



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 10 May 2017**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

**15<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Anne Cairns (Scottish Government)  
Fergus Ewing (Cabinet Secretary for Rural Economy and Connectivity)  
Gillian Martin (Aberdeenshire East) (SNP)  
Elinor Mitchell (Scottish Government)  
Eddie Turnbull (Scottish Government)  
Annabel Turpie (Scottish Government)  
Humza Yousaf (Minister for Transport and the Islands)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



**Scottish Parliament**  
**Rural Economy and Connectivity**  
**Committee**

*Wednesday 10 May 2017*

*[The Convener opened the meeting at 09:31]*

**Decision on Taking Business in**  
**Private**

**The Convener (Edward Mountain):** Good morning, everyone, and welcome to the 15th meeting in 2017 of the Rural Economy and Connectivity Committee. Please ensure that your mobile phones are on silent. No apologies have been received.

Under the first agenda item, the committee is invited to consider its work programme in private at item 7. Do members agree to do that?

**Members** *indicated agreement.*

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

09:31

**The Convener:** Item 2 is the Seat Belts on School Transport (Scotland) Bill. Last week, the Minister for Transport and the Islands sent correspondence to the committee detailing a technical issue regarding seat belts on school transport. This morning we will receive an update on that issue.

I welcome Gillian Martin, who is the member in charge of the bill; Humza Yousaf, who is the Minister for Transport and the Islands; Brendan Rooney, who is a road safety policy officer; and Anne Cairns, who is a legal adviser to the Scottish Government. Minister, I ask you to make a short statement, please, on the correspondence that you sent to the committee.

**The Minister for Transport and the Islands (Humza Yousaf):** Good morning, convener. Your emphasis has been noted. First, I put on record my appreciation for the diligent work that the Rural Economy and Connectivity Committee has undertaken on the bill. You will be aware that the Scottish Government supports the legislative measures that Ms Martin has brought before the Parliament.

We of course consider road safety to be an issue of utmost importance, particularly when considering children and young people. I have been following stage 1 consideration and the evidence sessions, and it is heartening to see the support around the committee table and across the chamber.

You will be aware that last week I wrote to inform committee members that the Scottish Government has taken the view that the provisions in the bill should now be notified to the European Commission. Such notification is of course done by the United Kingdom Government, as the European Union member state, on behalf of the Scottish Government, rather than something that Ms Martin would do as the member in charge of the bill.

We are conscious that that administrative process will have an impact on timetabling, and we will look to engage with the committee on that. However, subject to your agreement, I contend that the timescale that was set out in my letter seems a sensible way forward. Notifying after stage 2 consideration appears to have the least bearing on the committee's work plan, and it also mitigates the situation whereby there is a need to notify again because significant amendments are accepted.

Previously, the Scottish Government had taken the legal view that notification was not necessary. Such matters are of course always kept under consideration and under review as legislation passes through the process. The predominant reason for a change was consideration of the ruling of the Court of Justice of the European Union on the municipality of Palmela case in February. That considerably lowered the threshold for notification, and not notifying could risk the bill being unenforceable.

Thank you for the opportunity to make an opening statement. I welcome any questions.

**The Convener:** Thank you, minister. I will start off. Are you aware of the law in Wales requiring seat belts to be fitted on school transport?

**Humza Yousaf:** Yes.

**The Convener:** Can you confirm when that bill was passed?

**Humza Yousaf:** I have that in writing, and I will double-check for you. That measure on school bus safety was in 2010.

**The Convener:** I think it was 2011, but I will go with your figure.

**Humza Yousaf:** Perhaps it got royal assent in 2011, or that might have been the year of commencement.

**The Convener:** Gillian, did you scrutinise that measure when you introduced your bill?

**Gillian Martin (Aberdeenshire East) (SNP):** The Welsh bill went much wider than the bill that I have introduced. There were quite a lot of recommendations in that bill about things other than seat belts: it also covered closed-circuit television and bus monitors. The compelling thing was that the type and size of vehicles used were specified. That had quite a large bearing on it.

It is important to mention that nothing came back from the European Commission when Wales made that submission to it—sorry; keep me right with my terminology here—

**Anne Cairns (Scottish Government):** Notification.

**Gillian Martin:** Yes, notification. Sorry—I forgot the word just for a second. Nothing came back from the European Commission when the notification was put in. We considered the Welsh aspect, in that there was a precedent for seat belts. However, we were not going down the route of implementing all the other measures, which was one reason why notification was not considered to be necessary.

**The Convener:** It was quite clear from considering the measure in Wales that the Welsh

had worked out very early on in the process that notification of the European Commission would be needed regarding seat belts. I am totally confused. What made the Scottish Government and indeed you, Ms Martin, as the member in charge of the bill, believe that it would not have to go to the European Commission? I am sorry, but I am confused by your answer. I am not clear why you thought that that would not be the case.

**Gillian Martin:** As you will know, when a member pursues a member's bill, they take their advice from the Scottish Government legal department. It might be a good idea to ask Anne Cairns to explain why the Government did not deem it necessary at that point for us to get that European—I have forgotten the word.

**The Convener:** It appears that the minister wants to jump in with some advice on that.

**Humza Yousaf:** I, too, will defer to Anne Cairns from the Scottish Government legal department. I will also correct myself on the record. The Welsh Government's notification of the bill was in 2010, but you are right, convener, that the bill was indeed passed in 2011.

Just to add weight to what the member in charge has said, it would be wrong to think of the Welsh bill simply as a seat belts bill. There were other things in it. It contained provisions for the description of vehicles, provisions for the recording of visual images or sound—CCTV—provisions for driver training, and provisions for safety risk assessments of learner transport. The directive examines whether the other requirements on the product, in this case a bus—seat belts, CCTV and everything else that I have mentioned—would significantly influence the composition or nature of the product or its marketing.

I will let Anne Cairns come in after this, but the Scottish Government's legal department did not deem that Ms Martin's bill would significantly alter the composition of the product—again, a bus—whereas the Welsh bill was much wider in scope, as it went much wider than just seat belts. It would be incorrect to assume that it was just about seat belts; it was also about the other things that I have mentioned, and indeed there were some things in that bill that I have not mentioned. Therefore, the Welsh chose to notify, whereas, given the narrow, single-issue scope of Ms Martin's bill, the SGLD did not feel that the Scottish Government needed to notify. The game changer, or the predominant reason why that changed, was the municipality of Palmela case in February this year.

The rulings of the Court of Justice of the European Union come out, and they often have an effect on proposed legislation that is going through the legislative process. That is why the matter was

kept under review. Perhaps Anne Cairns wishes to come in to expand on that, in case I have—

**The Convener:** Before Anne Cairns comes in, Rhoda Grant wishes to ask a question, and it might be appropriate to bring Anne in after that.

**Rhoda Grant (Highlands and Islands) (Lab):** I am slightly confused. When we were taking evidence on the bill, one of the things that we considered was whether the UK Government was going to implement the EU directive on bus safety. That would have superseded the need for the bill. It seems that Europe has already issued a directive on the issue, suggesting that seat belts should be on buses. Now you are saying that we have to go back to Europe and check that what we are doing is okay. It seems very circular to me. Surely, if Europe is saying that we should be doing this, it does not need to sign off the fact that we are actually doing it.

**Anne Cairns:** To answer Rhoda Grant's question, there are two separate directives. The directive that we were talking about on 26 April is the seat belts directive, which is about the safety equipment that is fitted on vehicles. We are now talking about the technical standards directive, which is more related to the principle of the free movement of goods in the Common Market.

Essentially, if someone is going to impose technical specifications that might have an impact on the free movement of goods across the EU, they are supposed to notify the European Commission. We are talking about two completely separate issues.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I just want to check a couple of things. I have got the court decision in front of me, and it is clear that the decision about technical standards in relation to a play park in Palmela was referred by a Portuguese court to the EC. The specific thing that seems to be important is that the court has changed the game in its decision by broadening the reach to include technical standards. My key question is this: if we do not refer the issue to Europe, are the 18 Scottish councils that have contracts that essentially already require what we are going to require all other councils to do at risk of the European Union taking action against them because technical standards permission was not given and the rules have changed?

I note that Palmela was fined €10,000 and €100 in costs, and although that would not be devastating, it is still a financial implication. I seek confirmation that there would be a wider advantage in protecting the 18 councils if we refer the bill to Europe with a significantly tighter interpretation of the 1983 regulations.

**The Convener:** We will go straight to Anne Cairns on that, because it sounds like a legal question and I am not sure that Gillian Martin will want to answer it.

**Anne Cairns:** On the risk to the 18 councils, the answer would be no. The technical standards directive means that a member state that is proposing a new legislative measure that might introduce a new technical regulation as it is defined in the directive has to notify the EC. The Palmela judgment will not have an impact on our councils because our measure is only at the notifiable stage at the moment. It is just a draft.

**The Convener:** I just want to go back on that before the minister comes in again. I am a little bit confused by that answer. You say that the measure is a draft, but surely the councils have written it into their contracts as a requirement. Are they therefore in breach of the law? Yes or no?

**Anne Cairns:** The answer to that would be no, because the technical standards directive is not about contracts; it is about Government legislative measures and the laws of the land, as it were. It can be wider than that, but it is not about private contracts.

**Humza Yousaf:** It would be fair to say—and we can seek clarification from Anne Cairns, although I suspect that members will know this—that local authorities probably also engage their own legal directorates and departments, as well as, potentially, the Convention of Scottish Local Authorities, to look at such issues.

**John Mason (Glasgow Shettleston) (SNP):** I will take a slightly different angle, if I may. In a sense, the need for the bill is reducing because more and more authorities are gradually taking part anyway. We had 18 taking part originally, and Strathclyde partnership for transport gave a commitment that all the Strathclyde authorities will comply this year. We are now talking about a further three-month delay in the bill because of the directive. Do we really still need to go ahead with the bill?

**Gillian Martin:** When we proposed the original timescale for the bill, it would have been passed by the end of the year. We had discussions with the committee members and clerks about the committee's work programme, and there was an agreement that we would bring the bill process forward so that we could get the bill through earlier and so that the committee could have time to scrutinise it before your work programme became quite onerous.

I suppose that you could call it a delay, but I would like to think of it as the bill going back to its original timetable. Humza Yousaf is right that, if we get it through to stage 2 without any difficulty, before stage 3 there will be a break when we get

the notification organised. I do not think that there will be any issues with the notification itself, and it is important to mention that we are erring on the side of caution. That is the advice we have been given. It is prudent for us to take the notification forward because of the Palmela ruling so that we do not get into difficulty later.

