



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 6 June 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 6 June 2017

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SUBORDINATE LEGISLATION.....	2
Loch Carron Urgent Marine Conservation Order 2017 (SSI 2017/158)	2
WILD ANIMALS IN TRAVELLING CIRCUSES (SCOTLAND) BILL: STAGE 1	8

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
17th Meeting 2017, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

Maurice Golden (West Scotland) (Con)

COMMITTEE MEMBERS

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Anthony Beckwith (An Evening with Lions and Tigers)
Rona Brown (Circus Guild of Great Britain)
Martin Burton (Association of Circus Proprietors of Great Britain)
David Kerr (Argyll and Bute Council)
Carol MacManus (Circus Mondao)
Dr Dorothy McKeegan (University of Glasgow)
Michael McLeod (Scottish Government)
Andrew Mitchell (City of Edinburgh Council)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 6 June 2017

[The Convener opened the meeting at 09:51]

Decision on Taking Business in Private

The Convener (Graeme Dey): Good morning and welcome to the 17th meeting in 2017 of the Environment, Climate Change and Land Reform Committee. First, I point out that the committee will observe a minute's silence at 11 o'clock this morning as a mark of respect for those who died in, and those who have been affected by the incident in London on Saturday evening. I will suspend the meeting just before 11 am, and a tannoy announcement will be made at the start and end of the silence.

I also remind everyone present to switch off mobile phones and so on because they might affect the broadcasting system. The committee has received apologies from our colleagues Maurice Golden, Kate Forbes and David Stewart.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take item 4 in private?

Members *indicated agreement.*

Subordinate Legislation

Loch Carron Urgent Marine Conservation Order 2017 (SSI 2017/158)

09:52

The Convener: Agenda item 2 is an evidence-taking session with the Scottish Government on the Loch Carron Urgent Marine Conservation Order 2017 (SSI 2017/158). I welcome to the meeting Michael McLeod, who is the head of marine conservation at the Scottish Government. Members will put a series of questions to you, and other issues might be identified as a result of those questions and your answers, which might mean that we will need to write to you for further clarification.

To begin with, can you outline the need for urgency with regard to the order? Did the Government fear that a repetition of incidents was likely?

Michael McLeod (Scottish Government): We could not rule out a repeat incident. It would be bad for the environment, the Government and the fishing industry if such a thing were to happen again; the easiest way to ensure that it cannot happen again is to put in place management measures to control activity.

The Convener: Two points arise from that response. First, there were two incidents. Was the same vessel involved in both? Secondly, what percentage of the flame shell bed has been damaged?

Michael McLeod: On your first question, we believe that it was the same vessel on both occasions. Certainly the data from the vessel monitoring system, which most vessels in the Scottish fleet have, places the vessel in the area on two different occasions.

As for your second question, we do not yet know exactly how much of the bed has been damaged. The survey work that was carried out was a mixture of dive surveys, with divers looking at the damage, and high-definition video footage that was filmed by Marine Scotland science. A considerable amount of analysis has to be done to establish how much of the bed remains and how much appears to be damaged. That work is on-going.

The Convener: Can we get a ballpark figure? Has, say, 50 per cent been damaged, or is the figure less than that?

Michael McLeod: I would not like to put a figure on the damage.

Angus MacDonald (Falkirk East) (SNP): Good morning, Mr McLeod. The policy note states that

“flame shell beds could take over 100 years to recover from just one pass of scallop dredge fishing gear.”

The marine conservation order will be in place for two years, but I presume that little recovery will take place in those two years. What are Marine Scotland’s plans once the MCO has expired? Can it be reissued?

Michael McLeod: The short answer is yes. Urgent designation of a marine protected area can last for a maximum of only two years. Between now and two years’ time, we will need to progress designation of Loch Carron as a full nature conservation MPA and put in place the necessary management measures for long-term recovery of the habitat.

Angus MacDonald: With regard to MPAs and the MCO, what would you say to critics who suggest that closing areas to dredging in the past has achieved nothing but the creation of marine deserts that are populated by starfish, and inevitable overfishing of the remaining areas? I am thinking in particular of Broad Bay in Lewis, in the Western Isles. We took evidence on it some time ago, in a previous parliamentary session, when claims were made that such areas just create sea beds full of starfish.

Michael McLeod: I have not seen evidence of a scientific survey of Broad Bay from before its closure, which I think was in 1989, and I have not seen a full survey of the area since. There has been occasional partial survey work, but it has not been for biodiversity purposes. There was a scallop-stock survey; the survey took up some starfish in its hauls and not very many scallops, but I would say that that is not enough evidence to say that closing areas turns the seabed into a marine desert.

Angus MacDonald: Just for the record, some such evidence was shared with the Environment and Rural Development Committee in a previous parliamentary session.

Claudia Beamish (South Scotland) (Lab): First, I welcome the swift designation by the Scottish Government. What information is available to the fishing industry in relation to priority marine features that are outwith MPAs in order that people can ensure that they do not intrude on to those MPAs, and how is that information distributed to the fishing industry?

Michael McLeod: There is a considerable amount of evidence relating to priority marine features on the national marine plan interactive web mapping tool, which is hosted on the Scottish Government website. One can look at data layers

for the various habitats and species that are priority marine features.

Claudia Beamish: Is the information readily available and has it been highlighted to the fishing industry through its organisations and in other ways—local community groups and so on? With the best will in the world, people still need the information in order to be able to respect the environmental concerns.

Michael McLeod: I absolutely agree with that. My team and I and our partner organisations will be thinking very carefully over the next few months about whether we are providing the right information in the right format that is easily digestible for users of the sea. We can always make improvements on how we provide that information; I think that this situation has brought that into focus.

Claudia Beamish: Thank you. That was helpful.

Mark Ruskell (Mid Scotland and Fife) (Green): My understanding is that five candidate areas were proposed as potential MPAs for flame shell reefs. Two are designated, two are not designated, and another was not designated but has, ostensibly, been destroyed and is now up for designation. What are the differences between those areas?

Michael McLeod: We currently have five marine protected areas for flame shell beds. It is true that Loch Carron was under consideration during the MPA selection process. I do not like to use the term “lost out” but it was number 6 on the list. You have to bear it in mind that the MPA network is not meant to be about protecting everything, everywhere; it is about making sure that we have a representative sample of key habitats and species represented in the network, almost like an insurance policy.

The conclusion during the application of the MPA selection guidelines was that the five sites offered sufficient representation at that time. We have to report on the status of the MPA network next year. Since we designated the MPAs, we have discovered that flame shells have a wider range than we thought in 2012, so we will have to consider next year whether we are representing that habitat in the most appropriate manner.

10:00

Mark Ruskell: If you were to run the MPA process again, would Loch Carron be proposed as an MPA site, given what you now know? Would it still be at number 6?

Michael McLeod: It is hard to say. We are learning all the time about the various habitats and species that were the MPA search features. It might be that we should have had more of some

and fewer of others. We made what we felt was the correct selection based on the best available evidence at the time.

Mark Ruskell: Have you considered a ban on scallop dredging out to 3 nautical miles?

Michael McLeod: That is a question for my sea-fisheries policy colleagues. It is not my policy area: I am sorry for being awkward, but my policy area is ensuring nature conservation, which is different.

Mark Ruskell: From a nature conservation point of view, has there been consideration of a ban on scallop dredging out to 3 nautical miles, and if not, why not?

Michael McLeod: No. Up to this point in time, we have never considered that.

Mark Ruskell: Why not?

Michael McLeod: For the past few years, my team's focus has been on delivering the MPA network and the management measures that are required to protect that network. We have not completed that work yet; it continues. The Cabinet Secretary for the Environment, Climate Change and Land Reform is committed to looking at how the most vulnerable priority marine features are managed for fisheries, so we will have to consider a range of different ways of delivering that, which might include considering a defined limit from shore.

Mark Ruskell: Are you saying that that might include a ban on scallop dredging out to 3 nautical miles, or that it might not?

Michael McLeod: We would have to consider what is required to deliver the necessary protections in the context of the national marine plan. That might be one way to do so, but there will be other ways.

Finlay Carson (Galloway and West Dumfries) (Con): I found your final answer to Mark Ruskell quite interesting. You suggested that if you were to rerun the designation of MPAs Loch Carron might not be included. However, the order that we have in front of us today suggests that we need to take emergency action to include Loch Carron. Does that suggest that this is all about the cabinet secretary bowing to public pressure because of adverse publicity about the incident across the media?

Michael McLeod: Section 3 of the Marine (Scotland) Act 2010 places a duty on ministers to act in a way that is calculated to improve best the health of the Scottish marine area as it is defined in the act. I argue that when a vulnerable habitat has been damaged we are duty bound to take action to recover that area as part of the overall drive to improve Scotland's seas.

Finlay Carson: On the back of that, we have seen wholesale illegal fishing of razorclams in some areas on the west of Scotland. If there was evidence to show that the razorclam beds were being damaged, would you bring in the same sort of order, or is it just that it is easy to see that the flame shell beds have been damaged and not so easy to see that razorclam beds are being damaged? Where is the research to back all this up?

Michael McLeod: In what context do you mean?

Finlay Carson: It is suggested that damage to flame shell reefs will take 100 years to recover. The damage was very visible and we saw compelling data and video evidence that damage was done. Do you carry out the same sort of research into what might happen in razorclam beds where the same level of damage might be being done but is not as visible?

Michael McLeod: My team does not do that, but my colleagues in sea-fisheries policy and Marine Scotland science have been doing research into the methods that are used to catch razorfish and what effect those methods have on marine life in and on the sea bed. That work continues, as you may be aware.

Alexander Burnett (Aberdeenshire West) (Con): We all understand the urgency of the order, but unlike what would normally be expected, no business and regulatory impact assessment has been carried out. Will you confirm that the assessment was not carried out because of the urgency? What plans do you have to carry one out and when will you be able to make it available?

Michael McLeod: You are absolutely right that a business and regulatory impact assessment was not carried out. When we bring forward an updated proposal to make the designation, and put in place long-term management, we will provide an impact assessment.

Alexander Burnett: Are you proposing a two-year limit?

Michael McLeod: Yes. We will bring all that together as a coherent package.

The Convener: Was there no reason to suspect that something like this would happen? The flame shell beds will have been known about for many years. When was the last incident of this nature, if there was one?

