dedicated to the west coast. The guys in the islands—the guys in the Outer Hebrides, Duncan MacInnes’s guys in the Western Isles, Stewart Crichton’s guys in the Orkneys and the Shetland guys—are looking for autonomy to look after their own waters, and I think that we should welcome that notion.

The Convener: Okay. We have heard two sides of the debate and we want to get one or two things out of the way. I am sure that the issue will crop up again when we talk about socioeconomic factors. The safety issue has been raised in connection with the south Arran MPA, but Willie John McLean may want to raise the safety issue in relation to the small isles MPA.

Willie John McLean: Yes, and in relation to the Wester Ross MPA. Four boats work out of Ullapool—they are single-handed trawlers with only one person working each—fishing three or four different areas, and to access those areas they have to tow through several small areas. In the wintertime, when the weather is poor, those boats depend on being able to tow through those gaps in banks to get to sheltered areas and haul their nets. However, those areas will be closed off. I have spoken to the four fishermen in Ullapool, and they say that, if the closure goes ahead, they will be finished. They will be unable to fish in the wintertime because the weather is so bad and they depend on being able to tow through those narrow areas to get round corners, out of the wind, so that they can haul their nets. They can tow out in poor weather, but it gets dangerous for them when they have to haul their nets, so they depend on those areas to get back into sheltered waters.

The situation is the same for the small isles MPA. Because of the position of the islands, in the wintertime, a lot of local boats fish there because it is the only place where we can fish. If it is closed off and we do not get access to it, we will not be able to fish. For the first four months of this year,

we could not fish because the weather was so severe, but we can normally get out to fish in these areas. I am not talking about huge industrial trawlers or big 60, 70 or 80-foot steel boats. I think that you have some pictures of the boats, which we sent to you. They are not modern boats; they range from 30 years old to 50 years old—one is 56 years old, in fact. They are old boats that were built to fish inshore, inside the Minch.

We do not fish day and night; we fish the daylight hours. In the wintertime, we fish from 9 o'clock until 5 o'clock at best, but we really depend on those areas. If those boats were to go out and something were to go wrong, it would be a disaster. We really depend on those areas, and the whole community depends on the boats getting out to fish in those areas—it is as simple as that. If we lose them, boats will leave the industry.

11:30

The Convener: We are talking about safety issues—do you have a question about safety issues, Alex?

Alex Fergusson: Yes. I represent south-west Galloway, and there are commercial fishing interests out of the Solway Firth, as I am sure you are all aware. The fleet there is largely nomadic. On top of the perceived failings of the consultation process, safety is one of the issues that have been raised with me very strongly. The situation has been brought about because of the potential displacement that is likely to come about if the MPAs are put in place as currently proposed. Although I recognise that some of the boats are larger and more commercially orientated, I seek the witnesses' opinion on whether there is actually a safety issue for those boats as well, given the nomadic nature of their operations and the displacement that will come about as a result of the restrictions.

The Convener: That falls under the socioeconomic and displacement issues that we are just about to come on to. If there is a safety factor alone for the boats that Alex Fergusson is talking about—

Alex Fergusson: I think that one point is related to the other.

The Convener: —that would tee things up in order, so that we can get some structure to the discussion.

Alex Fergusson: It is related—I am sorry.

The Convener: It is related—they are all related. Are there any other safety issues?

David Fraser: There will be a huge issue with safety if the Sound of Mull is closed. At the

moment, the ferries are cancelled when the weather is bad, but we can still work in the Sound of Mull. If that is taken away, we cannot go anywhere.

Graeme Dey: You say that there will be a safety issue. To what extent have you each articulated the safety issues that you are concerned about to Marine Scotland, and what was the reaction? Mr MacNab has already outlined his position, but what about the rest of you?

David Fraser: We have been saying it till we are blue in the face. Safety is always the most important thing for the boats. If we do not have sheltered waters to work in during the storms, we cannot work safely.

Graeme Dey: I accept that point, but I am asking a specific question. In the face-to-face discussions that you have had during the MPA consideration process, whether with the cabinet secretary or with Marine Scotland, have you articulated the safety concerns, and what was the reaction?

Willie John McLean: We were basically told that we can move elsewhere—that there are other areas that we can fish. Unfortunately, a lot of the areas that we class as sheltered are getting eroded because of the fish farms. Because they need the same mud for their anchors to hold, they are moving out of lochs and into sheltered areas, and unfortunately those are the areas that we fish. We are losing a large part of ground to the fish farms—it just happens that they are moving to areas that we fish in the wintertime. Our safe areas are getting condensed into a smaller and smaller area.

The Convener: I call Dave Thompson.

Duncan MacInnes: If I could—

The Convener: I think that you will be able to come in on this next point, Duncan.

Dave Thompson: I have a question on the same point, before we move on to the socioeconomic impact and so on. My understanding is that, when the detailed work was done with the Mallaig and North West Fishermen's Association in relation to the small isles MPA, a lot of very detailed consideration was given to the tows that Willie John McLean was talking about and to the safety implications. In different weather conditions—when there was a westerly, an easterly or whatever—fishermen could move around and still be safe, because of all the islands in the area.