09:45

**Jamie Greene (West Scotland) (Con):** Given that the bill does not include technical specifications and parameters, I fail to understand the link between the bill and the EU directive that is causing a hold-up in its progress through the Parliament. Are you frustrated that positive progress seems to have stalled as a result of onerous or unhelpful EU directives?

**The Convener:** Let us deal with the first point, on the technicalities. Will Anne Cairns or the minister pick up on that?

**Anne Cairns:** Technical regulations are notifiable to the Commission, and there are basically three limbs to the test for what is a technical regulation. Jamie Greene is right to say that one of those is technical specifications; the second is about “other requirements” and the third is about prohibition of use. The bill falls within the “other requirements” category.

**The Convener:** Okay. I bring in Gillian Martin on the delay.

**Gillian Martin:** I want the bill to be watertight, and if notifying the EC means that it will be watertight, I am not frustrated. I want the bill to go through the proper channels. I am glad, not frustrated, that the issue has been flagged up quite soon after the Palmela ruling, so that we can ensure that issues do not arise later.

**Mike Rumbles (North East Scotland) (LD):** It is interesting that we are talking about frustration. I have been trying to get witnesses to give us up-to-date information on the number of councils that are moving towards having seat belt provision in their contractual arrangements rather waiting for a legal basis for action. In answer to points that I made at our previous meeting, the Scottish Government has said again that 18 local authorities stipulate seat belt provision in all their contracts and a further six have the stipulation in some contracts, but that is the information that we had three months ago.

When the committee heard from council officials, we got the impression that all councils are moving towards making seat belt provision a contractual requirement. Given that the bill’s provisions will not take effect for secondary schools until 2021, my simple question is this: have we got enough information on how many

councils are about to put the stipulation in their contractual arrangements? To me, that is fundamental to whether we need legislation. What is the point of passing a law if everyone is doing it anyway?

**Humza Yousaf:** Ms Martin will pick up on the substance of your question, as we are talking about her bill, but I will make a couple of points. I will look again at the information that we have from councils and ensure that you get the most up-to-date information, Mr Rumbles. I do not know whether the local authority elections have had any bearing on the matter—possibly not—but in the aftermath of the elections we can go back to the 32 local authorities and see whether there has been any change.

Although councils are doing it now, it is important to future proof. There can be changes of Administration, cost-cutting exercises or whatever—there might be 101 reasons for a council renegeing on the approach and choosing not to put the requirement in a contract when it had been there previously, although I think that that would be a deeply unpopular move. That is why legislation can be important. I suppose that that takes us back to Mr Mason’s point. Whether 18, 20, 25 or all 32 councils are doing it, do we have a guarantee that that is future proofed? No. The bill gives that guarantee, I hope.

**Gillian Martin:** As I said to the committee previously, I want all children who go to school in Scotland to enjoy the same safety standards that my children do in Aberdeenshire. That is why I introduced the bill. We cannot leave it to the timetables of individual councils; I want the measure to go forward.

People are talking about a delay, but the commencement of the bill’s provisions was always going to be in 2018, and a three-month delay in taking the bill to stage 3 will not have much of an impact on that.

**Mike Rumbles:** Can I ask a follow-up question, convener?

**The Convener:** Yes.

**Mike Rumbles:** The commencement date is 2018 for primary schools but it is 2021 for secondary schools, is it not?

**Gillian Martin:** Yes.

**Mike Rumbles:** That is four years away. I imagine that you must be proud of the fact that your bill has initiated action by all 32 councils—if all 32 councils are taking action. I would think that that is a good thing to have done. However, I would question whether we need the legislation if all the councils are already taking such action. What you have done so far is admirable, and we are all supportive of the bill’s thrust, but what is the



point in spending time on creating legislation if all councils are going to do what it requires anyway? I agree with the minister that it would be ridiculous for councils to backtrack on their contracts.

**Gillian Martin:** There is no guarantee that every local authority will take action if it is not put into law.

**The Convener:** I do not think that there are any further questions. It is laudable that you are keen on ensuring that the process is 100 per cent correct, Gillian. The committee was somewhat surprised to see that the bill was being referred back when a belt-and-braces approach would have suggested that it should have gone straight to the European Commission at the outset. Nevertheless, the committee will consider the evidence that it has heard today and we will get back to you and the minister on whether we have decided to take the bill forward or to wait for the decision from the Commission.

I thank you for giving evidence to the committee and suspend the meeting as we take a moment to change witnesses.

09:51

*Meeting suspended.*

10:06

*On resuming—*

## **Common Agricultural Policy Payments**

**The Convener:** Item 3 is an update on the common agricultural policy payments review. I welcome the Cabinet Secretary for Rural Economy and Connectivity, Mr Ewing. I also welcome from the Scottish Government Elinor Mitchell, the director of agriculture and rural communities; Annabel Turpie, the chief operating officer of the rural payments operation; and Eddie Turnbull, the head of agriculture and rural communities information systems. We are limited for time, and I notified the cabinet secretary's office yesterday that we will move straight to questions.

The committee has received a copy of the executive summary of a report by a third party into the CAP IT position. This is the second time that the committee has received an executive summary from the Scottish Government without having had sight of the full report. I put on record the fact that, as the convener, I find that unacceptable. In the future, any executive summaries that are submitted must be accompanied by the whole report. The report also came with certain caveats that I strongly feel limit our ability to question the cabinet secretary and his team. On that basis, I was minded not to accept it. However, copies of the papers that were released to the committee have been circulated to committee members and, as a matter of courtesy, I ask the cabinet secretary and his officials to summarise the contents of those papers for the official record, setting out the basis on which the committee may question him on them.

**The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing):** Good morning, members. I am happy to be here. I would have preferred the opportunity to make an opening statement, convener, as that would perhaps have helped to set things in context. I assure you that we have provided as much information as possible to the committee at every point—more than I can recall providing to any other committee in any of the other ministerial responsibilities that I have had over the past 10 years. Moreover, it would have been courteous had you alerted me to your concerns earlier, convener, in which case I would have investigated them fully. You have chosen not to do so, but have mentioned them now. Nevertheless, I am happy to pass over to Eddie Turnbull, who has been handling this particular matter. He can fill the committee in on the information that we provided to you, which we did as soon as we were able.

**Eddie Turnbull (Scottish Government):** Members have in front of them the executive summary, which contains the key conclusions and findings from the review. The answer to your specific point, convener, about the full report not having been made available at this time is that it is still in draft form, as we still have to agree with the prime supplier a number of the details that are in the report.

From our point of view, the report covers all the ground that we desired it to do. It was an independent review, undertaken with the full sight of our prime supplier. However, it was only last night that I received a detailed response from the supplier that enables us to work in partnership to develop a plan around the detail of the report. The detail of the report is such that there will have to be negotiation with the supplier on the remedial action that will be necessary, and we still have to have that discussion. Until we have bottomed out a number of those issues, it would not be right to release the whole report, given that there is still concern or dispute about some of the finer detail.

**The Convener:** Thank you. You have not really summarised the executive summary, which is what I asked for.

**Eddie Turnbull:** My apologies—I was addressing your point about release first of all.

The summary addresses two things. The first is the platform that we now have, and issues with the future sustainability of the information technology system that has been developed. That is covered in the report and the high-level summary. Secondly, the summary addresses some of the issues that we have to look at regarding the processes that we use to develop code that we add to the platform, as well as processes regarding how we support the platform and make sure that it is available at times required in the future. In other words, those are processes to make sure that the platform is resilient, reliable and flexible as we move into the future.

Is that an adequate summary? I can go through it in steps if the committee desires to hear about each of the items.

**The Convener:** The committee will definitely ask you to drill down into specific areas that the executive summary outlines.

**Eddie Turnbull:** I am happy to do that.

**The Convener:** I am sure that members will also ask you when the draft of the report will become a final report, and when that final report and the executive summary will be made available to the general public, because that will be critical in how we progress the matter.

I will start with three very simple questions, which I will direct at the cabinet secretary. Do you

think that the executive summary accurately reflects the contents of the report?

**Fergus Ewing:** We have just heard that the report is in the course of being finalised. I can also say that some of its content is commercially sensitive, and to disclose details of that would risk imperilling further negotiations that are carrying on. Those are not unfamiliar matters.

To answer the convener's question directly, I am satisfied that the summary accurately reflects the main contents and, in a broad sense, the conclusions of the report.

I want to go on to the actual facts of the matter, and move away from wrangling over procedures, particularly since I was not made aware that there was an issue about that prior to this committee meeting. Had I been made aware, by you, convener, or by your clerks, I would most certainly have had the opportunity—and would have used it—to investigate those matters myself. However, with respect, I have not been afforded that opportunity—

**The Convener:** Cabinet secretary, please. It is up to the committee to decide on questioning. It is not helpful to anyone round this table if we try to move away from the subject areas. I have asked my first question. My second question—I have one more after it—is: on the basis of the executive summary, do you have confidence in the IT contractors and their ability to solve the problems that have been highlighted?

**Fergus Ewing:** I have confidence that the IT contractors working with us are making significant progress to deal with what is one of the most complex operations that IT is required to deploy. If we look at the executive summary findings, which is perhaps useful, we will see—here, I am summarising the summary—that this entirely independent report from Fujitsu concludes that the architecture is fundamentally sound. The infrastructure components are sound. There is no recommendation to replace the rural payments system platform. The recommendation is rather for necessary remediation action. That confirms our view that the IT is fundamentally sound but it is the detail of the application of designing code and dealing with the various drop processes, which my officials can describe, that has caused the difficulty, along with the inherent complexities of the system.

It is helpful—

10:15

**The Convener:** Before we go on, cabinet secretary, I asked a specific question and you have said that you have confidence in the IT contractor. I would like to move on to my third

question before I open up to questions from the committee. On the basis of the executive summary, do you have confidence that those who are managing the contract on behalf of the Scottish Government can move the contract forward and make it fit for purpose?

**Fergus Ewing:** Yes, I do, because we have made significant progress and I hope that we will have the opportunity to get on to the substance of that progress and describe it.

The reason why I have that confidence is that I have got in about it. I have not sat in my office waiting for things to happen. I have taken a series of steps and actions since I became cabinet secretary. Pace the convener, I have not really had the opportunity to introduce the officials I have here with me through an opening statement. We have here Elinor Mitchell, Annabel Turpie and Eddie Turnbull, who have joined the team and strengthened it. We have many other new people at Saughton house who have brought new energy and vigour.