Michael McLeod: We do not know whether there have been other incidents—they could have been happening regularly. We do not always get lucky by having recreational divers who, in effect, witness the incident. We do not know whether it is happening elsewhere. There were a couple of previous incidents—in fact, they were the two

occasions when we previously used the urgent marine conservation order powers. One was south of Arran in 2014 and one was in Wester Ross in 2015, and both incidents involved maerl beds.

The Convener: I think that we have finished questions. I invite comments on the instrument from members.

Claudia Beamish: I repeat that I am pleased that there has been decisive and quick action.

The Convener: I agree absolutely.

Does the committee agree that it does not wish to make any recommendations in relation to the order?

Members indicated agreement.

The Convener: I thank Mr McLeod for attending today. We will have a short break to prepare for the next panel of witnesses.

10:08

Meeting suspended.

10:09

On resuming—

Wild Animals in Travelling Circuses (Scotland) Bill: Stage 1

The Convener: We will now take evidence from three panels on the Wild Animals in Travelling Circuses (Scotland) Bill. Our first witness is Dr Dorothy McKeegan, who is a senior lecturer at the institute of biodiversity, animal health and comparative medicine at the University of Glasgow. Good morning, Dr McKeegan. Mike Radford from the University of Aberdeen had hoped to be with us, but he was unable to attend due to family circumstances.

Members have a series of questions to put to you, Dr McKeegan. As noted previously, we may write to you about some issues that arise from the questions and answers. Emma Harper will kick off.

Emma Harper (South Scotland) (SNP): Good morning. I am interested in the ethical aspects and the welfare aspects of wild animals in circuses. The policy memorandum refers to prohibiting

“the use (performance, display or exhibition) of any wild animal (as defined in the Bill) in a travelling circus in Scotland, based on ethical grounds.”

What are your views on the proposed approach, which seeks to ban wild animals based on three ethical issues: the impact on respect for animals; the impact of travelling environments on an animal's nature; and the ethical costs versus the benefits?

Dr Dorothy McKeegan (University of Glasgow): In my view, the three arguments that are set out in the policy memorandum are valid. The first one, the impact on respect for animals, basically uses a fixed ethical rules-based ideology—an animal rights-type ideology—whereby this type of use of animals is seen as disrespectful, exploitative and so on. Of course, that argument also applies to lots of other types of use of animals, which is a bit of an issue for the argument, but the point may be that this type of use is considered to be particularly disrespectful, is perhaps anthropomorphising animals and leads young people to think that animals are there to be used as a commodity and something that we can exploit in this way.

On the second argument, which is the impact of the travelling environment on an animal's nature—telos—it is not clear to me what exact ethical framework is being used to underpin the argument. It seems to be much more of a welfare argument than an ethical one, although those two concepts cannot be fully separated in this case. The argument seems to be concerned about the consequences of using animals in these contexts,

so it is an outcome and consequence-based argument. It seems to be about the freedom to express normal behaviour and therefore raises fundamental welfare concerns about behavioural restriction, training and so on.

The third argument, which is about the ethical costs and benefits, is a very straightforward argument and, in my view, is the strongest of the three arguments. It is based on utilitarian reasoning, whereby we can argue that an action is justified if the benefits that accrue from it are bigger than the costs. I think that that case is difficult to argue in the context of animals in travelling circuses. Again, the argument can be applied in a lot of other contexts and the policy memorandum refers to experimentation on animals, for which there are obviously clear benefits, but for other uses of animals, such as racing, there are not clear benefits and entertainment is also the main context.

The three arguments are all valid. I think that the first and the third arguments are the most ethical and the most obviously based on ethical frameworks that I recognise. The argument about the ethical costs and benefits is very strong.

Emma Harper: A way in which I was trying to separate out ethics from welfare was by thinking about slavery. We have decided that it is unethical to have slaves. Just because you feed them and protect them in an environment does not make it okay—we still agree that slavery is unethical. It is difficult to tease out the issues to do with welfare. How robust is the evidence on welfare as it is defined in the Dorning review?

Dr McKeegan: The first argument—about impact on respect for animals—is not to do with welfare. It is to do with dignity and respect for animals, and those are not really to do with welfare. Animal rights groups will talk about welfare, but the fundamental basis of animal rights in an animal rights framework is to do with respect, liberty and so on, and welfare is not so important. The utilitarian reasoning requires welfare information to work out what the costs to the animals actually are, so we cannot disentangle welfare in that case. I have read the Dorning report and there has apparently been quite a lot of new evidence since the 2007 Radford report. There now seems to be a more powerful case that there are significant welfare concerns in these animal use contexts. The Dorning report concluded that all five freedoms—the five freedoms being a framework of basic animal welfare rules—are compromised or potentially compromised in those contexts. The report even concludes that these animals have a “life not worth living”, which is a strong statement. I am not sure of the evidence to support that, but I think that

there is evidence to support the compromise of all five freedoms.

10:15

Finlay Carson: I think that you have answered the questions about ethics and welfare. What are the advantages and disadvantages of the Scottish Government’s approach to welfare and ethics in the bill?

Dr McKeegan: It is a reasonable approach. The Government could have played the welfare card more strongly in its justification for the bill; it seems to have gone very much for an ethics basis for the bill—there is such a basis. I do not know whether that is because the bill documents were produced before the Dorning report was published or overlapped with it. The Dorning report, which is well written and powerful, gives a strong welfare basis for the bill.

It is important that the ethical arguments are made. When people on the street are asked about the issue, most people react morally, without having a lot of knowledge about the welfare costs and so on—I think that that was the outcome of the consultation. The comments on ethics reflect public opinion and concern.

The Convener: You referred to five freedoms. For the record, will you say what they are?

Dr McKeegan: Certainly. They are a basic checklist for animal welfare, which was developed a long time ago by the Farm Animal Welfare Council but is now used in other animal welfare contexts. They are freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; and freedom from fear and distress. The Dorning report set out ways in which those freedoms might be compromised for wild animals in travelling circuses.

The Convener: Thank you.

Mark Ruskell: I want to ask about the definitions in the bill. First, is “circus” adequately defined?

Dr McKeegan: I am not a policy maker, so I am not sure that I can comment on that. I think that the drafters have gone for a commonly understood term, which should be adequate for the purposes of courts.

Mark Ruskell: Do you foresee potential loopholes in the definition?

Dr McKeegan: I think so. There is concern about things such as mobile zoos—I know that such issues are meant to be dealt with separately, but there is definitely an overlap, depending on what is classed as a performance. There are zoos that have animal performances, too, and although

they are not covered by the bill, there is not much difference in ethical terms between such performances and performances in circuses, when we consider issues of respect for and dignity of the animals involved. There could be issues as a result of a blurring of the lines.

Mark Ruskell: What are the particular issues with, for example, static performances, mobile zoos and other types of animal performance and entertainment? Do such activities raise equivalent ethical and animal welfare issues? Do they raise different issues?

Dr McKeegan: If animals in a static environment as opposed to a travelling circus are performing tricks or being used in ways that might be perceived as disrespectful, the issues are the same. It is reasonable to assume that the potential for compromising welfare is worse in a travelling circus, because a travelling circus's capacity to improve conditions for the animals will be more limited—it will not be able to provide large and excellent enclosures for animals in the long term. That is why travelling circuses have been targeted; by their nature, they must relocate the animals regularly.

Mark Ruskell: Do you see growth in other areas in which animals are used for entertainment? We have talked about reindeer in shopping centres at Christmas, for example.

Dr McKeegan: It is difficult to generalise. Much depends on the way in which animals are used and how they respond. Some mobile zoos seem to have educational aspects, with people going into schools to show animals to children. If that is done in a positive way, that can be part of the utility that helps to even the balance in the cost benefit analysis between the cost that the animals bear and the benefits to society. Much depends on what animals are used and how they are used.

Mark Ruskell: Have you come across an education or conservation aspect to the work of circuses?

Dr McKeegan: I agree with the Dorning report that such aspects are marginal. I am not sure that anyone goes to a circus to be educated. The report highlighted the negative impacts on perception of wild animals, in that children might regard wild animals as pets or willing participants in activities, when that might not be the case—I agree with Dorning on that, too.

Mark Ruskell: Is the definition of “wild animal” in the bill adequate?

Dr McKeegan: I think so. The definition is quite broad—I believe that it refers to any animal that is not domesticated in the British isles—but I like that. People are more concerned about big cats and other large animals, and large charismatic

mammals tend to draw the public's interest more, but other smaller animals, reptiles and birds are equally capable of suffering and equally deserving of protection. As a result, I would quite like to keep the definition broad.

Mark Ruskell: Finally, what are your views on the provision in the legislation allowing wild animals to be kept and to travel in Scotland as part of a travelling circus? A distinction is being made between keeping an animal and displaying it for entertainment, but I have to say that I do not understand the difference in terms of animal welfare and ethics.

Dr McKeegan: I suppose that, because the grounds of the bill are primarily ethical, the focus is on the performing part, although the welfare of an animal could still be compromised by the travelling part. However, if you do not allow people to keep these animals, that will be at odds with other legislation that allows members of the public to do so, as long as they have a licence under the Dangerous Wild Animals Act 1976, if that is appropriate. I think that the Government is trying to avoid that inconsistency, but I agree that there are definitely potential welfare issues with animals travelling but not performing.

Mark Ruskell: Does the bill adequately capture that?

Dr McKeegan: It would be helpful if it had more of a focus on the travelling part. If the animals were kept at one location, that would be akin to the situation with someone who privately owned such animals.

Mark Ruskell: Right.

Dr McKeegan: Does that make sense?

Mark Ruskell: Yes.

Richard Lyle (Uddingston and Bellshill) (SNP): First, I refer members to my entry in the register of members' interests. I am the convener of the cross-party group on the Scottish Showmen's Guild and an honorary member of the Scottish section of the Showmen's Guild.

I want to ask you a question that I asked last week about the definition of “circus”, but you might well say that the issue does not fall within your scope. If I had, say, a wild west show that had animals in it, I would think that I would not be covered by this legislation. What do you think?

Dr McKeegan: Are you talking about a show that uses horses instead of wild animals?

Richard Lyle: No. This is the Wild Animals in Travelling Circuses (Scotland) Bill, but what if I had a wild west show? I might say, “I have a wild west show, not a circus.” What is your definition of “circus”?

Dr McKeegan: I am sorry, but I am not sure that I am equipped to answer that. However, I would suspect that, if it was a circus-type event and if people considered it to be a circus, it would be a circus.