Am I right in thinking that, in the final version of the very detailed charts that were produced on where the boats would work, there was basically a blanket ban over big areas, where there was none

of that kind of detail? Is that what has concerned folk?

Willie John McLean: Potentially, 3km² will be closed.

Duncan MacInnes: Certainly, the Marine Scotland response is, "You can go and fish somewhere else." We are talking about small inshore vessels that are not nomadic, and the local communities depend on them fishing in those areas. It may be all right for someone sitting at a desk in Marine Scotland to say that we can shift somewhere else, but it is not really practical to shift to other areas.

The other thing to realise is that although Marine Scotland is looking at activities over a year, weather patterns can be very different every year. Everyone knows that. Wind conditions in one year are completely different from wind conditions in another year. It could be that the economic impact that was looked at in one year is completely different from the impact in another year.

Economic impacts have to be looked at over a great number of years, and there has to be evidence that the figures are accurate. For the Sound of Barra, Marine Scotland has given a figure of £30,000, but we have landing evidence of in excess of £200,000. There is obviously something seriously wrong, given the gross underestimation of the economic impact.

Dave Thompson: We will move on to the detail on socioeconomic matters, which is very important. There is a clear divergence of view between Marine Scotland's broad-brush approach, which takes us to an impact of about 2 per cent on the economy overall, and the evidence that we have heard and the evidence has been submitted to us.

Forgive me, but the small isles are in my constituency and I would like to concentrate again on the situation and the potential impact there. It is not just a problem for the fishermen at sea. I believe that there are quite a number of Barra boats that fish in the small isles as well, and there is therefore an impact there. There is a critical mass in running a harbour such as Mallaig, in relation to the provision of ice, boat building and all the other things. If the mass drops below a certain level, the whole thing collapses.

If that were to happen in Mallaig, we would not be talking about half a dozen jobs but about 30 or 40 or more, taking into account the fishermen and the knock-on onshore effects. For a community such as Mallaig and the surrounding area, that is a massive job loss. The equivalent—

The Convener: Can we have a question?

Dave Thompson: Yes, convener. The equivalent for Edinburgh, for example, would be

the loss of 5,000 jobs—and we know what happens in Edinburgh when a couple of hundred jobs are threatened in a factory.

It is very important that we get this right, and if the judgments have been based on incorrect information, they need to be looked at again.

My question on the socioeconomic argument is this. If the restricted areas within, say, the small isles marine protected area were reduced from the current recommendation, which is I think 33 per cent, to perhaps 20 per cent, would that allow the boats to fish in the areas that they need to fish in?

Willie John McLean: It would have to be in the right area; if it was not, it would not do any good. There are large areas where we could be allowed to fish, but they are out in exposed waters.

Dave Thompson: Let us presume that it was in the right area.

My understanding is that the detailed work that was done was clear that fishing was not allowed in areas where there could be problems for the flora and fauna—the maerl and so on. I have been told that, at the moment, a big chunk of areas—including areas with burrowed mud—is excluded that does not need to be excluded, because excluding it achieves nothing in conservation terms. If those areas were to be unexcluded, if you like, and boats could fish there, you would get well over 95 per cent of what you were getting before. We need to deal with a bit of the detail around management in order to allow fishermen and conservation interests to live happily together. Is that right?

Willie John McLean: From the point of view of our fishing sector—the prawn sector—most of the features are in areas that we do not fish in. They are attached to rocks, stones and steep banks, and we cannot fish there. It would help if those were the areas where we will be prohibited from fishing. However, there have to be areas where the boats can fish when the weather is bad, and although they contain burrowed mud, I do not think that the areas mentioned at the meetings contain any protected species.

Dave Thompson: If you were able to spend a wee bit more time with Marine Scotland going back over some of the work that has been done in order to move the restricted area back to enable you to get some grounds back into use, and the proposed instrument was therefore altered, would you find that a valuable change in relation to the MPA?

Willie John McLean: Of course it would be valuable. It has to be good for us if we can get back any areas where fishermen are not endangered—sheltered areas where they can work away. However, from the way that the

process has gone before, I would have my doubts that Marine Scotland would agree on those areas or that we could come to a compromise.

Dave Thompson: I think—I hope—that we are moving on and that things will be better. However, you are really confirming that if you could be involved, with Marine Scotland and SNH, in the decision on the exact boundaries of the excluded areas in the small isles MPA, you could probably get to a reasonable position without endangering the conservation aspects.

Willie John McLean: I would hope that we could do something. Something has to be done, otherwise jobs will go.

The Convener: We understand that. We are talking about the way in which the areas have been proposed. There has been a delay in putting forward the final versions for consideration by this committee. We are trying to dig a little more into the issues so that we are well aware of those issues when the final versions come to the committee. Marine Scotland and the ministers are presumably listening to this conversation, so some of these considerations might be taken into account before the final versions are arrived at.

Alex Fergusson asked the original question. Are you finished with your question?

Alex Fergusson: My question was about the safety issue, but I did not quite get an answer to it. However, if you want me to move on to displacement, I will happily do that.

The Convener: We had probably better have Jim Hume's question first.