I have communicated directly with the heads of the rural payments and inspections division offices. I have met the staff. On several occasions—this is extremely important—I have met Steve Thorn, the chief executive of CGI. I did so most recently a couple of weeks ago and I asked him point-blank, “Are you putting your best people on this?” He said, “Yes, we are. This is a priority for us.”

I am working in collaboration with our contractors, CGI, on a difficult task and we are making significant progress in the application of the technology to the basic application process. The SAF 17—single application form 17—is much better than the SAF 16. I hope to have the opportunity to describe the progress that we are making with the basic payments, and Annabel Turpie will be able to give details about further progress and payments that are getting out the door over the next few days and weeks.

The answer to your question is therefore yes, convener. In my position, I fully accept responsibility. The buck stops with me. That is why I have got in about it. I have dealt with the company and have confidence in the company’s ability. The difficulty here, if we wish to be dispassionate about it, is that this is quite simply one of the most complex tasks there has been. We are dealing with 4 million hectares and several hundred thousand fields as well as a far more complex system under the new CAP reform, and we are incorporating many of the things that the industry wanted, including the regionalisation of land. We have also added welcome additions that were not there in the past, such as provisions for new entrants. All that adds to the complexity and I hope that we can get into the nitty-gritty of the

significant progress that we have been making, although challenges remain.

The final thing that I would say, convener—by way of getting my opening statement in by other means, I suppose—is that, under my leadership, we have not hesitated to devise payments schemes that have been called loan schemes, although there is no interest to be paid unless there is default in the repayment of any surplus, which does not really arise except in a very few cases. We paid such a scheme last year, and we are paying one this year. If we require to do that in future or if it proves to be necessary, I will not hesitate to go to the Cabinet and seek payment. The priority for me is that farmers and crofters get their money. That is the task I am fulfilling.

**The Convener:** Thank you, cabinet secretary. Having had sight of the executive summary, I have to say that as a businessman and a farmer—everyone on the committee knows that I have an interest in farming but I formally declare it now and ask that anyone else who has an interest to declare does so before they ask a question—I struggle to understand how what is described in the report will become fit for purpose.

The first question is from Mr Finnie.

**John Finnie (Highlands and Islands) (Green):** My point has been touched on, but perhaps you will expand on it, cabinet secretary. The committee has been sent the executive summary of the findings from the technical assessment. We have been asked not to make it public, as it is commercially sensitive. Will you explain why the Scottish Government felt that it was necessary to make that request?

**Fergus Ewing:** I am happy to do so. The report, including the summary report, is commercially sensitive, as it contains sensitive commercial data that relates to live contracts and describes in detail a series of areas to address and associated improvement actions that will require to be agreed and negotiated with the main supplier. Those negotiations have only just started and could be prejudiced by wider circulation at this point. That is a fairly routine matter, and I know that members of the committee are aware of that.

Elinor Mitchell might want to add something.

**Elinor Mitchell (Scottish Government):** The only thing that I would add to the point about commercial sensitivity is that this was an independent technical assessment of an IT system, which has identified that the underlying architecture is sound but there are a number of defects in the system, which are referred to as the level of technical debt in the system. Something that would worry me about making the information more public, certainly at this stage and possibly over a longer period, is that the report’s authors

reveal vulnerabilities in the IT system, which potentially leave it vulnerable to cyber attack, which would obviously be unacceptable.

**John Finnie:** Cabinet secretary, the committee's function is to scrutinise, and I am grateful for your assistance in that regard. Given that people round the table are aware of the content of the report, do you understand that the stamp of commercial sensitivity inhibits our ability to scrutinise?

**Fergus Ewing:** I accept that you would prefer the complete report, as the convener indicated. We would prefer to provide the complete report, but I hope that I have given straightforward and candid reasons why we cannot do so. I accept that, if you do not receive all the documents, you are prevented from seeing the whole contents. In this case, I am not convinced that it would make a great deal of difference, because the executive summary gives the main conclusions. However, in principle, you make a perfectly reasonable point, and if I were in your shoes I would probably be making it myself.

**John Finnie:** Thank you. Mr Turnbull, I think that I am correct in saying that you said that the report is in draft form. Without playing with words, does that mean that we have a summary of something that is in draft, or is it a draft executive summary?

**Eddie Turnbull:** The report has been accepted as a deliverable by the review team—by Fujitsu. In that sense, the governance in our organisation recognised that the team had completed its work.

The report was then shared with the supplier in that form, as the basis on which we could move forward, in partnership with the supplier, to make improvements. The supplier has raised some issues, but not with the report's overall findings; the conclusions and recommendations absolutely stand. The cabinet secretary has met Steve Thorn and was forceful in getting an assurance from CGI that it recognised the conclusions in the report. However, CGI has raised some points of detail in the report, some of which will need debate about who will take responsibility for taking remedial action. That is a point for negotiation.

**John Finnie:** I want to understand the customer-client relationship here. If I get a tradesman in to do something on my house, I am in charge. The public sector has always had challenges with IT contracts, given their nature—indeed, I am told that even the commercial sector has such challenges. Are you content that the Scottish Government is in charge of this situation?

**Eddie Turnbull:** Yes, absolutely. The report was commissioned jointly by the office of the chief information officer in the Scottish Government and me. It is a report that has been delivered to us,

which enables us to take decisions on how to move forward with the platform that has been delivered and how we work with the contractor to take the remedial action that is necessary to ensure that we have a sustainable system.

As the cabinet secretary said, we have a system that is making payments at the moment. The fundamental finding from the report is that the platform is sound but work has to be undertaken to fix some points.

**The Convener:** John, if your next question has a yes or no answer, I will be happy to allow it.

**John Finnie:** It is a yes/no question, convener.

Mr Turnbull, are there any contractual penalties associated with the situation that we are in at the moment?

**Eddie Turnbull:** The contract has provisions in it for that. Other than that, it is all commercially sensitive.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Before I ask my main question, can I ask you a couple of questions with regard to company confidentiality? I used to work for the Royal Bank of Scotland and people who are sitting around this table have worked for other companies. Why was this document not marked "Not for publication" or "Top secret"? Some people are upset because only part of it has come to us and it has not been laid before us. Although you have said that it is confidential, there is nothing on the paper that says so.

**Elinor Mitchell:** I will take that away and reconsider the security marking on the document. We have marked it "Commercial in confidence" and it remains commercial in confidence, but I will take advice from our chief information officer.

**Richard Lyle:** With the greatest respect, Ms Mitchell, using the words "official", "sensitive" or "commercial" is not good enough. I could skim over that quite easily. However, if there was a big stamp on it that said "Not for publication"—

**The Convener:** Richard—

**Richard Lyle:** Bear with me, convener.

**The Convener:** Richard, please do not hold your hand up to me. I am very happy that you have made your point and I ask you to move on.

**Richard Lyle:** We are all getting upset this morning. I am feeling very upset with some of the ways in which the committee is going.

Cabinet secretary, can you provide an overview of the types of issues that were raised in the review—you have made some points already—and tell us what has been done to address them?

**Fergus Ewing:** The fundamental duty is to ensure that farmers and crofters are in receipt of the payments that they are due under pillars 1 and 2. The completion of that function remains the top priority for me as cabinet secretary.

The basic payments have to be made during a window that opens in December and shuts on 30 June, and it is my belief that the vast majority of those basic payments will be made in that window. I am happy to tell you that Annabel Turpie is armed with details of that, although we have supplied the committee with that information weekly.

Essentially, my job is to ensure that the difficulties and challenges with the IT system are overcome, using the vigour of a new team and the full co-operation of the excellent staff at the RPID offices throughout the country and the contractor, with whom I work very closely and in collaboration. That is an overview of the situation.

As well as ensuring that significant progress is made—which is the case because the system is operating in a different way, with far fewer IT fixes required; my officials can go into the technicalities of that—we have instituted loan schemes because we are aware that the difficulties have caused actual prejudice to farmers and crofters. I was pleased that that was done by my predecessor last year, and I did it this year, too.

I was particularly pleased by the efficient dispatch of the loan scheme in the first fortnight of November, or thereabouts, which allowed the majority of payments to farmers under pillar 1 to be made earlier than they would have been made historically—that is, in the first part of November, as opposed to in December.

10:30

I reiterate that I shall go to the Cabinet to seek approval without hesitation should it prove necessary to use those schemes again in future to ensure that the vast majority of money that is due to our farmers and crofters gets out of the door and into the rural economy where it is absolutely vital. I have enjoyed the total co-operation and support of the First Minister, the finance secretary and every Cabinet colleague. We are acutely conscious that this is a real problem, but the overview that I give is that we are devoting all our top resources to it. I have faith in the bona fides and skills of the people who work both for us and for the company—it is good that I have an opportunity to say so and to thank people such as Lindsay McGranaghan, for example, who provide excellent support. It is worth praising people who do a good job, not just castigating people and making political points.

**The Convener:** I thank the cabinet secretary for his comments on the payments; we will come on to those in the second session. At the moment, we are trying to concentrate specifically on the report. Richard Lyle will drill down into that before I bring in other members of the committee.

**Richard Lyle:** At the end of the day, we assume that we are fixing the problem and it is going to be fixed. From now on, with the greatest respect to you, cabinet secretary, you should not need to go back to the Cabinet to ask for further loans. I take your point that that is a standby system if it is ever needed. Am I right to assume that, if we are fixing this now, we should be able to press the button the next time that people are entitled to a payment and everything should go swimmingly out of the door, people should get their cheques and everybody should be satisfied. Yes or no?

**Fergus Ewing:** That is, of course, the optimal position, and that is what we aim for. However, if we are not able to provide that 100 per cent, it is sensible to take the prudent and practical measure of having loan schemes, and that is the approach that I take. Elinor Mitchell, do you want to add to that?

**Elinor Mitchell:** I want to make a few points, if that is all right.

**The Convener:** I am happy to take the points on payments later, if I may. This question is specifically on the computer aspect.

**Elinor Mitchell:** This point is not on payments. The overriding point that I want to make is that the system of delivering payments to farmers and crofters is not just about IT. The degree to which we make manual interventions and manual payments is significant in some schemes.

I want to put the issue in context. I have been in post for seven months, and the work that I have done with the team has focused on resourcing. The cabinet secretary mentioned that Annabel Turpie and Eddie Turnbull are new, and the majority of the senior management team is now new. We have looked across the organisation at where we have skills gaps in audit, finance and some IT areas, and have a clear resourcing plan to make sure that we have in place the people that we need to do the job in hand.