Richard Lyle: On Sunday, I attended a very good show at Blair Drummond safari park that featured seals and so on. That sort of thing will not be covered by this legislation, because it is static, but what is your definition of “wild animal”? What if I were a trainer who had brought up and trained cubs and I said, “These are not wild animals”? What would your view be?

Dr McKeegan: I think that they would still be wild animals, because they would still have very strong inherent and instinctive behavioural, physiological and psychological needs that would have been slightly altered but not completely removed by hand rearing. Such needs are not just down to the environment that the animal is in; these are behavioural needs and expressions that are consistent across a species, regardless of how the animal has been reared. I think that those cubs would still be wild animals.

Richard Lyle: Finally, is there anything missing from the bill?

Dr McKeegan: No. Again, I am not a policy maker, but I think that it does what it is supposed to do.

Richard Lyle: Thank you.

The Convener: Going back to Mr Lyle’s point about animals that have been reared from cubs, would you still hold the same view about the fourth or fifth generation of animals that had been reared in the circus system?

Dr McKeegan: Yes, I would. The domestication of animals is not just about captive breeding and sometimes hand rearing but about the behavioural and genetic modification of the animal away from its wild progenitor. That is not going to happen with rearing generation after generation of animals in captivity. These are still wild animals.

The Convener: If you had a blank sheet of paper and were left to design a system that addressed concerns about the use of wild animals in circuses, would you have come roughly to this conclusion? In other words, are you content that this is the best way of tackling the issue?

Dr McKeegan: I think that it is—for now. However, there is an issue and a gap with regard to mobile zoos, where I think there are very close parallels in terms of ethical concerns and welfare issues. I am sure that it is too late now, but some kind of combined approach might have been more efficient. Nevertheless, as far as the specific requirements are concerned, I think that the bill is

reasonable. Again, I am not a policy maker, but that is my best understanding of it.

The Convener: I am not sure whether you are qualified to answer this question, but I will ask it anyway. Do you see any potential impact on local economies as a result of this legislation?

Dr McKeegan: I do not think that I am qualified to comment on that, although I believe that very few of these circuses visit Scotland. Obviously it will have an impact on the people involved, and that will have to be considered, but I do not think that I can comment any further.

The Convener: As members have no more questions, I thank Dr McKeegan for her time and her very useful evidence.

I suspend the meeting for a couple of minutes to change over witnesses.

10:25

Meeting suspended.

10:27

On resuming—

The Convener: We will now take evidence on the Wild Animals in Travelling Circuses (Scotland) Bill from the second of today’s panels. I welcome to the meeting David Kerr, senior animal health and welfare officer, Argyll and Bute Council; and Andrew Mitchell, regulatory services manager, City of Edinburgh Council. Emma Harper will start the questions.

Emma Harper: I am interested in the consultation process for the bill. What has been your engagement in the bill’s development?

Andrew Mitchell (City of Edinburgh Council): Not much, from my point of view. I am aware of the evidence that a Scottish Government official gave to the committee a couple of weeks ago, and I think that the Convention of Scottish Local Authorities has been involved. However, when I checked with the Society of Chief Officers of Environmental Health in Scotland and trading standards, both of which are likely to have to enforce the legislation if it comes into force, they were largely unaware of the bill.

David Kerr (Argyll and Bute Council): I am a little concerned to hear that they were largely unaware of it, because there has been input from local authorities through the Scottish animal health and welfare advisory group. I know that Helen O’Neill of COSLA brought together the consultation responses from the local authorities that responded, so there will have been some feedback from chief officers, perhaps indirectly, through the advisory group.

Andrew Mitchell: That is what I would expect, and it is merely an indication that engagement has taken place at quite a technical level. At the more senior levels of local government, which will have to resource the legislation and make policy decisions in relation to it, and certainly at my level, there is much less awareness. The issue has been around for some time, but I think that consultation has been at a very technical level.

David Kerr: I am sure that you are right.

The Convener: I call Richard Lyle.

Richard Lyle: If you will bear with me, convener, I want to tease something out. I was a councillor for 36 years and I found that councils in different authorities interpreted the rules and regulations on everything differently. Have your councils banned circuses from council land?

Andrew Mitchell: Historically, the City of Edinburgh Council tried to use the licensing provisions in the Civic Government (Scotland) Act 1982 as a way of banning circuses, but that was overturned by a court decision in the late 1980s, which still stands. The council then adopted the position of not allowing any of its land or property to be leased to anybody who uses performing animals, whether or not they are wild animals as defined in this bill. The practical effect of the council's position is that, in Edinburgh, a circus of this type can be located on only one or two private sites, which would mean approaching private landowners as opposed to the council.

10:30

Richard Lyle: Would they also need to get a licence under the 1982 act?

Andrew Mitchell: Not necessarily. I am conscious that the Scottish Parliament information centre briefing paper on the bill refers to the powers under section 41 of the 1982 act, but those powers are entirely discretionary. Section 9 of the 1982 act requires local authorities first to adopt a resolution with regard to section 41, and then to agree to include circuses or something similar within the resolution. It is therefore quite possible that different local authorities around the country might not include circuses in their resolution or could at some point choose to take circuses out of their resolution.

Richard Lyle: Mr Kerr, has Argyll and Bute Council banned circuses?

David Kerr: Historically, Argyll and Bute Council has taken very much the same line as Edinburgh on circuses. There was a sort of hiatus in that position after 1996 when some of what had been Dunbartonshire, which did not have the same policy, was added to Argyll and Bute. Until the policy of Argyll and Bute Council was realigned,

Roberts's circus operated on private ground in the area. The circus did not display performing wild animals, but it did have non-domesticated animals, which were accompanied by a rather celebrated elephant.

Richard Lyle: As I have said, I just wanted to tease out the current policy in your councils.

My question is whether the bill's provisions can be circumvented. Its title refers to wild animals in circuses. You probably heard my question to the previous witness on this matter, but if I stated that my show was a wild west show but it had wild animals in it, how would your council respond to an application for a licence for it?

Andrew Mitchell: It would require a public entertainment licence. Personally, I think that the absence of a definition of "circus" in the bill is not helpful. For those of us who might have to enforce the legislation on the ground, there is a lack of clarity about what a circus is, and that could mean our spending a tremendous amount of time and energy on ensuring that what was being presented to us met the legislative provisions. If the legislation is not clear, we will have to spend tremendous amounts of time proving to the procurator fiscal that something is a circus and trying to persuade them to take the case up.

Richard Lyle: Do you think that the bill as drafted misses a trick?

Andrew Mitchell: With regard to the aspect that we have been discussing and a couple of other matters, the provisions in the bill could be fuller in order to achieve the policy intention. For example, I cannot imagine trying to enforce the legislation without involving a vet. With what would be defined as banned animals, I would generally expect us to engage a vet, who could give evidence to a court and satisfy it that the animals involved were not normally domesticated in the United Kingdom.

The Convener: Surely that sort of thing could be covered in the guidance that accompanied the legislation.

Andrew Mitchell: Perhaps so, if the guidance had a statutory basis. When I read the bill, though, I saw no reference to guidance accompanying the legislation.

Richard Lyle: How would you define a circus? As I remember it, a circus has acrobats, horses, lions, tigers, bears—I am sorry for using that term; it makes it sound like one of these other shows—and clowns. Is that your definition of a circus?

Andrew Mitchell: That is certainly something that I can relate to and would be familiar with. However, my concern is that operators might seek to miss out a few of those elements, put the event in a different environment—say, without a

marquee—and then argue that it was not a circus. That would present a challenge for those of us enforcing the legislation.

Richard Lyle: So I could call my show “Joe Bloggs’s Wild West Show” if it had wild animals but no acrobats.

Andrew Mitchell: That is a good example of what could be a grey area and where things could be made difficult for us. As for the policy intent, that is a matter for Scottish Government officials. It strikes me, having read the bill and listened to the evidence so far, that it will perhaps not be as easy to enforce as has been suggested.

Richard Lyle: Just to finish off, Mr Kerr, you have heard the City of Edinburgh Council’s view. Does Argyll and Bute Council hold a similar view?

David Kerr: I share a lot of the concerns. All the legislation that I work under is criminal law, such as the Animal Health and Welfare (Scotland) Act 2006 and the Animal Health Act 1981, in which definitions are crucial. Anything that blurs the definitions brings in some element of reasonable doubt—or, if the person has a good defence, perhaps not particularly reasonable doubt. For us to enforce legislation effectively, we need clear definitions to help us. Given current business practices, it is very unlikely that we will be confronted with an actual circus. It appears much more likely that there will be issues with people trying to circumvent legislation or with other operations that are similar to circuses being reported to us, but we really could do with a definition that is as clear as possible.

Richard Lyle referred to a travelling show involving animals that are not normally domesticated. That would probably be covered by the definitions in the bill, but I agree with my colleague that veterinary input would be needed. I support some of Dr McKeegan’s views in that respect. All the legislation that I currently enforce is science based, which is in some ways easier to deal with than legislation that is ethics based. If there is an issue with a zoo licence, I can go to very specialist, skilled, highly respected veterinary surgeons who can support me in what I am doing. Moving things to an ethical basis could be very profitable for defence teams, because what we need when we enforce legislation is a clear definition. We tend to say that the definition is common sense and obvious, which is true, but in a court of law one has to define things to the nth degree, and that can take a lot of time.

If there is great complexity in enforcing legislation, the Procurator Fiscal Service will look askance at taking the cases, because they are very intelligent and well-educated men and women who do not want to embark on prosecutions that are likely to fail. Ladies and gentlemen, all I can

say is that the better you can define the legislation and the subject of it, the easier it will be to enforce it effectively.

Richard Lyle: Thank you, gentlemen, for confirming my original thought. We need better definitions.

Finlay Carson: On the back of that, I note for the record that you have both confirmed that the definitions of “circus” and “wild animal” could cause problems in the bill as drafted.

How do you currently cope with events at, say, an agricultural show, where there might be wild birds—for example, in falconry displays—or a show involving llamas arriving at the show ground and jumping hurdles, going through hoops or carrying things? How does the council cope with such events, which might not be strictly defined as travelling circuses?

David Kerr: Such events are primarily dealt with through public entertainment licences, usually on the environmental health side of the business. However, I see where you are going with your point. If the legislation has not been drafted well, people who have a strong interest in animal rights may elide the legislation to cover something like what you have just described. As a result, the terms will have to be defined, unless the Scottish Government decides in due course to deal with such events in the same way. You are absolutely right to highlight a blurring of the edges in that respect.