Jim Hume: Willie McLean finished where I wanted to start off, with the issue of the MPAs on which it is believed that there was no consultation.

It would be interesting to hear from the panel the effect on the number of jobs, which Willie McLean mentioned. I appreciate that it may not just be jobs on trawlers that are affected; there may be an effect on onshore jobs because of the so-called multiplier effect. It would be interesting to hear from panel members whether they think that there will be a benefit to jobs in their industries in the short or medium term, or whether the opposite will be the case.

The Convener: We will start off with Alistair Sinclair.

11:45

Alistair Sinclair: We seem to be painting an awful bleak picture of the MPAs initiative. Many regard the MPA designations as a very positive step forward, with a view to securing inshore fisheries and the communities that so rely on them for the future.

A very important fact that we have not yet discussed but which is very important and must be brought to the committee's attention is that MPAs might create many opportunities for more jobs. If we use a clean and green method such as creels, we will benefit the rural communities. Hand diving will come into its own. The financial benefits that will flow through the communities can only be good—they will not be detrimental to the communities. I understand the difficulties that the mobile sector has and the fact that it will be displaced—we will move on to that in respect of the socioeconomic aspect. However, MPAs as a whole must be seen as a very positive step forward, with a view to securing the future of many of the rural communities around the coastline of Scotland.

Steve Bastiman: It has been said that there is a lot of focus on the least impact on the fishing industry. I would like to give everyone an idea of the sea angling industry.

The Convener: I think we have a fair idea that it is growing.

Steve Bastiman: I would like to set that out, if I might, convener.

The Convener: Please do, but bear in mind the time.

Steve Bastiman: I will do so briefly.

More than 205,000 sea anglers fish in Scotland every year. About 150,000 of them are resident in Scotland, 50,000 come from the rest of the United Kingdom and about 5,000 come from the rest of Europe—Holland and Spain, for example. They contribute around £160 million a year, which is a not insignificant amount.

On the process, I think that it is altogether just a broken model. I do not think that dickered around the edges—a little bit here, a little bit there—will address anything. There really needs to be a cohesive MPA set-up. Everybody has data. I feel that what should have happened was a comprehensive, peer-reviewed, independent assessment of all the data—on sea angling, days at sea or whatever—that is put forward. Otherwise, it is just about who shouts loudest and gets the most attention.

The Convener: We are here to try to get a moderate and reasoned solution to these things. Shouting louder will mean only that the sound man has to turn the volume down. We have to be very careful to make sure that we reflect the different sides of the industry, which is what we are trying to do with this panel. I hear the point of view on the data that is held by the mobile sector, which has already been articulated. If Kenny MacNab has anything to add to that, he can do so.

Kenny MacNab: I am afraid that I have to respond to what Alistair Sinclair said. The committee has to understand that marine protected areas were designed to protect features; they have absolutely nothing to do with fisheries management. The static sector, along with Marine Scotland, wants to use them as a fisheries management tool, which is not what they were designed for. They were designed to protect features on the seabed. The committee has to understand that.

The Convener: There is no doubt about it—we understand the points of view that you have and the points of view that the creel men have. The question about the protection of stocks is something that we will investigate. We have heard what you have said. We need to hear a definitive view from Marine Scotland. Thank you for giving us your point of view.

Duncan MacInnes wants to come in briefly.

Duncan MacInnes: On the shared marine environment, we have what we consider to be a balanced fleet that has been sustainable. We have a creel fleet. We are the largest association with static gear members in the whole of Scotland. We have been at the leading edge of conservation. For the past 10 years, we have been asking Marine Scotland to introduce a pot limitation scheme, and we are seeing light at the end of the tunnel. We do not want to see more creels go into the sea. I was a fisherman myself. I started fishing with 240 pots and finished 15 years later with 750 pots. If I was still at sea today, I would need 2,000 pots to catch the same amount that I used to get.

We need a sensible balance on the way forward if we are to have a shared, successful and sustainable marine environment that benefits all industries. Marine renewables are coming into that environment, and there is increased fish farming with larger fish farms that want their own section of the seabed. It is right and proper that we should have a discussion about protecting marine features within the overall framework of future marine planning.

As I said, no fisherman wants to destroy the marine environment. Fishermen have shared that marine environment for the past 50 or 60 years. The marine features are there, and it is not as if the fishermen have destroyed the marine environment; they have been fishing it commercially and sharing it for a generation. Fragile communities such as those on the west coast, from the Clyde all the way up to Kinlochbervie, are now faced with a dilemma about how to take forward the management of the marine environment.

No one is against marine protected areas; it is their management that needs to be sorted out. At

the moment there seems to be a clear difference of opinion on the way in which that should be concluded. There is a way forward and it needs more discussion with stakeholders. Our MP, Angus MacNeil, has seen the seriousness of the situation and has written to the Minister for Transport and Islands asking him to ensure that we do not move too quickly to a final decision on marine protected areas without first having a full picture of the way forward. I stress the need for caution. There is a way forward, but it has to be done with full consultation before we take that step.