I have focused time and attention on working on our relationship with our delivery partners. Alongside the cabinet secretary, I meet people in CGI regularly—we now have a changed and significantly enhanced management team from CGI in Saughton house. They work daily with us on the system to make sure that we can get payments out in time.

We have worked on knowledge transfer. The CAP IT futures programmes closed, as planned, at

the end of March. Eddie Turnbull has a detailed transition plan in place to make sure that we can make the transition from a system that was largely developed by an IT contractor to one that is maintained in-house. We have worked on disaster recovery at a technical and a business level. We have worked on the governance of the organisation to make sure that decisions about what we need to do to the system, and our governance arrangements around that, have been overhauled. We have examined our overall approach to delivery, and recognised that the delivery system involves much more than just an IT system. We are looking at how we get the system to work in the way in which we want it to work and at what matters to us in terms of the delivery of the CAP and future arrangements. Annabel Turpie, in particular, has made huge strides to make sure that we absolutely understand what needs to be done in the end-to-end processing from the moment that the applications come through the door to the moment that the payments can be made.

Like the cabinet secretary, I have been out and about around the area offices. I cannot stress enough the amount of time that staff in area offices spend with applicants, looking at the application details, sorting out issues and changing the applications—those are real manual processes. I cannot stress enough the importance of examining the business process, not just the IT system. If we just examine the IT system, we will fundamentally fail in our task of making sure that we are delivering a comprehensive support system for farmers.

**The Convener:** I remind everyone that we are trying to focus on the executive summary before we get into the second area of discussion, which concerns payments. I invite Peter Chapman to ask his questions, which should be specifically on the executive summary.

**Peter Chapman (North East Scotland) (Con):** I declare an interest as a partner in a farming business in Aberdeenshire. It is difficult for the committee to deal with the summary, because we have been told that we cannot quote it directly. However, it is our job to scrutinise the work of the cabinet secretary, and that is exactly what I intend to do.

No matter how the cabinet secretary tries to spin it, the report is highly critical. It is obvious even to the most casual observer that the system is a long way off being fit for purpose; a lot of work and quite a bit of money is needed to get it anywhere near being compliant. That is no surprise to me, because we know that the system cannot get the money out on time. We would not have needed a less favoured area support scheme loan scheme to be put in place if the system had been working.

It has to be said that this debacle comes on the back of the worst agriculture profit figures for years.

**The Convener:** Peter, please make your question shorter.

**Peter Chapman:** Profit figures went down to an unsustainable level, decreasing by 48 per cent in one year and by 75 per cent in five years.

Cabinet secretary, when you came into the job a year ago, you said that you would fix the system. A year on from that, it is quite plain that you have failed. When will the system be compliant and how much money will it take to get it compliant?

**Fergus Ewing:** The system is being fixed. Last year, it delivered 99.9 per cent of the pillar 1 payments—99.9 per cent is not a fail; it is a pass. The difficulty with the system is in ensuring that it operates in compliance with the timelines and exacting requirements of the EU disallowance and penalty system, coupled with the fact that we are dealing with 4 million hectares of land that is classified into three areas, and a plethora of schemes under the reformed CAP.

If we had delivered only 70 per cent of the pillar 1 payments last year, I would agree with what Mr Chapman said, but we did not. It would help if we considered the performance that we have achieved. I fully accept that there is more work to do to fix the system, but we are dealing not with a washing machine or a car but with one of the most complicated IT systems that there is. Therefore, comparisons of that nature are not helpful.

It would be helpful if we could get a little more information, perhaps from Ms Turpie, on the facts of the performance that we have achieved using the system. That would answer Mr Chapman's point directly.

**The Convener:** I am trying deliberately to keep us focused on the executive summary of the report. There are lots of questions coming up on the payments. I want to keep this part of the meeting focused on the report.

**Fergus Ewing:** I am very happy to try to assist the committee. That is why I am accommodating the committee's request that we deal with this matter here and now rather than later. My understanding was that we would deal with an item on smallholdings at 11 o'clock, but it is now 10:38. How will we complete the business in the time that I was told was allocated to it? There seem to be communication problems between my office and yours in this regard, convener.

**The Convener:** The way that the committee works and its time management rest with me, not with you. I will do my utmost. As an experienced parliamentarian, you know that it is important that the committee holds the Government and others

to account and takes evidence on the public record. That is one of the committee's most important roles. If the committee needs time to do that, the committee must have it.

**Fergus Ewing:** I am just asking for clarity. I entirely accept what you said, convener; I am not in any way challenging it. However, I was told that we would deal with smallholdings issues at 11 o'clock, and it is now 10:39. That is my only point. Is that still the plan or has some other plan been communicated of which I am unaware?

**The Convener:** The timings are indicative.

I ask Annabel Turpie to address Mr Chapman's question, specifically on the report.

**Annabel Turpie (Scottish Government):** That would be for Mr Turnbull.

**Eddie Turnbull:** To address the point and restate what has been said, the system has made payments, as described, for 2015 by the time required. The system is currently making payments, and Annabel Turpie can give you the most up-to-date information on that.

On what the report says, let me restate what I said at the previous meeting: I now own this system, and I can give you every assurance that, if I did not think that it was going to make the journey, I would not get in the car—truly—or I would insist on a different car. We have a vehicle or system that we are saying is fundamentally sound. However, for it to make the journey that we need to make over not just this year or next year but future years, I have to ensure that remedial action is taken to ensure that it is sustainable and flexible and can meet the needs of the rural community for whatever schemes are devised to make improvements for that community.

That is what has been asked of me and that is why I have commissioned this report. It has brought out areas for remedial action but, fundamentally, it has given me some assurance—personally, I guess—that what we have invested in is not to be thrown away but is worth further consideration.

**The Convener:** There will be a very short follow-up from Peter Chapman before we move on to Mike Rumbles, then Jamie Greene.

**Peter Chapman:** It is basically the same question. You have given us a long answer, but you have not answered the question that I asked. I asked when the system will be compliant, because it is not at the moment, and how much money you reckon that it will need to get there. Those were the two questions that I asked, but you have not answered either of them, in my opinion.

**Elinor Mitchell:** I will pick up on the question about compliance. I would argue against the view

that the system is not a CAP-compliant system, because it is. We had a recent audit by the certifying body, as Scotland is a paying agency, and the accounts were agreed and signed off, and they went forward with the rest of the UK member state's accounts. Some comments were made regarding the management statement that I provided, about areas that it was felt that we needed to tighten up. However, that says to me that the system and processing that we use—it is not just about the IT, as I said previously, but about the whole system—is currently CAP compliant, because, if it was not, we would have been told.

**Peter Chapman:** You are saying that it is compliant, then, even though this is a critical report that says that there are still many problems. I do not buy that, to be honest.

**Elinor Mitchell:** What I am saying is that we have delivered a CAP-compliant system that is a mix, which is why it is important for me to consider not just the IT elements but the whole system, including the business processing. The assurance that we have is that, in 2015, we delivered a CAP-compliant system. Clearly, the audit process will continue, but I am sure that what we have done has delivered CAP compliance.

**The Convener:** Okay, thank you. I am going to have to move on to Mike Rumbles now.

**Mike Rumbles:** It might be a CAP-compliant system, but the IT system, which is what we are looking at, is not. I find it astonishing that the minister should say that it is not a failed IT system, given that it has cost, as Audit Scotland said, £178 million. We cannot specifically refer to the report that we have before us, but I think that it is a devastating report. How many deliberate shortcuts in quality assurance and governance practices were taken by the failed computer delivery programme for the CAP payments? What were the main ones?

**The Convener:** Is that question for Eddie Turnbull?

**Eddie Turnbull:** It is for me. In terms of enumerating every single shortcut, I think that that would be difficult.

**Mike Rumbles:** What were the main ones?

**Eddie Turnbull:** The main issue has been in terms of—I would not say that it was a shortcut, it is probably better to refer to it as—[*Interruption.*] No, Mr Rumbles, give me a chance to reply. It is better to refer to it as an issue of not following industry best practice. That is what the report calls out.

For example, the report highlights that code was developed to meet functionality, but it was not documented in the way that one would expect it to

be documented for future sustainability. We have lines of code in the system that someone who comes along afterwards to enhance the functionality would find difficult to interpret. That is an obvious call-out.

Secondly, the architectural design of the system was moved ahead based on decisions at the time, but the architectural documentation was not brought up to date with that. Again, that creates a legacy problem because, when we come to enhance and add functionality to the system, we will not be referring to the most up-to-date architectural description.

That gives you some examples. Industry best practice to create something that would be sustainable was not followed.

10:45

**The Convener:** I will allow Mike Rumbles one follow-up, which I am sure will be on numbers.

**Mike Rumbles:** Eddie Turnbull said that I was wrong to use the term “shortcuts”, so I will try another term. How does it sound if I say that many quality assurance and governance practices have been knowingly sacrificed? Would you agree with that?

**Eddie Turnbull:** The report calls that out. We and the contractor agree with the report’s assessment.

**Mike Rumbles:** That is devastating.

**Eddie Turnbull:** There are degrees in this, which I have tried to describe. I hope that you have picked up that the report also says that there has been improvement. We are suffering because industry standards were not followed at the beginning, but over the most recent period—let us say the past six to eight months—we have been adopting best practice in the work that we have been doing.

**The Convener:** I will leave that there, if I may, and move on to Jamie Greene. I have one more question from the deputy convener after him. Let us see how we go for time.

**Jamie Greene:** I want to move things forward. I do not want to turn this into a full-blown audit of the IT system, because if we did that, we could be here all day.

Given the shortcuts that were taken, will the IT system be able to cope with changes to payment systems in a post-Brexit environment or any other changes that the Government makes? Is there capability to make changes, and will making them be expensive?

**Elinor Mitchell:** I will pick that up to start with, then pass it on to Eddie Turnbull.

Notwithstanding what is in the Fujitsu report, which talks about a sound underlying architecture with a number of system defects that need to be fixed, we believe that we have created a set of assets that will be valuable for us in the future. The current set of rules in the system is set to European Union CAP rules, but those rules can be changed relatively simply. The mapping of Scotland that we have undertaken, which will be part of the land parcel information system for the CAP futures programme, has a degree of accuracy that is unprecedented in the land mapping that we have done. Staff have captured that data and it will be transferred into the system. What we have built needs a lot of work—everyone recognises that—but it forms the foundations of a system that will give us the capacity to deal with significant policy change.