When I read some of the preliminary papers, I saw that Andrew Voas, on the veterinary side, made it clear to the committee that he felt that there should be clear differentiation in the legislation so that it does not cover that type of show. Finding out how precisely you would do that in law, though, would give your draftsmen a very busy time.

Mark Ruskell: Following on from that, are there things in the bill that should not be in it, or are there things that have been left out of its scope but which should be in it?

Andrew Mitchell: I share my colleague’s concern that, at the margins, local authorities will come under intense pressure from groups who have concerns in this area and who will seek to blur the lines and push local authorities into using the legislation to get into areas that Parliament perhaps did not intend them to get into.

A second point is that the enforcement powers are probably not the greatest. In reality, if a travelling circus turns up, we will be able to investigate and report the matter to the procurator fiscal but there is nothing to enable us to stop the circus continuing to operate in the meantime.

Powers to issue fixed-penalty notices and to require the circus to stop are missing from the bill.

Somebody gave the example of zoos displaying animals. We can clearly see that there will be an argument over whether the bill goes far enough in covering that kind of thing. My personal view is that, if the Parliament is going to regulate in this area, it would be helpful to cover it in its entirety, not just one aspect of it.

David Kerr: It would be useful if legislation on dangerous wild animals, zoo licensing and circuses contained common definitions, as that would assist the local authorities, which are the enforcing bodies for all of those things. Unfortunately, when people have strongly held and passionate views or a tendency to wish to evade the law, they look for the margins and for confusion and blurring to get a handhold.

Mark Ruskell: The Government has committed to consulting on those wider forms of animal entertainment. Do you not have confidence in that process?

David Kerr: I am sure that everyone will contribute to the best of their abilities. As we perceive it, though, the proposed legislation stands almost in isolation but its edges are blurred. For instance, I believe that, under the bill in its current form, a local authority would not have a statutory duty to enforce it. That has to be taken into account, particularly when local authorities are very short of resources and skilled specialist manpower. Let me put it like this: a local authority would be very cruel if it gave a new recruit the job of trying to take action against a travelling circus.

Andrew Mitchell: If the bill were to be passed, we would have that legislation and, failing that, the public entertainment licensing system. If that is not available, the local authority would be reliant on the Performing Animals (Regulation) Act 1925. If you are looking for a coherent approach, it is worth bearing in mind that that antiquated and out-of-date act has been scheduled for repeal for the past 10 years but is still on the statute book.

Mark Ruskell: I want to return to the definition issues around the terms “circus” and “wild animal”. There is a proposed definition that comes from the “Oxford English Dictionary”, and other definitions exist in an act from the 1970s and the 1925 act. Which definitions would you like to be used in the bill, for clarity?

David Kerr: That is not for me to decide. I should say that, with another hat on, I am chairman of the Scottish animal health and welfare panel, so I represent the ground troops of animal health and welfare in local authorities. We need something that is clearly defined so that we know that, if something is on one side of the definition, it is a circus and, if it is on the other side, it is not a

circus. It is up to more knowledgeable and legally trained minds than ours to make that definition. However, I assure the committee that, if the definition is blurred, enforcement will be shaky and blurred as well, and none of us wants that.

Mark Ruskell: Last week, a Scottish Government official said that they do not expect people “to overthink” the definition of a circus.

David Kerr: I agree with that, and it is a very fine aspiration, but I am reminded of a comment by Colin McKay, who was a sheriff in Oban and who is now Lord McKay. After a very elaborate and flamboyant defence had been put to him, he said, “Very interesting, but let us see what the law says.” Ultimately, we deal with what the law says and not with intentions or what people want to happen. If you want something to happen, you will have to write it in precisely, and then we on the ground will carry out your wishes. Intentions and what you hope will happen are not considered in a court of law; I have been in enough of them to know that.

10:45

Mark Ruskell: I am not entirely sure that I understand your point about wild animals. Is it not clear what a wild animal is because of its species? If that is the case, why would a vet need to step in to help with the definition? Either something is a domesticated species or it is not—unless, of course, you accept the argument that, over many generations, it could become domesticated.

David Kerr: I would not for a minute dispute Dr McKeegan’s expertise in that regard, but when I started out shepherding in the Cheviot hills many decades ago, farms had cattle, sheep, pigs, poultry and horses; now, they might well have camelids and ostriches—I believe that there are even crocodile farms in the south. It is an elastic definition, because what is normally domesticated can change. The most extreme example of that is in the far east, where there are Chinese-medicine tiger farms. The definition needs to be thought out, because what we have on farms nowadays has changed out of all recognition even from when I was a shepherd some years ago.

The Convener: If we agree that the aim of the bill is a goal that we want to achieve, what would be the best way to achieve it? Would it be to amend the bill to address some of your concerns, or could a different approach be taken to get us to where we want to be?

David Kerr: I believe that Dr McKeegan pointed the way. The Dorning report is very good, and I think that the emphasis should be heavily on welfare. If the approach is based on welfare, we can draw in the Animal Health and Welfare (Scotland) Act 2006, which is a highly effective

piece of legislation that offers totally different support.

I believe that the choice to use ethical reasoning is perfectly understandable, and Dr McKeegan offered a sound defence of it, but welfare is much easier for us to prove, with skilled veterinary assistance. If I were drafting the legislation, I would lean on the welfare side of things, which I think is much more to the point. Dr McKeegan is absolutely right—the five freedoms underpin all animal health and welfare legislation in the UK, and they have been taken on strongly by the Scottish Parliament, so we have a good grounding.

Andrew Mitchell: I would not disagree with what my colleague has said. In fact, I would go further: from local government's perspective, a piecemeal approach being taken is not helpful. If the Scottish Government wants to improve how we deal with performing animals across the piece by regulating or banning the practice, that should be done in one piece of legislation. It is not helpful to have some elements of the issue dealt with by a relatively modern piece of legislation and to have to fall back on—if the definition in that legislation is not met—the Performing Animals (Regulation) Act 1925, which is well past its useful purpose. My suggestion is that the subject should be looked at in its entirety.

Angus MacDonald: We know that schedule 1 to the bill makes provision for local authorities or the Scottish ministers to appoint inspectors for the purpose of enforcement. Ultimately, local authority inspectors will be accountable to their own local authorities.

You have mentioned some areas in which the bill is lacking; according to Mr Kerr, enforcement will be “blurred” and “shaky”. Do you have any further concerns about the proposed enforcement approach?

Andrew Mitchell: The definition of “circus operator” seems to be quite remote from the reality. I think that it would be helpful if the definition said that the person who is in day-to-day control of what appears to be a circus would be liable.

Generally speaking, the powers in the bill are quite different from most environmental health and trading standards powers—principally, in respect of the need to obtain a warrant. The bill says that if obtaining a warrant is not reasonable, it is possible just to carry on. Other legislation does not have that caveat.

I am particularly interested in the power to obtain records, which is one of the most important tools when it comes to proving an offence and enforcing legislation. We need to be able to ask for records from the operator to prove what animals

they have, where they have come from and what the business is. The fact that a warrant would normally have to be sought would make enforcement more difficult. I urge the committee to look at moving that power into the group of powers that officers can use if they have reasonable cause to suspect or believe that an offence has taken place.

Again, I make the point that there is no immediate power to stop such events happening, even if we detect an offence. It is entirely possible that we could investigate and report a matter to the procurator fiscal, yet the circus would continue to operate.

Angus MacDonald: Mr Kerr, do you have anything to add?

David Kerr: I fully support those remarks. Perhaps we should be looking at a full suite of enforcement powers, which is something that we have been working towards in relation to other animal welfare legislation. Fixed penalty notices are one possibility, and another is the power to serve notice, which buys time and is very effective. Environmental health officers use it routinely for dealing with situations in which we think that there is an on-going hazard or something like that.

Serving notice simplifies the legal procedure. If somebody breaches the notice, that is an offence, which means that the burden of proof is much more clearly defined. The power to serve notice would allow us to act proactively and to prevent a person from committing the offence. If somebody reported a circus that was travelling and had wild animals that could be performing, we could go to the circus and say, “That cannot happen. You can carry on with the rest of your business, but you're not doing that.” The circus could challenge that in a court, but we would have actually taken action to stop something that everybody who contributed to the bill clearly feels is wrong.

At the same time, we can stop criminalising people and take a graded enforcement approach. It is possible that a person could slip up and innocently think that they are not breaching the legislation. If we become aware of such a person operating in breach of the legislation, we would serve notice and they would comply. As my colleague said, as things stand, our only recourse currently would be to take the person to court. I do not know whether any of you have been involved in court cases recently, but the courts are heavily clogged up. Taking a case to court is not a quick process; a circus that is not based in the United Kingdom could complete its entire tour and be back on mainland Europe before the case got anywhere near a court.

The Convener: How could someone unwittingly breach the legislation? It would be pretty obvious what they were doing, would it not?

David Kerr: We may think so, but a circus operator who is not from the UK could have linguistic problems and could fail to understand the legislation. I cannot speculate as to why they would not understand it. When you deal with science and law, it is best to prove that something is wrong or can be wrong. I can see what somebody's action is, but I cannot guess what is in their mind, and it is not my business to do so, as an enforcer.

I agree that if an established UK-based circus arrived with animals that were going to perform, we would have to be very doubtful about the innocence of the person who was responsible for that, but everyone is innocent until they are proved guilty.

The Convener: The idea that someone would unwittingly breach the legislation by bringing a circus here from elsewhere in Europe when they were aware that we had legislation of this type seems to be a bit unlikely, does it not?

Richard Lyle: It seems to be unlikely, but I have met a lot of unlikely things in my time.

Angus MacDonald: Assuming that a fixed penalty is introduced when the act comes into force, there is a provision in schedule 1 for someone who commits an offence under section 1 to be liable to a maximum fine "not exceeding level 5", which is currently £5,000. Do you have any views on that maximum fine level?

David Kerr: It is appropriate in similar legislation. Would you agree, Andrew?

Andrew Mitchell: The penalty is certainly similar to what is in existing legislation. However, someone who has a large tent that holds 500 people who pay £10 a ticket will already have made that amount. In the economics of operating such things, a person could quite quickly generate more income than would be needed to pay the fine.

The Convener: Do you want the fine to be increased?

David Kerr: Like my colleague, I would prefer there to be a power to prevent the offence from being committed because the criminal courts should be the last resort.