The Convener: We understand your position. Could you comment on the necessity of bringing in an emergency order for the Wester Ross MPA when it was alleged that dredging was being done in that MPA's voluntary exclusion zones by the *Siarach III SY85* on 31 July and 1 August? How does that square with your assertion that you are interested in maintaining the marine infrastructure?

Duncan MacInnes: I am quite free to discuss the incident on the day in question. The skipper made a full statement to the fishery office in Ullapool that there was a total misunderstanding about the different zoning in that area. There was a zoning approach that meant that scallop dredging should be kept deeper than 20m, yet there was one zone that had a total prohibition in it. There were seven different zones. Marine Scotland did not have the courtesy to send details of those voluntary measures to the scallop vessels that had scallop entitlements. In my opinion, it should have done that.

The skipper of the vessel was unaware that he had a fishery cruiser beside him that Saturday morning. The fishery protection vessel did not tell him that he was operating in a voluntary closed area. In the area where he was fishing, he did not go shallower than a depth of 30m, so he was well within the agreed 20m zoning. He has requested that Marine Scotland show photographic evidence that he caused any damage in that area, and that evidence has not been given to him.

There was a total misunderstanding and that has been conveyed to Marine Scotland. If nobody in life ever misunderstood anything, this room would be empty. We are dealing with a misunderstanding or an interpretation of the information available.

The Convener: That is one case of the MPA being infringed in some way. Boats from Northern Ireland and elsewhere have been implicated in the same place and evidence on that has mounted up. Whatever happened, the fundamental question is about looking after the marine environment and there being breaches by mobile gear boats. I make it clear, for the purposes of our inquiry, that

it is not all black and white. I thank you for your explanation of that incident, however.

Alasdair Hughson: I am afraid that I must take issue with the evidence from Duncan MacInnes. I was made aware of the incursion into the voluntary zone by the *Siarach III* within 15 or 20 minutes of it happening because I had phone calls from local residents, who were out taking photographs of the vessel. Within an hour, I had been sent the photographs by email and it was decided between me and some local residents that, if it was to be proven that the infraction had taken place, we had to get evidence from the sea bed, because we were aware that the vessel might well have been just towing its dredges below the boat—they might not have been on the sea bed.

It was arranged that a local vessel would take me out to the area and that I would dive on it. I dived in the area on the Tuesday and found the dredge marks on the sea bed. The shallowest point of the dredge marks was 19m. I have video evidence of that, which has been submitted to Marine Scotland.

The Convener: I wanted to clarify that such things happen. That infraction happened; there may be different interpretations, but the fact is that the behaviour of mobile gear fishermen—a dredger in this case—created a situation that resulted in the MPA measures being brought forward earlier than they might have been. We have to deal with situations where such things happen. We want to get to a situation where everyone understands what their duties are and carries out those duties as well as they can.

Claudia Beamish: The Scottish Fishermen's Federation analysis and scoping study on the socioeconomic effects focuses on Kintyre, but I want to broaden the discussion out. Having carefully read the Kintyre case study and the other case study that the SFF presented, I do not find that they focus on future generations. There is a clear argument about the depopulation of very fragile coastal communities, which is why we are keen to hear your evidence today, so I would like to hear comments from panel members on the relationship between sustainable fish yields and the development of areas for juvenile fish, for instance, and on any other relevant issues.

In relation to Kenny MacNab's comment on management, my understanding of the MPAs and the orders is that the reason for fishing management is to protect and enhance for future generations the protected features and habitats. That is in all our interests. It is important that we bring that into the equation of the socioeconomic issue.

We know of places around the globe—I have evidence in the "Living Blue Planet" report by

WWF International—where there are fragile communities that can no longer fish. I do not want to be too dramatic, but the aim is partly to protect sustainable seas per se, and it is also about future generations in fragile communities. I would value some comment on that.

12:00

Kenny MacNab: I live in Tarbert, in Kintyre. There are three fishing communities in Kintyre—Campbeltown, Carradale and Tarbert.

Tarbert is probably the most dependent on fishing, and we are pretty passionate about it. We have about 50 full-time fishermen. Even though only three scallop boats are affected by the new measures—two from Carradale and one that works from the island of Luing—the measures will have a large impact, because all our scallops are processed in two factories in Tarbert. Because of the south Arran MPA and the closures in the Sound of Jura, those guys are considering packing it in. If the two small factories in Tarbert close, we are talking about between 12 and 15 jobs being lost. With the fishermen included, the figure could be more than 30 jobs. We have the same scenario as Dave Thompson described for Mallaig. Those 30 jobs equate to 2.5 per cent of the employment in Tarbert; that would equate to 17,500 jobs in Glasgow. If that many jobs were lost in Glasgow, I am sure that the Scottish Government would react fairly quickly.

We see the community of Tarbert being decimated, because all those jobs are held by people with young families. People will not wait in rural communities unless they have a full-time job. If there are only part-time jobs, people will leave for the central belt. In Tarbert, the school roll is at the borderline for closure, so if half a dozen of the families with young children leave, Argyll and Bute Council will close the school. If that happens, the community will die—it will become a retirement home for old people. We do not want that. At the moment, the community is sustainable.