**Jamie Greene:** And what about the second part of my question? Will changing it be expensive?

**Elinor Mitchell:** We would have to scope that out.

**Jamie Greene:** Moving on—

**The Convener:** Jamie, please be very brief.

**Jamie Greene:** Everyone else has had the chance to ask questions, convener.

**The Convener:** I am trying to manage time.

**Jamie Greene:** The witnesses have kept repeating the phrase

“The architecture is fundamentally sound”.

We cannot quote from the seven-page report, but I have to be frank: those are the only positive words in it. It is an absolutely damning indictment of the entire IT system. What confidence can Scottish farmers have that the system will be fit for purpose? I have absolutely no confidence in it right now.

**Fergus Ewing:** That does not reflect the contents of the report. As Jamie Greene says, the first summary finding is that

“The architecture is fundamentally sound”.

He says that that is the only positive thing that it says, but the next sentence says:

“There is no pressing need to replace core components.”

**The Convener:** I am sorry—

**Fergus Ewing:** The second paragraph—

**The Convener:** Hold on.

**Fergus Ewing:** I am trying to answer the question, convener, if I may—if that is what I am here for.

**The Convener:** Cabinet secretary, I will absolutely give you the chance to answer the



question, but I am concerned, considering what is highlighted on the front of the report, that people are beginning to quote from it, which is something that we were specifically asked not to do. Please go ahead, but I remind committee members that they were told not to quote from the report.

**Fergus Ewing:** The report finds that the architecture is fundamentally sound and that the components are fundamentally sound, and it does not recommend that the system be replaced. I accept that there are matters that require to be remediated—of course there are; if there were not, we would not be having the difficulties that we are having.

However, members should bear in mind that we commissioned the report from a firm of independent experts in the industry to ascertain whether we needed to think again and take an entirely new approach. That is the fundamental reason why I, with colleagues in Government, commissioned the report. I had no discussion with Fujitsu about how it should go about the work; as Mr Turnbull has said, it was entirely independent, and the fundamental conclusion is that the system is sound but a lot of remediation work is required.

As cabinet secretary, what do I do about that? I do not go to a plan B when none is required, because independent experts have said that the system is fundamentally sound; I deal with the remediation, which is what we are doing in any event. Therefore, this report, which is essentially of a technical nature, has been useful in helping us identify further areas that we need to focus on, so I think that it represents value for money.

Were we to stay in CAP—and I hope that we will stay in the EU—the system, which provides us with a digitised map of the Scotland agricultural landholdings that can be used for many years to come, would prove to be, as it was intended to be, an investment in the administration of rural payments, not just until April 2019—the Brexit date that the UK Government wishes for—but for many years thereafter. That was the basis on which the investment in the IT system was made.

**The Convener:** I know that Jamie Greene does not feel that he has had a satisfactory answer, but I want very briefly to bring in Rhoda Grant and Gail Ross. Rhoda, please ask a very short question.

**Rhoda Grant:** I have cut it down as short as it can be.

We have been told that the system is not resilient or reliable, and that a reason for that is that the coding of the original system was not mapped, so people are making changes on top of coding that they are totally unaware of. Is it possible to go back and map the original coding, so that everyone knows what is in the system? If

not, can we ever guarantee that the system will be resilient and reliable?

**Fergus Ewing:** Eddie Turnbull will comment on the coding.

**The Convener:** Please be as brief as possible, Eddie. I would appreciate that.

**Eddie Turnbull:** I assure Rhoda Grant that that is the root cause analysis that we are doing around the code. The proposed approach is that as we bring in each new release, we will go right down to the detail of the code that supports it. We will document that and ensure that the system is resilient and constructed in a way that serves future needs.

We will prioritise the areas of code that we need to look at. Some code is used very infrequently, and some of the rule sets are highly complicated and are fundamental to how the platform makes decisions about claims. We will focus on the priority areas; in fact, work on that has been going on since the report arrived in the office.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** The executive summary is commercially sensitive, and this morning's meeting has demonstrated the difficulties of not being allowed to quote, with people selectively quoting and giving their own opinions of what is in the summary. Eddie Turnbull said that the report is in draft form, but when will it be made public?

**Eddie Turnbull:** We have to work with the supplier, as I said earlier. You will recall that we got the detailed response from the supplier only last night, and I need to consider it with them. My intention is to do that work as a priority, and we will be in a position to share the findings more fully after we have had that discussion. I do not want to put an absolute timescale on that, because much depends on where the discussions take us.

**Fergus Ewing:** I appreciate that this is frustrating for members. I want to make it clear that it was my decision that the committee be provided with the executive summary today. I decided on that precisely because I felt that, if I did not do so, I could be accused, perhaps with some fairness, of withholding information from the committee at a sensitive time. It was my decision, which was fully explained to Mr Thorn at the meeting a couple of weeks ago, that sharing the information with the committee was the right thing to do, because I never want to stand accused of withholding information from the Scottish Parliament.

**The Convener:** Thank you. That concludes our questions on the executive summary. We move on to payments, and the first question on that comes from Rhoda Grant.

**Rhoda Grant:** You talked about payments under the previous topic, but what payments have been made under basic payments, rural priorities, land managers, LFASS and other pillar 2 schemes? How much of that has been loans, how much has been substantive and how much remains unpaid for 2015?

**Fergus Ewing:** Obviously, those are all absolutely fair questions. It is extremely important that we provide that information to the committee on a weekly basis, and we are making progress on payments, particularly the pillar 1 payments for 2016.

I think that Annabel Turpie has the detail to hand. Perhaps she can try to answer as many of the several questions as possible, which might take some time.

**Annabel Turpie:** On the rural priorities and land managers options payments schemes, we have 67 claims left to pay for 2015. We have paid out £25.8 million, with 98 per cent of claims being paid. If I put that into numbers, we have paid 3,438 of the estimated 3,505 eligible claims. For land managers options, we have made 2,668 payments out of an estimated eligible—

**Rhoda Grant:** Can I ask for just the amounts in monetary terms?

**Annabel Turpie:** Of course.

**Rhoda Grant:** Also, how much is in loans, how much is substantive and how much remains unpaid?

**Annabel Turpie:** Okay—apologies.

**Rhoda Grant:** No, it is okay.

**Annabel Turpie:** The figure for rural priorities is £25.81 million, and that is substantive. On the land managers options scheme, I think that the figure that I have here has a decimal point in the wrong place. It says that we have paid out £1.16 million, but I know that that is not correct. If you will forgive me, I will provide you with the correct figure. Apologies for that.

On the less favoured area support scheme, we have paid out £52.9 million, and that is substantive. On the loans, we have paid out £54 million for 2015.

**Rhoda Grant:** That is on LFASS.

**Annabel Turpie:** Yes.

**Rhoda Grant:** Did you say £54 million?

**Annabel Turpie:** £54 million in loans and £52.9 million paid out.

**Rhoda Grant:** So half of it has been paid out. Has anybody received nothing at all?

**Annabel Turpie:** Sorry—£54 million has been paid out in total in LFASS loans and £52.9 million has been paid out in substantive payments.

**Rhoda Grant:** Of that?

**Annabel Turpie:** No—well, yes.

**The Convener:** So there is a combined total of £106 million. Is that what you are saying?

**Annabel Turpie:** No. Sorry—let me go back. LFASS is worth £65.5 million a year. We paid out £54 million in March 2015 and we have paid out substantively £52.925 million, but it is not like for like, so there are some people who have had loans but who have not had payments and there are some people who did not take up the loan offer and who have also not had payments. I believe that circa 1,000 people who did not take up the loan offer have not received payments.

**The Convener:** Sorry, but just to help the committee, I get the impression that that suggests that roughly £8 million is still outstanding.

**Annabel Turpie:** If we have paid out £52.9 million, it is £12.6 million that is outstanding.

**The Convener:** Thank you. Sorry, Rhoda.

**Rhoda Grant:** I do not want to take up too much time. Is it possible to get the figures for each of the schemes—basic payments, rural priorities and so on—in that way? In other words, how much is made up of loans, how much has been paid out in total and how much is outstanding for each scheme?

**Annabel Turpie:** I think that that information was in the most recent Public Audit and Post-legislative Scrutiny Committee update, so I hope that members have it, but I am happy to go through it now.

I have just done the less favoured area support, rural priorities and land managers options schemes. For 2015, on the BPS, greening and young farmer payments, we have paid out £343 million, which represents 99.9 per cent. On the loans that are still to come for the 2015 LFASS, I believe that we have £1 million of loans still outstanding. On beef and sheep, we have paid out £36.7 million, which is 99.9 per cent of the estimated eligible numbers.

I think, then, that I have given you the numbers for BPS, greening, beef and sheep, less favoured areas and rural priorities and land manager options.

11:00

**Rhoda Grant:** It is not clear how much money is still outstanding.

**The Convener:** Sorry, but can I—

**Rhoda Grant:** I would be happy to get it in writing later.

**Annabel Turpie:** As for loans, there is a difference between loans and total money. On BPS, greening and the young farmer scheme, we have £100,000 of payments still outstanding, but we have £1 million still outstanding in terms of loans. That will be because some people's entitlements have changed, so the amount that we have loaned them is different from the amount that they have actually received. That is normal practice.

**The Convener:** The figures have been very helpful. It would be helpful if they could be made available to the committee in writing afterwards, cabinet secretary.

**Fergus Ewing:** We have sought to provide the Public Audit and Post-legislative Scrutiny Committee with all the information on a weekly basis, so I am sure that most of this information has been provided. However, if there is more information that we have not yet provided and which members wish to see, we are happy to seek to provide it.

Annabel Turpie's point is that we regret the delay in finishing 2015 payments, but we have only 25 basic payment claims out of 18,300 still to pay. In fairness to the officials, I point out that, in every year, there are always some difficult claims that for one reason or another, be it non-compliance, non-entitlement or whatever, cannot be settled until some time after the end of the year. That is not to excuse any of the difficulties that we have encountered, but there is always a tail—a slightly bushier tail than normal this year, I am sad to say—of very difficult cases.

We are looking closely at the LFASS loan payments, which are due to go out this month, to find those 8,000 people who returned the loan documentation in the timescale that we initially sought. They will receive their payments, we trust, this month—that is precisely because we take these things seriously. We are also looking specifically to see whether there are other LFASS claimants who can receive a loan.