Angus MacDonald: Bear it in mind that it could be deemed that a particular travelling circus has more than one operator.

You touched on the fact that there will be resource implications for local authorities in enforcing the legislation. For example, you have already mentioned the possibility that you may

need to engage a vet. Do you have concerns about the overall resource implications?

Andrew Mitchell: I will just make some general points. I cannot imagine enforcing the act without the involvement of a vet to give evidence. The bill comes in a context of diminishing resources for local authorities. I entirely agree with my colleague that there is no statutory duty to enforce the act on local authorities; it would be discretionary. Each local authority would have to balance existing resources against the new duty.

I will give a practical example from my environmental health teams, which ensure standards. Because no new resources come with the bill, I would probably have to take somebody away from food health and safety or from consumer protection in order to investigate a case.

Angus MacDonald: Okay. I presume that the situation would be similar in Argyll and Bute.

David Kerr: I think that it would be similar. On the face of it, on the evidence that has been presented to us in the course of developing the legislation, it is very unlikely that we will be dealing with conventional circuses; I do not think that such travelling circuses have visited Scotland in the past two years, or possibly longer. We are more likely to get problems when something that is deemed to be circus-like becomes the subject of the legislation. That would consume significant resources and time.

The Convener: Gentlemen, thank you very much for your time this morning. You have certainly provided a useful perspective on our deliberations. If we have any further questions, we will write to you.

I suspend the meeting: we will observe a minute's silence during the suspension.

10:56

Meeting suspended.

11:01

On resuming—

The Convener: Welcome back. We will now hear evidence from our third panel on the Wild Animals in Travelling Circuses (Scotland) Bill. We are joined by Anthony Beckwith, the proprietor of An Evening With Lions and Tigers; Rona Brown, the Government liaison officer for the Circus Guild of Great Britain, on behalf of Peter Jolly's circus and the European Circus Association; Martin Burton, the chairman of the Association of Circus Proprietors of Great Britain; and Carol MacManus, an animal trainer with Circus Mondao. Good morning to you all.

Emma Harper: I want to talk again about the consultation. A lot of evidence was submitted to the Scottish Government's consultation but, since it, the Welsh Government has published a study, the Dorning review, which states:

"The available scientific evidence indicates that captive wild animals in circuses and other travelling animal shows do not achieve their optimal welfare requirements, as set out under the Animal Welfare Act 2006, and the evidence would therefore support a ban on using wild animals in travelling circuses and mobile zoos on animal welfare grounds."

What are panel members' views on the rationale that the Scottish Government has set out for banning the use of wild animals, which is based on ethical rather than welfare issues? What are your views on the purpose and the policy objective of the bill?

Anthony Beckwith (An Evening with Lions and Tigers): The scientific data that is available that has involved first-hand studies of circus animals has come out to the contrary: it shows that circuses can and do provide a level of welfare that is equal to that in any other captive environment and, in some cases, is better. Stress and anxiety levels tend to be lower in circus animals due to the additional mental stimuli that are available to them.

The studies go back over the past 30 years—the most recent one was in 2011 and the earliest one was in the late 1980s—and the results have all been quite consistent. They were first-hand studies involving scientific data collection, cortisol tests to test stress levels in animals and monitoring of animals while travelling and in training. They were done across Europe, in the United Kingdom and in America and all the results have been consistent with the fact that the welfare of animals in circuses is not compromised.

The Convener: I should be clear that panel members do not have to answer every question if they do not feel that they have a locus. Rona Brown wants to come in next.

Rona Brown (Circus Guild of Great Britain): Could you indulge me and turn the sound up a bit, please?

The Convener: Absolutely. We have had difficulty with that this morning.

Rona Brown: Or if not, people could speak a bit louder.

The Convener: I think that turning up the sound will benefit us all, to be honest. Do you wish to respond to Emma Harper's question?

Rona Brown: Yes. I am concerned about what you are now calling the Dorning report but which is actually the Harris et al report. Back in 2014, it was dismissed by the British Government as a

collection of other people's views. Professor Harris then put it together again with Jo Dorning and the other lady whose name I forget; and he is now trawling it all over Europe and the circuses there, but it is having no more impact than it had back in 2014. In fact, the reason why a lot of the stuff that is quoted relates to ethics is that everyone has gone through and exhausted the animal welfare issue and cannot prove anything one way or the other.

Let us not beat around the bush: there have been and there are hiccups with animals in circuses, but the current view of most people—scientists and, I have to say, the English Government—is that there are no welfare issues concerning wild animals in circuses in the UK. That is in circuses as they stand now, not as they stood 50 or even 20 years ago. What I find unethical—if you like—is the use of things such as the Harris report and what other people are saying about the welfare or ethics being wrong. I would bet that not one of you around this table has ever been to the two circuses that are licensed, to see things for yourselves—and neither has Professor Harris or Jo Dorning. They just do not want to see the truth.

The Convener: With respect, these are all views: they have expressed a view, and you are expressing your view. The problem, though, is that they are opinions, and what we have to try to do is to get beyond them and look at the facts, as far as we can ascertain them.

Anthony Beckwith: Professor Harris's report was actually a literature review and a scientific opinion of other people's studies, as I have previously said. The authors of the original studies have joined me in launching with Bristol university a complaint against Professor Harris for research misconduct. Indeed, Professor Ted Friend of Texas university believes that his work was misrepresented by Professor Harris.

Moreover, in areas other than circuses, Professor Harris has presented some complications with regard to animal welfare issues. For example, he was the impartial witness in fox hunting cases; unfortunately, legal action was taken against him and he was proven not to be impartial but to be affiliated with animal rights groups. There is a fundamental difference between animal welfare and animal rights, and he is no longer considered an impartial witness in fox hunting or other hunting cases.

The Convener: People obviously have opinions about that particular review, but that is not what we are looking at today. I need to move things on and focus on what we are here to do.

Does anyone want to come in on the original question?

Martin Burton (Association of Circus Proprietors of Great Britain): Would you repeat the original question, please?

The Convener: Essentially, my colleague was asking for your views on the Scottish Government's rationale for banning the use of wild animals in travelling circuses in Scotland. If no one wishes to respond, I will move on.

Claudia Beamish: If I picked her up right, Rona Brown said that the current view of welfare issues in circuses is different from that highlighted in evidence. Briefly, will you point us in the direction of those current views so that we can take a careful look at them?

Rona Brown: The witnesses who can provide the main evidence of good animal welfare in travelling circuses are the veterinarians who belong to the Department for Environment, Food and Rural Affairs. The four inspectors are independent vets and inspect the licensed circuses three times a year. The circuses also need to undergo four other inspections by their own lead vet, and if he cannot do it, he has to nominate somebody else. Their reports are the evidence that there is no problem. Yes, there are hiccups—bits and pieces—and circuses receive accusations, as Jolly's did when its ankole cow died. The cow was 32 years old and had long outlived zoo ankoles, but people said that it died because of bad welfare. That is just not fair and was not true.

Claudia Beamish: Thank you. It is helpful to get that point clarified.

Richard Lyle: In case anyone missed it earlier, I refer people to my entry in the register of members' interests: I am the convener of the cross-party group on the Scottish Showmen's Guild, and an honorary member of the Showmen's Guild's Scottish section.

The panel might have heard my questions to the council officials. I was a councillor for 36 years and found that the council sometimes misinterpreted the law. What are your views on the scope of the bill? Does it make sense to you, in what it covers and does not cover? Let me put that question to Mr Beckwith first, because he has said that he thinks that his animals would not be covered by the bill.

Anthony Beckwith: Exactly. Under the definition in the bill, my show is not a circus.

Richard Lyle: What is your show?

Anthony Beckwith: It is called "An Evening with Lions and Tigers", and it is a travelling educational animal training display, which features lions and tigers. There are no clowns, acrobats, trapeze artists, ring masters or flashing lights. It is zoo-type entertainment; people wear safari outfits

and operate inside a jungle-themed tent. We talk about welfare and conservation, we do training displays with the big cats, we talk about the training methods that are used in film, television and circus, and we have questions and answers at the end. The show travels around in a big top, and there are big cats, but there is no circus involved.

The Convener: I understand that you are in the process of applying for a circus licence in England. If you are successful in securing such a licence, will not that bring you within the scope of the bill?

Anthony Beckwith: The definition in the bill is different from the Department for Environment, Food and Rural Affairs definition. There was some confusion about whether we needed a licence from DEFRA; we could not get an answer, so we opted to go with this approach. We operate in a similar way to a travelling reptile or bird of prey show. A bird of prey in a circus is covered by circus licensing, but a stand-alone bird of prey show does not come under the regulations. Given the sensitivity around our being the only people who travel the United Kingdom with big cats, we volunteered to opt into the licensing system, to create transparency and to give us a level of credibility.

The Convener: Do you get my point, though? If you secure a circus licence in England, it could be argued that you will fall within the scope of the bill.

Anthony Beckwith: It could, but that is open to interpretation. The definition that is being used for the purposes of the bill, according to Andrew Voas, is the "Oxford English Dictionary" one, which defines a circus as a variety performance featuring acrobats, clowns and animals. That is not what our show is, by any means—there is none of that. There is no variety; it is purely big cats in an animal training display. It is like a sea lion show at the zoo or a bird of prey show, but with big cats.

The Convener: I just wanted to explore the issue. I will bring in the other witnesses to respond to Richard Lyle's question.

Richard Lyle: Mr Beckwith, you said in your submission:

"there was no clear definition of what constitutes a travelling circus by the definition set out by Andrew Voas, the Scottish government's Veterinary Adviser ... our show does not fall under this definition of a travelling circus and Andrew was unable to clarify if my show would even be banned under this legislation and we may be able to tour Scotland with our big cats freely."

Anthony Beckwith: Given what my show is, I asked Andrew Voas to clarify whether it would be covered under the definition, and he responded, "I don't know."

Richard Lyle: He responded, "I don't know."

Anthony Beckwith: Yes.

Richard Lyle: Let me put a question to Rona Brown and Martin Burton. When was the last time that we had a travelling circus with wild animals in Scotland?

Martin Burton: There has not been a travelling circus with wild animals in Scotland for a very long time, which leads us to ask why the Government is bothering to do this. The circuses that come to Scotland are fairly well known; the same group of circuses comes to Scotland every summer, and none of them has wild animals.

Richard Lyle: I have seen notices for travelling circuses in Edinburgh, and there has been a circus at Hamilton racecourse in my constituency. As I remember from seeing the travelling circus when I was younger—

Martin Burton: No circuses with wild animals have visited Scotland in recent times.