Many people from the south end of Arran have said that loads of jobs will be created by eco-tourism—I think that the Community of Arran Seabed Trust stated that 2,700 jobs can be created—which Claudia Beamish is probably hinting at. Eco-tourism has been tried over the years in our area—

Claudia Beamish: I was not hinting at that; I was not hinting at anything. I was speaking specifically about fishermen—and fisherwomen, if there are any—being able to fish in future generations in your fragile communities. That was the point that I was making.

Kenny MacNab: We know that fishing is sustainable at the moment, and we want to keep it

that way. It is at a sustainable level. Over the past number of years, the fleet has had only about a third of the boats that it had in the 1980s and 1990s. The fleet size has completely dropped.

If we look at the weather that we get on the west coast of Scotland, we can see that eco-tourism jobs last for three or four months of the year, and they are part time. Young families will not wait in the area for part-time work; they will move to the central belt. Part-time eco-tourism jobs will not take the place of full-time work.

The Convener: Does anyone else on the panel have a view on Claudia Beamish's question?

David Fraser: On sustainability, I can say that for the past six days before I came here, I fished in an area that I discovered was a scallop bed in 1990. I caught 4,760kg of scallops—that is 5 tons in old money—while working just daylight hours.

Some of those scallops have been eaten in our super restaurants in Oban already, and the rest have gone to London and Europe. How is that not sustainable? That is a place that I discovered in 1990, which is 25 years ago. That is sustainability.

Claudia Beamish: It is very important to consider the sustainability of jobs and of fragile communities and the risk of depopulation. MPA designation is intended to protect the future of the areas involved. It is very possible that changes might jeopardise the future for the next generation. I am asking you what consideration has been given to that, as I do not see that in the Scottish Fishermen's Federation economic analysis. I respect the fact that there need to be jobs now, too.

David Fraser: The economic figures that have been given are not accurate.

Claudia Beamish: I am talking about the Scottish Fishermen's Federation study. I do not see that analysis there. That is just my view.

David Fraser: I cannot speak for the federation.

Duncan MacInnes: The Scottish Fishermen's Federation economic impact assessment made clear reference to this. It produced a short summary. There was a short time—six weeks—in which to carry out what was clearly a huge task, and that is just the start of a process.

Let us consider fragile communities. For example, the factory in Barra employs 40 people full time—not part time—and the figure is higher in the summer, when it provides summer employment for students. Eight trawlers from Barra are fishing off Mallaig, and all of them have young skippers with young families. If they leave, that will decimate Barra. There are 30 jobs in Uist in scallop processing, and 50 per cent of the raw material is supplied there.

In Stornoway, where I live, Macduff Shellfish has had a prawn processing plant since 1960, and it is definitely sustainable. I have seen industries coming to and going from Stornoway. Harris Tweed went and came back and Arnish fabrication yard has come and gone several times, yet the prawn processing factory has stayed there for the best part of 60 years. The factory is sustainable at current levels of effort.

The marine features that we are discussing are there despite, alongside and in harmony with what has been going on. Why take away the traditional industry that has been working in harmony? Let us work together and get the balance that will marry the two together for the future benefit of everyone—of the marine environment and of the communities.

The Convener: There are questions about the potential for the stock to exist well into the future at the current level, and we cannot bottom that out at this meeting. I have heard answers from around the table to Claudia Beamish's question. Steve Bastiman is next, and then we must move on quickly to other members' questions.

Steve Bastiman: The sustainability of a single stock, whether it is scallops, mackerel or whatever, does not indicate a healthy and diverse marine environment; it indicates a monoculture. That is one of the biggest threats to developing tourism for sea angling. Sea angling tourism on the west coast is not just a three-month or four-month activity; it is a round-the-year activity, because different species are fished for at different times of the year. Sea angling puts a substantial amount of money into local communities, and it could make more but, in order for it to make more, the environment must be diverse. Sea anglers cannot catch scallops.

The Convener: I think that we have heard both sides on the point, but Ally Hughson has not had a say yet.

Alasdair Hughson: From the point of view of members of the Scottish Scallop Divers Association, marine protected areas will, in our experience, whether we strike a balance or not, undoubtedly increase economic activity in our sector. I just want to make that clear.

The Convener: Thank you for making that clear.

We have to hear from Sarah Boyack, then Jamie McGrigor and then Michael Russell.

Jamie McGrigor (Highlands and Islands (Con): And me.

The Convener: We have been taking questions from members of the committee. You will certainly get your chance to ask questions, like everyone else.

Sarah Boyack: I invite comments on a piece of evidence that has been submitted about the south Arran MPA. This follows on from our discussion about different types of fishing and the evidence that we have.

The committee has discussed south Arran for the best part of a decade, on and off, and we have quite a lot of evidence. What are people's views on the impact of the MPA on inshore fisheries in south Arran? Quite positive evidence has been submitted to the committee, which I would like to test with the members of the panel.

The Convener: Just before that happens, will Kenny MacNab clarify how many of the boats out of Tarbert and Carradale are above the 150-tonne mark?

Kenny MacNab: I do not think that we have any prawn trawlers over 150 tonnes. In the Clyde, I think that the figure is 120 tonnes. There might be one over 120 tonnes.