In other words, we are doing everything that we possibly can to ensure that all LFASS claimants—hill farmers who are, in many cases, pretty reliant on this money—are able to access this scheme. That is very important to me and I have discussed it frequently with people at this table and others. I know that Gail Ross's constituents and others are extremely dependent on this money, and it is extremely important to me that we do all we can to get the money out. I am therefore extremely pleased that the loan scheme is going ahead this month and I hope to be able to give a further

detailed statement on that in the next couple of days.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I have to admit that this whole area is new to me, as I represent an urban constituency and I am a new member of this committee. I have been trying to take it all in, and I have been listening closely to what the cabinet secretary and other members have said.

I know that the letter dated 3 May said that the functionality for the LFASS payments is still not in place. Can you explain why that is and when the functionality will be in place?

**Fergus Ewing:** I know that Annabel Turpie is dealing with this.

**Annabel Turpie:** We have been working extremely hard to address the LFASS defects. LFASS is complicated, in that it involves two systems: the rural payments and services system, which is the main single application form system; and the Scottish integrated administration and control system.

We have been clearing LFASS defects and addressing functionality. Through a dedicated team, we are addressing land changes, which is what is holding up most of the issues. Land change arises because a farmer, a crofter or a business has identified issues to us, or because of updates to our base layer through aerial photography or mapping. Such issues pretty much always apply in retrospect, so there is quite a deal of work to do to make those land changes right in the system. We have also had errors that should have triggered only on submission, but which have triggered incorrectly when we have revalidated claims. We know what the fix for those is, and that is going in this week.

Alongside that, we are still waiting for additional information from farmers. Some of that information has been asked for relatively recently as we have gone through processing, so I should make it very clear that I am not having a dig at any farmer who has not yet sent it in. There are other bits of information that we must regularly look for and get from farmers. Again, I give that as a reason and not as an excuse.

I also want to take this opportunity to apologise to farmers for not being further on with paying LFASS 2015 claims. On behalf of the people who were here for the January meeting, I reaffirm our commitment with regard to how hard we are working to clear the issue. I will not give a specific date by which we are looking to fix LFASS 2015, because the issues need a real IT focus on them. A very experienced and dedicated team is in place and will be working on that and, as soon as I have more information, I will be very happy to update the committee on that separately.

**The Convener:** We will leave that there, if we may, and move on to the next question, which is from Peter Chapman.

**Peter Chapman:** I want to ask about the 2016 basic payments scheme. The figures that we have are that something like £140 million has been paid out under that scheme out of some £380 million that needs to go out. By my reckoning, that means that less than 40 per cent of the money has been paid. That is partly because not everybody took up the offer of a loan, as we know. Since then, an additional 10 per cent of money has been going out to some claimants although, as far as I am aware, nobody has received 100 per cent of the money. What has happened to the folk who did not take up the loan? Have some of them still not received any money under the basic payments scheme?

**Fergus Ewing:** Annabel Turpie can give the committee up-to-date figures on the payment, thus far, of pillar 1 payments for 2016, and we can try to answer all the questions that might be asked.

**Annabel Turpie:** According to the weekly update that we publish and to which we send a link, 8,384 claims had been paid. We have initiated payment runs this week and expect to add approximately another 1,100, which will be confirmed this week and would take us up to 9,484. In terms of millions, I expect that figure to go to £150 million, which means that 51 per cent of people will have been paid and, as Peter Chapman has calculated, that is—just—40 per cent of the total amount received.

Last year, we did the two-instalment payment strategy, with payments of 80 per cent. We might have to do two instalments in future years as well, although our aim is to strive not to. The reason why we have done that is because there can be changes in entitlements in the course of the year and because of convergence to 2020. If we were to go to a 100 per cent rate now, that might have to be recalculated. It might take us over our ceiling—such a breach which would get us into issues with the EU—and it would mean that we might make overpayments. That is why we have made payments of 90 per cent this year, in the process that is happening now.

Claims go in and out of eligibility throughout the year but, once we have a clearer view of all the entitlements for which people will be eligible this year, we can set the 100 per cent rate and be confident that we are not making overpayments to farmers. We would not be looking to use the two-instalment strategy in the future when we have more certainty about entitlements and the convergence, but I cannot guarantee that.

**Peter Chapman:** What about the folk who did not apply for a loan? Are some of them still sitting with no money at all?

**Annabel Turpie:** Some of them will be sitting with no money at all. I do not have the information to hand to be able to give you precise numbers but, yes, some of them will be.

**Peter Chapman:** Given the rate at which you are progressing, are you confident that you will get everybody paid by the end of June? By my calculations, at the rate at which payments are coming out at the moment, you are nowhere near it.

**Annabel Turpie:** Yes, I am confident, and I want to explain why. My reason picks up on the points that Mr Turnbull made earlier. We have a detailed plan, and we are following industry best practice in all the releases of functionality, so that we know what we are doing. We have a daily plan, and Mr Turnbull and I receive reports on it. In fact, I am missing today's report meeting because I am here. We communicate that plan out to the area offices so that they are absolutely clear about what they can do and where we are still waiting for functionality, and so that we are not being inefficient in using our resources.

With the functionality that we have at the moment, we have a small number of known issues that are stopping the processing to payment of some claims. Those include applications where we have received a land change or update to the land parcel or where we have to allocate regions or maintain regions, where people have changed the shape or features of their land. Addressing those issues will move most of the remaining cases to payments. We then have specific groups of claims, such as cross-border applications, for which we have a dedicated team. There are 88 cross-border cases in Scotland, and processing has been completed for 52 of those. They are subject to absolutely rigorous checks, because the way that the system works with England and Northern Ireland means that those payments are made off system, so an extra level of checking has to be done. We also have 43 payment statements in from England and Northern Ireland, and we will be making payments on them.

We have dedicated teams in place. We anticipate starting to make balance payments by the beginning of June. Last year, we started on 22 June. We have clear processes and checks in place and we have a streamlined, efficient and safe payment strategy, which means that we can make payments right up until the end of June. We have got a lot to do. The next two months will be full on, and everyone is aware of that, but we have a plan, we have experience and resources, we have people who know the system and we have guidance on every single error that has been

made, and I feel that we are in a better position than we were in last year.

Of course, I wish that I could tell you that all the payments were done at this point in the payment cycle, but we have taken action. We have been asked specifically about what the contingency plans look like, and Elinor Mitchell can—

**The Convener:** Your passion to get the delivery done on time is evident, but Mike Rumbles has a follow-up question so, before I bring in Elinor Mitchell, I invite him to ask his question.

**Mike Rumbles:** I hear what you are saying, and it would be admirable if we can get the payments out to 95 per cent of farmers within seven weeks, so that we do not face infraction proceedings from the European Union. However, I am slightly confused by the figures in the latest information that you have given us in the weekly update, dated 5 May. The figure for payments that have been processed that week is given as 436. Is it 436 or 4,360? If you are processing only 436 a week, you are not going to make payments to 9,000 farmers.

**Annabel Turpie:** That goes back to what I said about there being a small number of known issues. Last year, there were a lot of issues with a lot of cases, whereas this year there is a small number of known issues, mainly related to land and payment regions, that are holding up the bulk of the other payments. That is what the dedicated team is working on, and it is reporting daily to Mr Turnbull, who may want to say more about that.

**The Convener:** Can I clarify something? I think that Mike Rumbles is misreading the update document. It is a track-changed document, and the 436 payments are from a previous week. The number of payments last week was zero.

**Mike Rumbles:** That is what I am alarmed by.

**The Convener:** Am I right about that?

**Annabel Turpie:** Yes.

**Elinor Mitchell:** I would like to make a number of points. First, as a matter of information, it is not infraction proceedings that we would face if we did not make 95.24 per cent of payments by the end of June. There would be issues relating to penalties. We would not be breaking the rules, but there would be a penalty issue.

I have no doubt that Eddie Turnbull will correct me if I do not get this quite right, but we have taken down the IT system for making 2016 payments during the past two weeks, because we wanted to make some further 2015 payments. We cannot run 2015 and 2016 at the same time, because of the dynamic nature of our systems, and because we have loans on the system based on 2015 and 2016, which we handle separately, as we are required to do by the law and by the

rules of the loan schemes. We therefore have to handle the loan schemes and the year schemes very differently, so we cannot run them concurrently. That is why we have not seen the flow of payments for 2016 over the past few weeks that we would have wanted.

I explained earlier the slightly different approach that we took this year. We got the functionality to make 2016 payments on 27 February—certainly at some time towards the end of February—and the team made considerable progress at a very fast rate in the five weeks that we had from then until the end of March, which was when we focused on loan recovery payments. We have paused for a while to make 2015 payments, but we will step up again next week and will continue to make payments on that basis.

11:15

Over the past few weeks and months, I have asked myself the overarching question of whether we will make it by the end of June, and Annabel Turpie gave a passionate account of what she and the team are doing to make that happen. To give more detail on that, I have asked Annabel to look at what more we can do on the manualisation of processes to ensure that we are doing absolutely everything possible in our use of the system and the staff to process payments and get them out of the door.

I have also asked Eddie Turnbull to look at alternative solutions and options for different IT environments and other areas of development, so that we can give ourselves the very best chance to meet the end of June deadline. We want to make not just 95.24 per cent of payments, but as many payments to as many farmers and crofters as we possibly can. I maintain that the system and process that we have in place will give us the best chance this year of getting over the line.

**The Convener:** Eddie Turnbull, do you want to come in on that?

**Eddie Turnbull:** To be honest, I do not think so, as Annabel Turpie and Elinor Mitchell have answered it.

**Stewart Stevenson:** A letter of 3 May says:

“We continue to work towards having the functionality to begin payments”

for Scottish suckler beef support, the Scottish upland sheep scheme, rural priorities, the land managers scheme, the beef efficiency scheme, the agri-environment climate scheme and the forestry grant scheme. I take it that that refers to the processing that has to be done in the department.

Gerald Banks held a meeting that Peter Chapman and I attended at which he said,

delightfully, that the system that the farmers interact with is all but working as they would expect it to. Is it the back-end stuff that we are now focusing on? For those particular schemes, will the IT be in place to make 2016 payments or are we still making manual interventions to make it all work properly?

**Eddie Turnbull:** You are right. The experience that we have had at the application end has been positive and SAF 17 has had very few issues at the customer end. Our issue is with the complexity at the back end and we are working our way through that. We have a plan that addresses the future payments, and we are working to finalise that plan and to ensure that any remedial action that has to be taken is taken. Our absolute priority at the moment is to remove any blockages to making the basic payments by June.