11:15

Richard Lyle: Rona Brown was correct before—I have not been at a circus recently, so I apologise.

What do the circuses that now come to Scotland have in them? Are there acrobats and clowns? Is it a bit of laugh—a bit of fun?

Martin Burton: Zippos Circus has horses and sometimes dogs. Last year, it had domestic cats. All the animals are domestic animals—there are no wild animals in circuses that have visited Scotland in recent times.

Richard Lyle: I have a question that I did not get to ask the witnesses from local authorities. Would you class a llama or a reindeer as a wild animal?

Martin Burton: That is not for me to answer.

Carol MacManus (Circus Mondao): A llama is domesticated—that has been the case since 2007 or 2009, if I am correct.

Richard Lyle: What about a reindeer?

Carol MacManus: Some reindeer are domesticated and some are not. The Dangerous Wild Animals Act 1976 is very vague on that.

Richard Lyle: I will finish on this point. If someone turned up at a shopping centre or a local summer fete or show with a couple of reindeer, would that be covered under the bill? Would they be breaking the law?

Carol MacManus: I do not know.

Rona Brown: Both licensed circuses have reindeer, which are licensed to work on the circus under the regulations in England. However, during

the winter months, reindeer work as Father Christmas's reindeer in places all around their home town. We inform DEFRA about where the reindeer are going to go, how long they will be there, what their transport is and who the vet is—everything—and DEFRA comes back to us and says that it is okay. When the animals are safely back on the circus's home ground, we tell DEFRA that they are home again. That is how it works in England. DEFRA, quite rightly, did not want to kill Father Christmas.

Richard Lyle: I point out that the laws in England that cover show guilds or whatever are different in Scotland. We have the 1982 act, which does not apply in England, to cover those aspects. Am I correct in saying that?

Rona Brown: Yes.

Richard Lyle: Thank you.

Rona Brown: I was telling you what happens because I, along with Jolly's circus and the European Circus Association, feel that there should be provision for that in the Scottish bill so that circus people can take their reindeer out in Scotland. If you are intent on going for it hell-for-leather and imposing a ban, circus people should still be able to take their reindeer out at Christmas time.

The Convener: I would like to have something clarified. Martin Burton said that the two circuses that are currently based in England do not have wild animals—

Martin Burton: I did not talk about two circuses that are based in England; there are two circuses that have wild animals—

The Convener: But they do not come to Scotland.

Martin Burton: They do not turn up in Scotland.

The Convener: I am glad that you have clarified that.

Are you aware of any plans to introduce additional circuses that might come to Scotland? Are there any examples of circuses that are based in mainland Europe that could potentially come to Scotland with wild animals?

Martin Burton: I am not aware of any circuses in Great Britain that intend to come to Scotland with wild animals. Certainly, none of the members of the Association of Circus Proprietors intend to come to Scotland with wild animals. I am not aware of any circuses from mainland Europe that would come to Britain at all with any form of animal, wild or domestic.

The Convener: Okay—that is fine. I just wanted some clarification on that.

Rona Brown: The two circuses that are licensed in England would very much like to come to Scotland but they have mostly hooved stock and the distance between their home towns and Scotland is more than they are prepared to put their animals through. Since Jolly's circus went out after Christmas, the furthest it has travelled is 27 miles—they hop 10 miles, 5 miles, 21 miles and so on. To come to Scotland would mean overnights and stopping and getting a vet when they are here, and they would also have to go through the process of applying for a licence up here. That is why Jolly's circus does not come to Scotland, although it would very much like to.

Finlay Carson: This is a question for Carol MacManus about the definition of a wild animal. Do you believe that the definition is open to challenge in its interpretation given the change in behaviour and life cycle that some animals would undergo to become domesticated for their role in the circus?

Carol MacManus: Two of the animals that I have licensed are domesticated in their own countries. Only the zebra would be considered not to be domesticated, and the zebras that I had in the past were probably more domesticated than the free-range cockerel that we have in the circus, which will attack you. Both my zebras were as sweet as anything. They wandered around freely and anybody could pet them. They never showed any malice, kicked or bit in their lives. One lived to the age of 32 and the other to 26.

What is domesticated and what is wild? My cockerel is wilder than my zebras were. I searched the internet last night, and dromedary and Bactrian camels both came up as domesticated.

Finlay Carson: For the record, do you believe that there could be a legal challenge to the bill's definition of a wild animal?

Carol MacManus: Yes.

Anthony Beckwith: I might be able to help with a bit of clarification, as there seems to be a lot of confusion about what is wild and what is not.

Taxonomy is the scientific classification of all living things, and that does not change. Every animal falls into a category and, however we perceive it, that category does not change.

As Carol MacManus said, some camels are domesticated. You have to look at the animals' Latin names. There are three different species of camel, two of which are completely domesticated.

There are four classifications: wild, domesticated, semi-domesticated and feral. Every species falls into one of those categories. A species of the Asian and Indian elephants also falls into the semi-domesticated category, but an African elephant is completely wild.

Among the camels, *Camelus dromedarius* is domesticated but *Camelus ferus* is wild, and they are different species. They fall into a category. People might perceive them as being wild or use them as domesticated animals in different countries but they are globally and scientifically either wild, domesticated, feral or semi-domesticated. That cannot change.

To get down to what would be a legal definition, we would probably go to the taxonomy and whether the species is domesticated—whether or not it is perceived as being domesticated. For example, some animals that are perceived as wild in this country but are domesticated are zebu, water buffalo, yak and camels, and the semi-domesticated ones are elephants, rhea, bison and emu.

If we are going to look at what it is wild and what is domesticated, we need to look at the taxonomy rather than what people think or believe.

Claudia Beamish: I appreciate that you have expressed concern about the ban per se. Has anyone on the panel any suggestions of alternative approaches that could enable the issues that the Scottish Government is seeking to address to be tackled effectively?

Martin Burton: The interesting thing about Scotland—I speak as a man who operates circuses with domestic animals in Scotland—is that it already has the most robust regulatory regime anywhere in the UK. Scotland's public entertainment licensing is not mirrored in England or Wales, and it ensures very firmly the welfare of the domestic animals that I bring here as well as the safety of the equipment that the public will use—the seats, the tents and the infrastructure.

Given that Scotland's public entertainment licensing system is, in many respects, ahead of that in the rest of the UK, I am surprised that the Scottish Government feels the need to step into an area that a number of witnesses have told the committee is full of traps. Where will this end? Will this end with no more displays in zoos? Will it end with no more displays at agricultural shows and no more falconry displays? Will it end with no more ownership of animals?

Emma Harper mentioned slavery and emancipation. We all understand that there was a time in the history of the world when certain people were enslaved and needed to be emancipated. The question is: do animals require the same emancipation? Members must think about the issue and decide whether we give animals the same rights as human beings and emancipate them, or whether we take the view that man has dominion over the animals and that we must care for them but not necessarily enshrine their rights.

That brings us to the fundamental issue of animal welfare versus animal rights. I understand the animal rights argument to be that an animal can suffer, so it should not be kept in a field or a house and should not be owned. It can walk across the road and get run down, but it is free. I am an animal welfarist, so I think that an animal should be protected from traffic on the road and from abuse. That protection may mean that I have to keep the animal in a corral, a paddock or a stable and that it is not free. The question is: are you emancipating animals and giving them freedom but taking away from them the welfare that I believe it is our duty to give them?

Claudia Beamish: Thank you for that helpful contribution. Do you have any comment specifically on the travelling aspect? I will then go on to address other points.

Martin Burton: Rona Brown can give you better evidence on that than I can. There is no evidence that animals suffer stress while travelling in a circus any more than they do anywhere else. I will tell you what we do with our horses. Like the other circuses with animals, we do not travel vast distances—we try to keep the travel times to under eight hours. The horses will be the last thing to be loaded, the first thing off the field and the first thing unloaded, fed and watered. They have had heart rate monitors fitted while travelling and there is clearly no stress. We have also observed them when we load and unload them, and there is no stress. There is no difference between moving a horse around Scotland and moving a horse from one racetrack to another.

11:30

Claudia Beamish: What differences are there between the public entertainment licences in Scotland and those in England? You highlighted that the requirements are more rigorous in Scotland than they are in England.

Martin Burton: There is no such licence in England—that is the difference.

Claudia Beamish: I thought that there was a UK-wide licensing system.

Martin Burton: That is a completely different matter.

Claudia Beamish: Will you set out what the differences are, please?

Martin Burton: Public entertainment licensing in Scotland regulates every aspect of my bringing a circus to Scotland. In England, there is a licensing system for wild animals, which I am not part of. Carol MacManus can tell you more about that because she is part of that system.

The licensing system ensures that the animals are well cared for, and the evidence of that is clear for all to see from constant veterinary checks and reporting back that the animals are always in good condition.

Claudia Beamish: Does Carol MacManus have any comments on that? Do the panelists have suggestions for alternatives to the legislation? That was the initial question.

Carol MacManus: I have a large folder here, and it is thick with the checks that DEFRA has carried out since we started the licensing scheme in 2013. It includes the vet inspection reports from the spot checks that we get. Each year, we have four veterinary inspections by local veterinary officers—they are all lead veterinary inspectors—and three inspections by veterinary officers who are delegated by and working for DEFRA.

This is only one of the folders—each animal has its own folder. Whether or not we are travelling, we must keep a check on everything, including how much water and hay are being used. However, the only thing that has changed is the paperwork, because we were doing all that before anyway.

The Convener: Mr Beckwith, in your written evidence, you say that

“every single manoeuvre or ‘trick’ actioned by our animals is a completely natural movement that their distant wild cousins would carry out”.

I put it to you that sitting on a stool, following commands from a human being, is not what a wild animal would naturally and instinctively do.

Anthony Beckwith: You are referring to the instruction, not the action. The action of sitting up is a completely natural manoeuvre—there is nothing unnatural about that.

One of the arguments against performing animals is that the tricks that they perform are unnatural and can physically harm the animals, but every action that they perform—running, jumping, lying down, rolling over and sitting up—is a natural behaviour that would be imitated in the wild. The difference is that the trainer teaches the animal to carry out that action on command. That is what is different; the action is still natural.

Claudia Beamish: Do the two other panel members—Mr Beckwith and Ms Brown—have any comments to make about what an effective alternative to the proposed legislation might be? I appreciate that you are arguing that there should not be a ban.