The Convener: The figures are somewhere in that general area. Would you now answer Sarah Boyack's points, please?

Kenny MacNab: When we discussed the south Arran MPA with Marine Scotland, we went into great detail to try to protect the maerl beds that were identified round the south end of Arran. The scallop guys, who were present at the meetings, had given up a large chunk of the area in which they earn their living, as part of the consultation.

The proposal is now to ban dredging in the scallop grounds at the south end of Arran altogether. It is a big issue, particularly for two boats—members of the Clyde Fishermen's Association—that are based in Carradale.

The biggest issue is the weather and therefore safety. The boats use that area for protection at all times. Arran is stuck right in the middle of the Clyde. It does not matter what way the wind is blowing; there is protection from Arran somewhere. One skipper, who I think is in the observers group here today, has commented to me on a number of occasions that it is quite frightening if he is fishing on the Ayrshire coast and has to go towards the south end of Arran to get protection from north-west or westerly winds. He will not be allowed to fish when he gets there.

In the winter, the days are short with perhaps only eight or nine hours of daylight. By the time that skipper gets across to Arran, half the day is away. What does he do? In that area in the winter, he probably does not make a fortune, but he keeps the wheels turning, and the boys get a wage every week until the weather gets better and he can go and fish somewhere else.

That opportunity has been taken away from him and his young son, who skippers the other boat.

He is looking at a loss of between 30 and 40 per cent of his gross for the year.

The Convener: Does Sarah Boyack want to come back on that?

Sarah Boyack: The question was about the impact of the no-take zone in Lamlash Bay and the research from COAST over the past years. Given what is being proposed for South Arran, I was trying to test out the issue of inshore fisheries and whether the protected features have made a difference.

I also wanted to know what people think about the process of consultation on the South Arran proposals and whether they are happy with them.

The Convener: Does Kenny MacNab want to come back again?

Kenny MacNab: We are certainly not happy with the proposals. When the minister announced his proposals, they included a large area of burrowed mud that was not in the first consultation. The prawn boats, who were not affected in the first place, are now affected.

As for the no-take zone, in which I was involved from the very beginning, COAST is telling us that there are improvements. I am not surprised at that in the least. It says that those will move to outside the no-take zone, but we are not seeing any vast difference outside the no-take zone.

I believe that Alba na Mara and Marine Scotland's scientists are there this week doing trials. We will be interested to hear about that independent scientific research by Marine Scotland, because other people sometimes produce scientific information that may be biased.

The Convener: We hear you.

12:15

Duncan MacInnes: Sarah Boyack referred to the no-take zone. Our experience of that is from Broad Bay in Lewis. It would be useful for the committee to have some research done in Broad Bay, which has been a no-take zone since 1984. Marine Scotland went in and investigated what had happened in the area, which had been a prolific scallop area and which everyone would have expected to be full of scallop divers by now, and full of fish, but clearly that did not happen.

The committee should take on board the evidence that Marine Scotland has about that area, which has been a no-take zone and had no mobile gear activity in it for more than 30 years now. If we want the marine environment to be filled only with starfish and nothing else, I am pretty sure that we will start seeing starfish appearing after a few years in Lamlash Bay and in

other areas, but the starfish will then become the main predator and there will be little else left.

I will leave a report for members of the committee. It is not my report; it is the Marine Scotland report of what there is in Broad Bay after 30 years of a no-take zone. Before we create other no-take zones, it would be useful to have a look at what we have created under a previous administration 30 years ago.

The Convener: We are talking about very different terrains.

Claudia Beamish: I have seen photographic evidence of Lamlash Bay, and there is not just starfish there. We need to have that clarified for the record.

Duncan MacInnes: With all due respect, I have to ask: after how many years?

Claudia Beamish: Not very long at all.

The Convener: That is something that we cannot discuss here. We are discussing the MPAs, and we turn to Jamie McGrigor, who is our addition to the committee for the day.

Jamie McGrigor: On the point about starfish, I just want to say that I have seen the damage that starfish can do to mussel farms.

We have listened to a lot of points made by different people, and I very much respect all the different fisheries sectors that are represented here today. I would like a situation where the sea anglers can catch fish and the prawn trawlers and the dredgers can still go on with sustainability, but I am an MSP for the Highlands and Islands and I have had more concerns expressed to me about this consultation than about any other fisheries issue that I have ever had to deal with.

It appears that fishermen were led to believe throughout the consultation period that measures would be proportionate and would stick to the protection of specific marine features. Kenny MacNab made the point that MPAs are there to protect features and are not a management tool for fisheries. That is something that the committee ought to look into, convener, because there is nobody here from Marine Scotland who can answer that point.

The Convener: Have you a question?

Jamie McGrigor: Yes, I have. The broad-brush economic figures seem to fail to capture in detail the significant economic impact on different fishing vessels, and it appears that people will lose their livelihoods. My concern is jobs, and somebody made the point in reference to scallop fishing that divers catch only about 1 per cent of all the scallops that are eaten in Scottish restaurants. How are we going to keep the scallop industry going, since you cannot catch them in creels

either? If you do not have scallop dredging, how are we going to keep that significant industry going for Scotland?