**Mike Rumbles:** In January, Annabel Turpie said:

“Payment letters went out for the beef premium, greening and young farmer schemes. However, the reductions and exclusions letter, which explains exactly what makes up the payment letter, has not gone out yet.”—  
[*Official Report, Rural Economy and Connectivity Committee, 25 January 2017; c 27.*]

How has the delay in receiving reductions and exclusions letters affected farmers? When do you expect the reductions and exclusions letters to be sent out?

**Annabel Turpie:** I feel very acutely the importance of getting the R and E letters out. As I said before, we have been working very hard on getting them out. There is a difference between the R and E system, which worked and is working correctly—the payments that were made last year were correct—and the code for the R and E letters. I am not a technical expert and I have asked why they are different, which is a question that I imagine that you would want to ask. They are different and I wanted to explain that, although the R and E letters have gone out, that does not affect the quality of the R and E assessments that were made last year. I cannot yet confirm when the R and E letters will go out, but I can confirm that the information is available online and that farmers can speak to people in the area offices about it.

On the impact on the farmers, I have looked into the issue of tax returns, which we had a conversation about earlier, and the advice that I have been given is that it is the payment amount that is necessary for tax returns. Reductions and exclusions letters give the farmers the information and kick off the formal appeal. I know that they are being pushed back and that that will affect tax, but it will do so retrospectively rather than affecting current tax returns.

I regularly try to put myself in the farmers’ shoes and I know that, if I was a farmer, I would feel frustrated and would not understand why I cannot get the letters. The experience that people had with the letters in 2015 was not good and I want to improve it, so we are working on improving the functionality. We have fewer defects and they are being fixed but there is still a bit of work to do. Therefore, at this stage, I cannot give a firm date because I do not want to give the committee and, indeed, the farmers, false certainty that it will be done by a certain date.

**Mike Rumbles:** If the information is already on the computer and the farmers can log into it somehow, I do not understand why the letters cannot go out.

**Annabel Turpie:** Can I come back to you on that, Mr Rumbles?

**Mike Rumbles:** Okay.

**Annabel Turpie:** Thank you.

**The Convener:** The next question is from John Mason.

**John Mason:** I understand that some changes were made to the environmental co-operation action fund and that the focus of the £1.8 million is now different. Why was the previous scheme withdrawn and are there any plans for further changes?

**Fergus Ewing:** Because of audit risks from the current scheme approach, Ms Cunningham and I agreed on 10 January not to award contracts. The scheme will be redesigned and then relaunched later this year. Fourteen organisations had previously been issued with approval letters for projects amounting to approximately £880,000. Applicants were informed on 26 January by telephone. They were, of course, disappointed, but they were also accepting of the situation. As originally designed, the fund could not have been taken forward. Applicant organisations were contacted to inform them of the decision and to encourage them to reapply when the scheme is relaunched.

**John Mason:** Was the scheme withdrawn because the original idea did not fit with European rules or guidance?

**Fergus Ewing:** The details were dealt with by my colleague Ms Cunningham and not myself. Perhaps my officials can answer that question.

**Elinor Mitchell:** I understand that the problems were related to audit requirements rather than policy issues. There was a concern that we would not be able to meet the stringent audit requirements and, rather than put any payment funding at risk, we decided to withdraw the scheme, reconsider it and launch it later.

**John Mason:** Thanks very much.

**The Convener:** Before we move on to the next question, considering the length of time we have spent on questioning the executive summary of the report and on the payments, we are pushed for time, and we would struggle to get through the item on smallholdings legislation. I am mindful that the cabinet secretary has other engagements, so I formally notify the committee that I am going to pull the smallholdings legislation item and make a new date with the cabinet secretary, which he has agreed to, when the committee can take the smallholdings evidence. I think that that is the best way to move forward and I thank the cabinet secretary for agreeing with my proposal to do that.

The next question is from Jamie Greene.

**Jamie Greene:** In the interests of time, I will keep it brief. Audit Scotland is due to report on the CAP futures programme in June 2017. Do the witnesses believe that the CAP futures programme has delivered value for money?

**The Convener:** Who is going to answer that one?

**Fergus Ewing:** The answer is that it was intended as an investment to administer the substantial rural payments in excess of €4 billion over the six-year period. That investment was to achieve a specific purpose and to achieve the administering of future payments under the EU. When the investment decision was taken, certainly no one in this place anticipated Brexit or thought that, despite Scotland voting to stay in the EU, we would be in a position in which the UK was saying that we must come out of the EU.

There was an investment. The system has been very problematic. The programme has delivered value for money, but of course the system is still not working as it should be working, and despite significant progress there remain significant challenges.

I hope that members have got a flavour of the officials' determination, passion, competence and attention to detail, which was exemplified by Annabel Turpie. That gives me confidence that we will be able to make progress and that, for as long as we are in the EU, the system will be a tool that we can use to administer the schemes, in conjunction with the loans tool, which we have used and will continue to use as appropriate and as required.

**The Convener:** Jamie, do you want to follow up on that? I think that you were going to ask whether the system will be fit for 2017.

**Jamie Greene:** Sorry—I was trying to keep it brief, convener. I thought that we were cutting some questions.

**The Convener:** I think that that is an important question.

**Jamie Greene:** In effect, the convener has asked the question. June 2017 is close upon us. I am concerned that we might incur penalties if we breach EU rules. Mike Rumbles talked about the scale and speed of the payments that are currently being made. How confident are you that we will not incur penalties?

**Fergus Ewing:** We are working flat out to make all payments by the end of June. I am confident that the vast majority of farmers will receive their payments by the end of June. The system is working better this year than it did last year and is more stable. It is working in a different way, because we have taken a different approach. Mr Turnbull might be better placed to talk about the changes that we have made to the IT approach.

Although Mr Greene and Mr Rumbles are correct to raise the issue, payments amounting to about half the total value have been made and we can say with reasonable confidence that the remaining processes that are being worked on, particularly regarding inspections issues, will enable us to meet the target. That is certainly the aim, and we are working flat out to achieve it. I do not know whether Elinor Mitchell wants to add anything of a technical nature. The question is important and we take it very seriously.

**Elinor Mitchell:** I talked about my confidence in relation to the deadline of the end of June. As Jamie Greene said, Audit Scotland is preparing its final report on the CAP futures programme. We are in discussion with Audit Scotland about a clearance draft of the report, and it would be inappropriate for me to comment on that—Audit Scotland will brief the committee in time.

We absolutely value the advice and support that we get from our auditors. We looked at the recommendations from previous reports, as I said the last time I gave evidence to the committee, and we have worked through them methodically. We have an action plan in place, and we have actioned almost all the recommendations. Some of them, such as those that relate to knowledge transfer, are taking a little longer. We take the issue seriously and are working through the recommendations methodically to give ourselves the best chance of meeting the deadline.

**The Convener:** Cabinet secretary, over the past couple of days, in the press, you asked farmers not to leave submitting their 2017 claims until the last moment. That is always wise advice. It would be helpful to have guidance from you and your officials on when you expect to make the 2017 payments. I think that Annabel Turpie suggested that the same 80 per cent payments would be made next year as were made this year. Will you

talk farmers through that, as they sit filling in their forms?

**Fergus Ewing:** I am sorry. I did not quite understand your question—

**The Convener:** The 2017 submissions have to be in shortly—you made that call. Farmers will want to understand when payments for the 2017 claims will be made and whether payments will be made on a percentage figure. Can you enlighten farmers on that?

**Fergus Ewing:** As I think that Annabel Goldie—*[Laughter.]* I am sorry. I am displaying my age—

**The Convener:** I am sure that that is correct; have a moment to recover.

**Fergus Ewing:** I am mixing up my Annabels. There is another one, too.

Annabel Turpie has described how, last year, we paid 80 per cent of basic payments and, this year, we paid 90 per cent. The reason for that is that we wanted to pay out as much as we could without risking overpayments. If we make an overpayment, we are obliged to ask the recipient to repay it, and we do not feel that that is sensible. We also have to take due cognisance of the law and the EU system, which is demanding. We have not yet made a decision about the percentage that will be paid next year, but it is a perfectly fair question. We hope to announce that, along with various other matters, as soon as we reasonably can.

11:30

The SAF deadline for 2017 is Monday 15 May, which I believe is a well-known deadline that you will be familiar with. It is a familiar deadline to which all the agents and farmers are working hard. Indeed, I have received reports—as you would expect—about the process of the IT that is dealing with the system. It might be useful if Elinor Mitchell could describe how that process is going at the moment, to give members confidence that it is going reasonably well.

**Elinor Mitchell:** I am pleased to report that the SAF 17 window has been available for over 98.9 per cent of the time for which it should have been up. To put that in context, it is losing only about six minutes every 24 hours for a variety of reasons, and 98.9 per cent is a good percentage of up time.

As of last night—no doubt, Annabel Turpie can update you on this morning's position—there were 9,231 applications, including 4,800 or thereabouts in draft form. We are expecting a further approximately 3,800 applications on paper, given the number of forms that we sent out on paper. That means that, from the past five days, we are expecting an additional 2,000 applications, which

seems perfectly reasonable to us. Annabel may want to give you this morning's position.

**The Convener:** I think that the committee will be happy with the percentage of payments that seem to be being made.

Cabinet secretary, when you last came to the committee you said that there would be no loan scheme after this year. Can you confirm that that is still the case?

**Fergus Ewing:** I cannot recall exactly what I said but, as I have said repeatedly in this committee, if we require to have a loan scheme to ensure that payments are made to farmers and crofters, we will wish to have such a scheme. However, we would obviously have such a scheme only if it was required.

I could look back at the *Official Report*, but I am a pragmatist who wants to get the money out to farmers and crofters, and I was pleased that the decisions that we took enabled that to happen so that the substantial payment of moneys due to farmers was made in early November. That was earlier than the money would have been paid historically so, although it was not ideal, I was told nevertheless that it was a welcome move from the point of view of many farmers. If we require to do that in the future, we will do that subject to the appropriate procedures regarding finance and Cabinet approval, which one should not presume. The Scottish Government's will to get those payments out to our farmers and crofters is iron hard, and that is what will happen. If we need a loan scheme, my advice, recommendation and approach will be to ensure that that happens.

In saying that, and in stressing that, despite the requirements of the EU financial regime, we have upped the payment from 80 to 90 per cent, I hope and expect that—going back to your previous question—we will emulate that approach and pay out 90 rather than 80 per cent in 2017. We will come back and clarify that as soon as possible.

I am acutely aware that lots of farmers want information about when payments will be made in the future, not just this year but next year. That is why I am grateful for the opportunity today to re-emphasise the Scottish Government's crystal-clear approach and determination to get the money out as quickly as we can, subject to observance of the law and process.

**Peter Chapman:** There are still bits and pieces that the system does not deliver, as we know. When do you expect the other major features to be in use? There are three that I think are not working: the land parcel information component, the customer account management component and the transfer of entitlements. The last of those is another huge issue out there.



**Fergus Ewing:** I will pass the question to Eddie Turnbull in a minute, but we do not discuss these issues as much as we discuss the main issues. Nonetheless, they are extremely important.

A few weeks ago, I visited the Oban office, which is handling entitlements, together with the Stornoway office, which I visited last summer. I must pay tribute to the great work that those offices are doing.

Elinor Mitchell referred to the manual work that is done, and a lot of the preparatory work on entitlements has been done manually. The point was made to me very clearly by the staff who are doing the work that, to ascertain entitlement in, for example, the sale of a farm or other transfer, dispositions, legal deeds, executry information, confirmation documents and so on all require to be submitted to the RPID office as evidence to provide entitlement. The entitlement process is not simply a matter of CAP and the CAP IT application; it is also a commonsense approach in which the onus is on the claimant to prove that they are the new owner or tenant—the entitled recipient. It was pointed out to me that, in some cases—I do not want to overegg this—there are also lawyer delays in the process. I am a lawyer and I am aware that it is not unknown for lawyers to cause delays. Entitlements are, therefore, a particular concern. Mr Turnbull can answer on the other two points.

**Eddie Turnbull:** The development of the land parcel information system and the account management system projects is under way. Implementation of account management will be staged, and the first stage will be the implementation of the scheme accounting and customer account management solution in the summer. There will be further implementation stages in December and March next year. Our intention is to complete that within the financial year and within the financial envelope that we have set of £178 million.

The land parcel information system has a scheduled go-live date of the turn of the year into January 2018. I should say that the land parcel information system is particularly important. A good number of the problems that we are experiencing at the moment are down to our dependency on the legacy system for land. We have a convoluted routine that takes information out of the legacy system, translates it, and puts it into the main platform for claims and payments. I see the LPIS as being very much on the critical path and it will bring improvements.

**Annabel Turpie:** I just want to finish off the issue of transfer of entitlements.

**The Convener:** Can you also bring in customer accounts?

**Eddie Turnbull:** I am sorry if I was not explicit enough. The customer account system will be put in place in three parts. We have a release planned for the summer of this year. There will be a second release in December that is scheduled to align with starting payments for the SAF 2017 round. There will be a further release around the reconciliation of that, which goes into March next year.

**Peter Chapman:** Have you any more on entitlements?

**Annabel Turpie:** The transfer of entitlements will be within this payment period, so it will be in and working by the end of May. We have taken the operational decision to run the entitlements transfer unit out of Stornoway, but it now includes dedicated staff from Oban and Benbecula. We have moved staff around the country to backfill from offices that have had more straightforward claims and are further ahead. We take operational decisions all the time.

The unit is working the cases through on the system and the staff are doing the transfer of entitlements by hand so that, when the functionality is in, that will take them through to payment.

I will give you some numbers. We received 485 applications for transfer of entitlements, 10 of which were rejected because they were late, 19 of which were withdrawn, and 58 of which were rejected, so we have 398 eligible applications.

As of yesterday at 09.05, there are 370 approved cases, of which 350 have letters of comfort and have therefore been offered loan top-ups. We are still waiting for information from 48, and we are in the process of writing to the 48 to give them a final 10 days—we have been in communication with them for months, looking for information, but everybody is busy. I understand that people are frustrated because they have not got what they considered to be theirs; I am not trying to say anything other than that we absolutely are working on this; we have taken decisions and this will be the functionality that is in place going forward.

**Peter Chapman:** Thank you.

**John Mason:** I think that Audit Scotland has audited the Scottish European agriculture fund accounts. I think that, in the past, the cabinet secretary has written to the committee to summarise reports and say when they will be available, but I am not sure that we have heard anything about that report. Can you give us an update on it?

**Fergus Ewing:** I am very sorry—I did not quite hear the whole question. Perhaps Elinor Mitchell can respond.

**John Mason:** I was saying that we had expected to receive information on Audit Scotland's report on the European agriculture fund by now.

**Elinor Mitchell:** I thought that we had included information on that, if you are talking about the Audit Scotland report on the certifying audit.

**The Convener:** I think so.

**John Mason:** We can come back to that.

**Elinor Mitchell:** I am certain that we gave an update on that in our letter of 3 May to the PAPLS Committee, which was copied to the REC Committee. A number of issues were raised in the audit. As I said, the accounts were not qualified, but the management statement was qualified in relation to some of the controls. We have put in place a working group that is looking at all the issues that were raised by the audit, to ensure that paying agency status remains for future years. A plan is being developed, which will last for the next two years. Some of the issues are quite fundamental, in terms of Eurostat controls, and are quite difficult to fix, so we have a plan in place to improve our performance over the next two years.

As I said, we do not have enough audit or finance resource in the team, so we are actively recruiting for audit resource and capacity, to ensure that we are in a better place to respond to some of the issues that have been raised.

**John Mason:** We will check whether you have sent us stuff—maybe it has not worked its way through the system.

**Elinor Mitchell:** I am more than happy to provide any and all information about the audits.

**John Mason:** But what you have sent will have some of the key points in it.

**Elinor Mitchell:** Yes.

**The Convener:** We would also like to see the recommendations. I think that you provided a useful synopsis in a paragraph, but not the recommendations.

**Elinor Mitchell:** Of course. We can provide them.

**John Finnie:** My question is not dissimilar to John Mason's. In a letter to the committee on 1 March, the cabinet secretary outlined a dozen audits on CAP payments that are due. Can you provide the committee with the reports of the audits? Will you tell us their most significant findings, what happens as a result and whether there is any expectation of penalties as a result of them?

**Elinor Mitchell:** The audit processes in relation to Europe take a long time, as I think I have said to

the committee before. There have been a number of audits, and the main area aids audit starts in June. Typically, the audit process is followed by negotiation and then discussion about the interpretation of the regulations on the part of our policy teams and the European auditors. Only after there has been agreement on that, after a number of months, do we find out the results of the audit and whether there are to be penalties or disallowed payments.

I am more than happy to provide the committee with the final reports, but it would not be appropriate to send the interim findings, because they often change between the draft and the conclusion of the process.

**John Finnie:** Are you able to comment on any expectation of fines, or is it too early to say?

**Fergus Ewing:** I think that much of the information that we have provided about audits is of a somewhat historical nature, in that it goes back to April 2014. Those are plainly not matters on which I am focusing, given that there is no particular reason for me to do so, lessons having been learned from previous reports.

As far as fines and penalties are concerned, plainly, all our efforts are designed to ensure that we perform functions using the CAP IT system so that we avoid such outcomes. It is too early to state whether we will avoid them totally.

11:45

Penalties and fines have been paid by us—certainly by the UK Government—over the years. I am sure that if the committee wants to look into the quantum of those, if it feels that it is important to get a historical picture, that would throw up some interesting statistics, particularly from down south.

However, that is in the past. My responsibility is for the here and now and for the future. Last year, I was very pleased that we improved our position in relation to the expectation of the audit report, which I well remember because it came out on the date of my appointment. It suggested that we might face fines in excess of £100 million. If there are to be fines or penalties this time, we will not suffer anything like that. However, as I think Elinor Mitchell said, such things take a long time to resolve. Audit is retrospective; it is post. Auditors come in after the books are completed. While the books are not yet completed, the project is work in progress. We are the work-in-progress team, and we will work very hard to make sure that the progress mitigates any fines as far as possible—or eliminates them.

**Elinor Mitchell:** I want to add that auditing of the new CAP is only just beginning. There is

historical information, so we will not know the results of any of the new CAP auditing until much later in 2017. As the cabinet secretary said, there is always a degree of disallowance. Even with stable IT and the policies under the old CAP, we incurred disallowances of just over 1 per cent per year. We will not know about any disallowance in relation to the current CAP until much later this year.

**John Finnie:** Thank you very much.

**The Convener:** Cabinet secretary, I have one final question, which is based on a comment that Elinor Mitchell made at our meeting in January, when she said that, by CAP 2018, you would probably be

“running the system on a normal cycle”,—[*Official Report, Rural Economy and Connectivity Committee, 25 January 2017; c 44.*]

which I think is what she said, word for word. Can you reassure farmers that that will be the case, or would Elinor Mitchell like to answer?

**Fergus Ewing:** The main thing is that we achieve what I have set out that we should achieve, which is either that payments are made at or around the time that farmers came to expect under the older, simpler regime or that we use other means of ensuring that that money gets into the rural community.

However, I will say this in response to the convener’s question: for 2018-19, I have sought confirmation from the UK Government of whether, post-Brexit, any funding will come to replace the £500 million from the EU that we have come to rely on, but I have obtained no clarity whatsoever from it.

**The Convener:** That comment is probably the best place to leave the issue for the moment. I thank the cabinet secretary and Elinor Mitchell, Annabel Turpie and Eddie Turnbull for the evidence that they have given to the committee.

I will suspend the meeting for five minutes, after which we will move on to the next subject. Before I do that, I am being reminded that I should point out, for the benefit of those who are waiting for the item on smallholdings legislation, that it has been agreed that we will take that item at another meeting.

11:48

*Meeting suspended.*

11:54

*On resuming—*

## **Subordinate Legislation**

### **Common Agricultural Policy (Direct Payments etc) (Scotland) Amendment Regulations 2017 (SSI 2017/98)**

### **Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2017 (SSI 2017/118)**

**The Convener:** I remind everyone that item 4, which would have been evidence on smallholdings legislation from the cabinet secretary, Mr Ewing, has been deferred to a later date because of the length of questioning that took place on previous items.

Item 5 is consideration of two negative instruments, as detailed on the agenda. The committee will now consider any issues that it wishes to raise in reporting to the Parliament on the instruments. Members should note that no motion to annul has been received and that there have been no representations to the committee on the instruments. Do members wish to make any comments?

**Stewart Stevenson:** I have a very brief comment on the blue badge regulations. It is very welcome that—if I understand the regulations correctly—the scheme is being extended to cover the temporary issue of blue badges, for example to people with mental health issues. I find myself to be quite instinctively in favour of that.

**The Convener:** Do members wish to make any other comments?

As members have made no other comments, can I take it that members do not wish to make any specific recommendation in relation to the instruments?

**Members indicated agreement.**

11:56

*Meeting continued in private until 12:43.*



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