Anthony Beckwith: A lot of the ethical concerns that have been raised are welfare concerns. The science and the evidence from Westminster show that the licensing system protects the animals’ welfare, which in turn

protects the ethics, because you cannot keep an animal ethically without providing good welfare and you cannot provide good welfare without good ethics; they are two sides of the same coin.

Ethics are covered in the licensing system in England, which protects both the animals and the public interest. Even if the public do not like to see animals perform because that is not to their personal taste, when a licensing system is in place they can rest safe in the knowledge that the animals are being well looked after and well protected. Those who continue to enjoy circuses—which many do—are free to attend performances, and people like me are free to continue to run our business. The licensing system is the only ethical approach to adopt.

There would be ethical concerns were a ban to be introduced. Mexico is the best example of that. There was such overwhelming suffering among circus animals when the ban was introduced there that the courts ended up overturning the ban and replacing it with the system of regulation that is now in place.

Rona Brown: We are not ethicists and we are not philosophers. However, we know right from wrong, and that is basically what it boils down to with ethics.

I want to talk about Jolly's circus for a moment, because it is about not just what the Jollies do with their animals but how they treat their family and their staff, how they work out the moves and where to go next without causing stress for the animals, how they run their lives and how they bring up their children and treat their grandchildren. All of that involves a huge circle of ethics, and inside that is how the Jollies treat their animals. I do not think that we can separate one from the other. Bad people will beat their kids and their animals—they will probably beat their wives, go to the pub and so on; they are nasty all round.

The two circuses that are licensed are both family businesses. Peter Jolly's circus has been operating for 46 years and Peter's wife, Carol, comes from a long line of circus people. Peter and Carol have four children, who all work with the circus, and the children all have little children—the older ones work in the circus in the afternoon. A roving tutor comes to the circus to teach the children although, when they are at winter quarters, the children go to the local school. The roving tutor works with the local school to make sure that they keep to the curriculum. That is all about ethics—what is right and wrong—and at the centre of all that are the Jollies' beloved animals. That is what they live for; that is what they do.

What we are all really worried about—it affects us all—is that the bill will have a domino effect. If there is a ban up here, Wales will ban. If Wales

bans, Northern Ireland will ban and then England will ban. That will be grossly unfair on the people who are doing things correctly, keeping up ethical standards and looking after their families.

It is important that the committee understands that the circuses that have wild animals in the UK are not huge affairs but small affairs. You can go with your granddad or your grandmother, with all your kids and with your aunties and uncles. There are no rude jokes, there is no bare flesh and there are no nasty remarks. It is just family entertainment where people can go and have fun.

What is wrong with entertainment? Why can we not have animals as part of entertainment if they are being looked after properly, they have been inspected and everything is right?

The Convener: I want to follow that up with Anthony Beckwith, because there was some controversy about your cats when they were wintered in Fraserburgh over the winter of 2014-15. In your submission you talk about the circumstances that led to members of the public seeing the cats. Will you talk from an ethical and animal welfare point of view about the conditions in which the cats are kept when they are winter quartered, whether in Fraserburgh or anywhere else?

Anthony Beckwith: We have just finished building brand new enclosures, so things have changed recently in Scotland. The enclosures are covered by strict regulations. Although we are not covered by a circus licence, we are covered under the Dangerous Wild Animals Act 1976, which involves vet inspections, so there must be enrichment, for example. As with a zoo enclosure, our enclosures must be diverse. We do not keep cats in a lorry on the back of a truck, as is often wrongly suggested. We have a truck that makes up a sleeping den, and there is a large built-up enclosure off it, which has platforms, a swimming pool, logs, ropes and that kind of thing. The animals have access to the indoor and outdoor areas, except in severe weather, when they are locked indoors—the same as in the zoo.

The enclosures are adaptable and portable, so that wherever we go the cats can have the full enclosure, and we always have the facility to make an enclosure bigger if required. We now have two separate enclosures—one for the lions and one for the tigers—which have all the same enrichment, including scratching poles and platforms for climbing. Those are the conditions up in Scotland, and they were checked three times by vets during our stay in Scotland, as part of the DWA licensing.

The Convener: Are the enclosures comparable in size to those at Edinburgh zoo or other such facilities?

Anthony Beckwith: It depends on the zoo. I have been to some zoos, such as the Welsh Mountain zoo, where the enclosures are a pretty similar size to ours. In general, enclosures are smaller than those in a zoo, but scientific studies show that size is not the main factor in welfare; it is more about complexity and enrichment. An animal could have a huge enclosure, but if it has no mental stimulation it will become bored and start showing stereotypical behaviours.

Because our enclosure moves all the time, the animals always have new surroundings and terrain, and because they are learning, their mental stimulation is a lot higher. They go from their enclosure into the tent, so they are always in different areas. They still have enough room to run around without hurting themselves. They can run without bashing into anything and they can chase each other, as lions often do, and they can roll around. There is plenty of room for exercise. DEFRA has set out a standard for the minimum size to meet welfare needs, and we surpass that by more than double for each animal.

Angus MacDonald: I turn to enforcement. You will all be aware of section 4, under which individuals will be held responsible when an organisation commits an offence, and you will be aware that more than one person could be deemed to be the operator. You will also be aware of the proposal to have local authority inspectors to enforce the legislation, which we covered with the previous panel. I am keen to hear your views on the proposed enforcement approach. Is the bill clear on what constitutes an offence?

Rona Brown: The bill has to be clear on what constitutes an offence. However, there should be provision whereby you do not ban all circuses in order to deal with some bad circuses. There should be provision whereby circuses are allowed to keep wild animals and travel in Scotland, and the bill should set out what would cause an offence. Therefore, it needs to be written into the bill that people can do certain things and cannot do other things, as with the UK regulations. You could add more provisions.

We helped the Welsh Government to put together its approach to mobile animal exhibits. It wanted to do some test inspections to see how those would work out, so I went to Wales to help with the paperwork. We then allowed officials to come and inspect the two circuses that are licensed. They went to Carol MacManus's Circus Mondao and to Peter Jolly's Circus. If you wish, I can send you the reports of those inspections.

It is strange: this is about how things are perceived. Part of what Andrew Voas said to the committee is about how the issue is perceived. When the Welsh first came to me and asked whether I would help them, they said that they

wanted to start with circuses because they thought that those would be the most difficult—they had heard that circus people are difficult. I agreed to arrange it all and said, "You don't have to tell us when you're coming; just tell us the night before. Whatever you want to do, just come." After they had done the inspection, we all sat down and they said that they had thought that circuses were going to be difficult and that they were going to find horrendous things that they would not like and which they had heard that circuses do. Andrew Voas talked about beating the animals and dressing them up. Who in this day and age dresses up circus animals? Nobody—it just does not happen.

The bill has to have provision on what is an offence and who commits it, but there must be a provision in it to allow, on a case-by-case basis, circuses with wild animals to travel in Scotland.

Anthony Beckwith: The bill is very unclear. For example, there are four directors involved with running my show—me, Marilyn Chipperfield, Tommy Chipperfield and Thomas Chipperfield. The animals actually belong to Thomas. If our show came to Scotland, who would be liable under the offence? Would it be me, as one of the directors, or would it be all four of us? Would it be Thomas, because he owns the animals? It is not clear.

11:45

Rona Brown: In the English licensing system, the person who owns the licence is responsible. That could be the circus operator or the person who owns the circus, or it could be delegated to a director or whoever. However, if the man or woman who owns the licence is not there on the ground when the offence is committed, it is the person in charge who has committed the offence, because they have allowed it to be committed.

Angus MacDonald: There are proposals in the bill that either individuals or organisations could be held criminally liable for an offence under the proposed legislation. Do you have a view on that?

Rona Brown: That is probably the right way to go about it. If a person is left in charge of two camels and four zebras and does not stop somebody else from beating the animals or stop some other dreadful thing happening, they should go to prison because they were in charge.

As for associations, I do not know—associations do not travel with the circuses.

Martin Burton: It is very important to remember that most circus acts, whether animal or human, are self-employed contractors. As a circus director, I do not employ any of those people and there is a good reason why I do not. I would not

tell a trapeze artist how to swing on her trapeze, because, if I did and she subsequently fell, it would be my fault. She might come to me at the start of the season and say, "This is my act. Do you want to engage it: yes or no?" If I say yes, she is responsible for her own equipment and her own act.

The same applies with animal trainers. If I were to book an animal act and the trainers subsequently abused the animals, the only recourse I would have would be to dismiss them. I would not have the opportunity to say that I was not happy with the way that the animal trainers work. I have to be careful in the first instance about whom I chose to engage but, ultimately, I cannot say, "Don't do that". I can only say, "Go away".

Angus MacDonald: So, just for clarification, in your view would it be the self-employed person and nobody else who would be criminally liable?

Martin Burton: No, that is not my view, because, as the director, I have a bigger responsibility. I am simply pointing out to you that if abuse were to happen, it would start with the trainer and the owner of the animals, not with the director.

Angus MacDonald: There is also the issue of the £5,000 maximum fine. Do you have any views on that?

Martin Burton: I laughed when the people from the local authorities seemed to think that we can happily afford that because we all have 500 seats and charge £10 for them. You would very quickly close a circus if you were to fine it £5,000 once or twice.

Anthony Beckwith: We seat 200 people and charge £8.

Martin Burton: I seat 1,000 people and charge £15, but I would still close down very quickly if you fined me £5,000.

Emma Harper: I want to go back to wild animals. You are talking about herbivores versus carnivores, and herbivores are more easily domesticated. Are we really worried about big cats because they are carnivores? Are you suggesting that they are domesticated? I have seen video evidence in which the lions seem to be a bit perturbed and unwilling to participate. If you engage in training or taming them, do you use positive or negative reinforcement to engage them in a behaviour that you want them to engage in?

Martin Burton: Anthony Beckwith is best qualified to answer your question. I have a question, though. Do you know when that video evidence was filmed? Things have changed. I was part of Mike Radford's review for the UK Government and we refused to accept video

evidence. What we often see, and what we have seen as part of the committee's process, is talk of dressing up animals, which certainly used to happen. People used to goad lions with wooden chairs, and there would be cracking of whips and the lion would smash the chair to bits. We also used to put children up chimneys to clean them. The world has moved on.