Alistair Sinclair: I am sorry to bring this to the table, but I think that Jamie McGrigor should have declared an interest in that he has an attachment to the Clyde Fishermen's Association and often speaks on the association's behalf.

Jamie McGrigor: Convener, I am an honorary vice-president of the Clyde Fishermen's Association.

The Convener: Okay, thank you for that clarification.

Mr McGrigor has asked a question; do we have any answers?

Alasdair Hughson: Nobody is suggesting ending scallop dredging in Scottish waters. We contend that proportionate MPAs, allowed to recover, would contribute to scallop dredging as well as to scallop diving.

Kenny MacNab: I have a question for Alasdair Hughson. If MPAs go ahead in the form that has been proposed, I would imagine that diving for scallops will increase. I know for a fact that there are times of the year when you find it difficult to sell dive scallops and you have to store them. Would you see a reduction in the price of your scallops if the diving fishery increased and your market struggled?

Alasdair Hughson: It is certainly possible that there would be an increase in the number of vessels and scallop divers and therefore a knock-on increase in the number of scallops on the market. Simple economics dictates that if there are more on the market and the demand has not increased, the price would have to drop. That is without question. It is not something that we would like to see happen, but it would be inevitable.

I would like to say that the increase in the number of scallops available for scallop divers to put on the market would be very marked. We are not talking about small increases—it would be a large increase over the medium to long term.

The Convener: We should be very careful about cross-examining each other here—the committee members are the ones asking the questions.

I point out that people who catch lobsters save them up in tanks for the Christmas market, but the bottom fell out of the Christmas market when the banks crashed. Things crop up and changes happen. Without any further cross-examination, perhaps Jamie McGrigor can make his next point.

Jamie McGrigor: I was trying to get to the point about the scallops. All the new restaurants that we have on Scotland's west coast serve scallops, but

who would they get their scallops from if there were no dredging industry?

Alistair Sinclair: Having recently engaged with four Michelin-starred chefs south of the border, we have decided to embark on an initiative that means that we will be able to sell as many hand-dived scallops as we can possibly get, with a view to selling not only south of the border but also into Europe. There is an appetite for the scallops because hand diving and creel fishing are good stories.

Although Kenny MacNab's question had some merit, he has not properly thought it out. We have discussed huge levels of hand-dived scallops going abroad and the initiative has only been put in place in the last week.

Jamie McGrigor: Yes, but the point that I was making is that only 1 per cent of the scallops that are landed in Scotland are from diving, whereas 99 per cent come from other methods.

Alistair Sinclair: We are hoping to increase that 1 per cent to perhaps 5 or 6 per cent. That is a huge increase in volume.

Jamie McGrigor: That will still leave a huge hole if there is no scallop dredging. That is my point.

The Convener: I will bring in two other witnesses before going to Mike Russell.

Willie John McLean: It is not just about scallops; we would have the same problem with prawns. I sell to a prawn factory that is 40 miles down the road. It employs 80 people, and 50 per cent of its product comes from our area. The factory would struggle if it could not get its raw produce.

Steve Bastiman: I repeat the point that MPAs are not just there to meet the financial needs of the fishing industry. There are a lot of other people, including the recreation and tourism industries, who have an interest in the marine environment.

Michael Russell: That is a key point. There has been some criticism of the committee for holding a meeting in which we are hearing from this group of witnesses, rather than a wider group of witnesses. The reason for doing that is because this discussion is not about MPAs per se—everyone has accepted the process and most people have welcomed it—but about the boundaries and management and how they are implemented. If you were interested in that, you would reach the end of the meeting feeling pretty depressed: I like compromise and people having the ability to work together, and there has not been much sign of that.

I want to ask a simple question. From what I hear, it seems that the weight of public opinion is very much in favour of conservation of the areas in question, which means that further compromise is going to be needed if there is to be any consensus. What is that compromise? I put the question to everyone, but the convener will probably insist on a brief answer. What is the outcome that you want to see, how realistic is that, and what can you do to achieve it? At the moment, the divisions appear to be very great, which will continue to cause difficulties for everyone involved.

The Convener: We will do a round robin.

Alistair Sinclair: I agree with much of what Mike Russell says, but the way ahead will have to be spatial management. We have to separate the mobile guys from the static guys. That approach would be a win in more than one way, because it would create a healthy creel industry, supporting the community, and in the spatially managed areas, science interests and the universities could get young students to come out and do research work with a view to securing better ideas for the future, moving away from best guess science.

Duncan MacInnes: We think that the way forward is a zoning approach, with buffer zones around certain marine features. It can easily be done by depth and season. In the Western Isles, we operate seasonal closures that have been very successful for the last 30 years. Seasonal closures limit activity. The words that we need to look at are "remove and prohibit", which we do via a depth zone at the moment. Maerl, for example, is all under 30m—SNH has confirmed that—so one idea would be a zoning depth to protect certain features, looking at set nets in all those marine protected areas.

Marine Scotland has come with a clear policy of a total prohibition on set nets. There should be a seasonal approach to set nets and a depth level where they could not be set, to reduce the entanglement possibility at shallower depths. A zoning approach by depth, along with seasonal variations, will reduce, prohibit, remove and limit.

We have already spoken about limitation on tonnage of vessels, which will reduce the impact of large vessels on sites. In the Barra special area of conservation, there is talk of having a weekend ban, which would further reduce effort. A night-time curfew is another innovative way to reduce effort in an area. There are ways of managing those fisheries for the benefit of all and to reduce effort. That would be a win-win for everyone.

Willie John McLean: I am very disappointed in Alistair Sinclair. He has brought it to the table as though there is a conflict between static gear and trawl, but there is not. There is very little research

into creels; no surveys have been done and it is one of the most unregulated fisheries in Scotland.

The Convener: Just a minute. This committee has dealt with the Loch Torridon situation, and we are well aware of the questions that arise. Issues around zonal management and effort and so on all have to be fixed in order for things to work. We are aware of that. We must be careful of accusing individuals across the table regarding a particular point of view. We are here to decide. I thank you for that, but we understand the situation a little more.

12:30

Willie John McLean: Yes. I must apologise, but it does seem unfair.

Anyway, I would like us to carry on with the process that we started with Marine Scotland and SNH. If there was more transparency and if we could see videos, then—as Dave Thompson said—we could surely agree.

There is room for everyone to survive. The fishing does not impact on the areas that are being pointed out—the special features. If large buffer zones were to be placed around the areas that are to be protected, leaving gateways so that the boats up in Wester Ross and in our own areas could go from one tow to the other, so that they did not have to haul their nets and safety was not an issue, surely we could sit down, discuss those things and get them sorted out. It is a matter of dialogue. Regardless of everyone's opinions, this is something that everyone wants; the issue is about joining it all together.

Steve Bastiman: I return to Michael Russell's original point. I agree that we should revisit the matter, but not in a bits-and-pieces manner, talking about one set here and one set there. There should be a full, independent assessment. We should get people to bring the data, and it should be peer reviewed and assessed. The socioeconomic and industry impacts should be taken into account, and decisions should be made based on fact, not fiction.

Kenny MacNab: I never thought that I would agree with somebody from an angling background.

The Convener: I don't know why.

Kenny MacNab: We have to reach a stage where a proper socioeconomic study is done for the sake of the communities involved. That is something that should have been done in the beginning, but it was not done. It is the part of the whole jigsaw that was lacking. That is why there has been so much uproar about it.

As far as we can see, the proposals should be amended, and we will then go back to consultation.

The Convener: We are close to the point where, if they were amended, they would have to go out to consultation. That will prolong the process of any adoption of MPAs. If there are changes from what is being proposed at the moment, there will be the opportunity to discuss all of this in great detail again.

I ask Dave Thompson to focus now on one point that we have not already dealt with; then we really must draw the discussion to a conclusion.

Dave Thompson: A number of representations have been made to me by creel fishermen who are worried about some of the proposals because of the displacement of the prawn trawlers into areas where they are currently laying their creels. The point is that there are many creel fishermen who do not agree with the current proposals. If the trawlers are pushed out, that creates all sorts of conflict and other unintended consequences. I want to put a wee bit of balance in.

That is more of a comment than a question—unless Alistair Sinclair wants to come back on that.

Alistair Sinclair: I have heard from many creel fishermen that they have been told by mobile operators that they will be hemmed into the MPAs, which is not a good situation, but we hope that we can manage the MPAs in such a way that there is not a honeypot effect like the one that was created at Loch Torridon at the outset of the initiative there. However, as we all know, gear conflict is a problem. It exists from the Solway to the Tweed, and it extends out to 20 miles offshore.

I hear where you are coming from, but there are many forward-thinking creel fishermen who think that displacement should not be an issue. If there was more good will out at sea—personally, I wish there was—there would not be gear conflict, and we could become the brothers in arms that some have previously alluded to.

The Convener: We will stop at that point. You have all had a fair round of opportunity to comment, and I thank you for doing so. We hope that this exploration of the issues around MPAs will lead Marine Scotland and the Government to hear the very detailed views that have been expressed, noting the offer to provide more facts and figures if required. We believe that they will be listening to this, as the Government agreed for us to have this evidence session to hear your views so that they can be taken on board. I thank the witnesses very much. Their evidence has been a big help to us, and we will be discussing the issues further in private.

We will have a short suspension, so that everyone can leave the room fairly quickly. We have other business to deal with in public and then some private business after that.

12:36

Meeting suspended.

12:39

On resuming—

Subordinate Legislation

Reservoirs (Scotland) Amendment Regulations 2015 (SSI 2015/315)

The Convener: Agenda item 4 is subordinate legislation. I refer members to the paper on this negative instrument.

There are no comments from members, as far as I can see. Is the committee therefore agreed that it does not wish to make any recommendations in relation to the regulations?

Members *indicated agreement.*

The Convener: At the next meeting of the committee, on 30 September, we will be considering parts 8 and 6 of the Land Reform (Scotland) Bill, on deer management and sporting rates.

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

12:40

Meeting continued in private until 13:00.

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