I visit circuses two or three times a week and I cannot tell you the last time I saw an animal dressed up. Forty years ago, people would put a poodle in a dress and even get it to push a pram, but that is not what happens now. We must not forget that the public pay good money to see a circus and they choose not to see that sort of thing. They choose not to see an animal act in which the animal is annoyed; nowadays, instead of a male with a ripped shirt cracking a whip at a lion, they would rather see a female cuddling and kissing the lion. I am afraid that many people do not understand, when they look at video evidence from films that were made 40 or 50 years ago, that we have moved on.

Emma Harper: I do not think that the evidence was from 40 or 50 years ago, but I accept the point that some of the evidence that might be on YouTube—

Martin Burton: The caveat is that I am talking about English training. There are still parts of the world where not everybody has moved into the 21st century.

Anthony Beckwith: As I mentioned earlier, our show is about education. It is a training display in which we demonstrate the training methods that are used. Emma Harper talked about negative and positive reinforcement. Those words are often misused. People think that negative reinforcement is something bad—for example scolding or hitting an animal—and that positive reinforcement is about praising and rewarding it, but that is not the case. In optimum conditions, positive and negative reinforcement mean the addition and removal of stimuli. Offering an animal a reward or stimulus is positive reinforcement, and taking it away is negative reinforcement.

There is also positive and negative punishment. Positive punishment would be abuse of an animal, and hitting it and scolding it, which we do not do. We use the addition and removal of praise and reward.

We have filmed all our training and it is available on our Facebook page, so you can see how it is done. No whips, chairs or pistols are involved, as there would have been in the old days. We use bamboo garden canes with bits of horse or chicken meat on the end, and the animals are encouraged to follow the sticks. They are not chased—we do not run after the animals. We get

the animals to follow us. To get a big cat to lie down, we put a stick in front of it and pull it across the floor. Just like a house cat would, it goes after the stick. We then get another stick and give it a bit of meat. It is the same when we get them to jump. It is always about encouraging the animals to follow us; there is no fear or dominance involved. It is a working relationship. As Martin Burton said, the approach is not to fight the animal or have a stand-off with it. Part of our act includes the male lion licking Thomas's face, which the lion does of his own free will. Thomas does not force the lion's jaw open and put his head in its mouth, which might have happened 60 or 70 years ago. It is very different now—it is a display of the relationship that man and animal can have, rather than a display of dominance over an animal, as it would have been a long time ago.

Alexander Burnett: I refer to my entry in the register of members' interests.

My question is for Martin Burton. You said that there have been no wild animals in circuses in Scotland in the past 12 months and only two in the previous five years. What economic impact will the bill have?

Martin Burton: As other witnesses have told the committee, the danger is that the definitions are not clear. Clearly, the economic impact on circuses with wild animals that already do not come to Scotland will be zero. However, the economic impact on animal displays in shopping centres, on hawk and wild bird displays at outdoor shows, on Santa displays that use reindeer and, eventually, on zoos will be massive. That is the direction that the legislation is going in—it will eventually close your zoos.

Rona Brown: I would like to pick up on that point. There is a gentleman who owns camels, and he is great with them—he looks after them extremely well. He travels around county shows, including shows in Scotland. He leaves home with his camels inside a big truck, pulling his living wagon behind him. He also does pig racing. His staff come along with the wagon with the pigs in it, pulling a living wagon behind them, and they have another living wagon that is pulled by a car. He travels in England from one county show to another, throughout the summer months. He gets to the show the night before it opens, because he has to sort out all his camels and make sure that everything is all right. He pulls from the side of his truck a big tent awning that is supported by posts. If the weather is bad, everything is enclosed. He takes his camels out and he ties them to the side of his lorry. He builds the pig fence, and the pigs come out and go into that area.

During the show, that gentleman does camel polo. You can play polo on a camel in a ring—the ring is obviously bigger than a circus ring. He does

pig racing in a straight line. He does camel rides in a ring, and camel racing in a straight line. He stays at one show for a couple of days, when he moves to the next one. He might stop on the way if there is a week between the shows. That is what he does during the summer months. Why is that so different from what the circuses do? How can you justify saying that that is not a circus, given that you are saying that a circus is something that uses a tent and has performances in a ring to entertain the public.

The Convener: Your analogy would be dependent on which type of camel was being used, given the evidence that we had earlier.

Rona Brown: I am sorry, but I cannot hear you.

The Convener: In terms of definition, the bill is concerned with wild animals in circuses. Going back to the earlier evidence that Mr Beckwith gave us, whether the legislation applied to those camels would depend on the type of camels that they were.

Rona Brown: He uses the same camels that the circuses use—Bactrian camels.

Anthony Beckwith: All camels in captivity are the domesticated type; there are few wild camels left. The dromedary camel is completely extinct in the wild, and there is only a small population of Bactrian camels left in the wild—it is an endangered species. There is a feral group of camels in Australia, but they are bred from domestic lines. Certainly, all the camels in captivity are domesticated.

The Convener: I recognise the point that Rona Brown is making but, according to that evidence, those camels would not be covered, because they are not wild animals.

Carol MacManus: So can I come here with my wild animals in my circus, once the bill is in force? Are my two camels wild animals?

The Convener: It would depend on the definition.

Rona Brown: Is it just the word "circus" that we have a problem with?

The Convener: No. The bill concerns wild animals in travelling circuses. My point concerns clear definitions. I understand the point that you are trying to make, but the camels that you are talking about would not be covered, because they are not wild animals.

Rona Brown: But then neither are the animals in Peter Jolly's circus or Carol MacManus's circus.

Martin Burton: The bill refers to animals that are domesticated in the UK, which does not include camels.

Anthony Beckwith: The definition of “wild animal” that I gave is the scientific definition, but the definition in the bill is an animal that is not usually domesticated in the UK. Those two definitions are completely different. There are animals that are farmed in the UK quite extensively that come under the taxonomy of “wild animal”, such as ostriches, crocodiles and so on—

Rona Brown: Wild buffalo.

Anthony Beckwith: Yes, and the American bison. There are domesticated animals that we would class as wild for the purposes of the bill but which actually are not wild, and there are other animals that are wild but which would not be covered by the definition in the bill, because they are farmed in this country quite extensively. I think that between 10,000 and 15,000 ostriches are farmed in the UK every year but they are classed as wild animals. They are not domesticated, but they are farmed in the UK.

12:00

Richard Lyle: I have two questions, the first of which is for Martin Burton. I was at Blair Drummond safari park on Sunday with my grandkids. It was excellent, apart from some showers. We went in to see a seal show. Two seals came out, performed tricks and clapped their fins to get people clapping. I have been at the penguin parade at Edinburgh zoo. Could the bill be the start of all those things being done away with because people—

Martin Burton: Well—

Richard Lyle: Let me finish, Martin.

Could it be the start of all those things being done away with because people are concerned about animal welfare? I am for animal welfare. The fact that I am the convener of the cross-party group on the Scottish Showmen’s Guild does not mean that I am on your side, guys. I am on the side of what is best for animals.

Martin Burton: I said at the outset that I am an animal welfarist, too. However, once we start banning things, particularly on ethical grounds, it will clearly spread. If it is not ethically right to have a wild animal in a circus, it is not ethically right to have a wild animal appear at a gala, at a county show, in a shopping centre or in a zoo. That is clearly and logically the only way that an ethical ban can go. You cannot choose your ethics. You will say either that it is ethical or that it is not ethical.

Richard Lyle: My last question is for Rona Brown. Over the past number of years, as the convener of the cross-party group on the Scottish Showmen’s Guild, I have come across showmen. You are not Gypsy Travellers; you have your own

ethnicity. Do you see the bill as an infringement of your ethnicity and your right to work?

Rona Brown: Yes, I do. There are several laws that would cover that, such as the right to travel under European Union law, of which it would fall foul.

Incidentally, Peter Jolly Sr is a member of the Showmen’s Guild and has been ever since he started.

The bill would be an infringement of rights, particularly for smaller circuses such as Carol MacManus’s, which is a family circus, and Martin Burton’s. It is like you are saying that it is unethical just because you can. Why ban the use of wild animals in circuses just because you can and without reason, when the circuses are not doing anything wrong? We know right from wrong. We know that it is wrong to beat animals. Why have a ban if the circuses are not doing that or leaving animals out in the cold? If they are doing those things, yes, you should say that they cannot come here and are banned. However, if they are not, it would be an infringement of the workers’ rights.

What will a family like the Jollys do? They do not outsource or buy in acts—not the aerial acts or anything. The whole family does the show; nobody gets hired in. They did outsource once, but it was only once. Everything revolves around the animals. They all take turns with training. They have a little educated pony. The children come in and the ringmaster asks how old they are. He asks their name and asks the pony how old it thinks they are. The pony goes tap, tap, tap with its hoof. That is training. The public love it. They love it when the camels come in. They absolutely love to see the fox on the back of the donkey.

Richard Lyle: Is that a domesticated fox?

Rona Brown: Foxes are indigenous to the UK, but according to DEFRA they are still wild animals and have to be licensed. There is also a macaw—a type of parrot—that talks and does things, and the Jollys also do educational talks in the zoo after the show. When the show finishes, people go out and look at how the animals live and are fed. The Jollys do not talk about elephants in Africa or Asia or whatever people talk about in Deep Sea World or Sea Life; they talk about a little zebu that they have, where it comes from, what it does, how it came to be at the circus and what its background is. The same goes for the fox, the camel and the zebras. That is what these people do. In my opinion, it would be grossly unfair to class all circuses in the same way.

The Convener: Just to wrap this up, I note that Ms Brown mentioned zebras. Given what Carol MacManus told us about her two zebras and the behaviour that they exhibited, can wild animals become domesticated over a period of time?

Carol MacManus: Why not? Three months ago, I took on a young horse. We had to castrate him because he was quite wild; I cracked my ribs unloading him, and another time he kicked someone in the face. We have never had that with our zebras. Which, then, is the wilder—the wild horse that is actually domesticated or the wild zebra that appears to be more domesticated than the horse?

The Convener: On that thoughtful note, I conclude the session by thanking the witnesses from this and our other panels. You have given us a lot of questions to take away with us, and the evidence has been very useful from our point of view. Thank you for your time.

At its next meeting on 13 June, the committee will take further evidence from stakeholders on the Wild Animals in Travelling Circuses (Scotland) Bill, as well as evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform on the draft Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017, after which we will consider motion S5M-05754.

As agreed, we move into private session. I ask that the public gallery be cleared as the public part of the meeting is closed.

12:07

Meeting continued in private until 12:55.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba