



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 27 November 2019

Session 5



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Pàrlamaid na h-Alba

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RURAL ECONOMY AND CONNECTIVITY COMMITTEE

33rd Meeting 2019, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)

*John Finnie (Highlands and Islands) (Green)

*Jamie Greene (West Scotland) (Con)

*Emma Harper (South Scotland) (SNP)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*Mike Rumbles (North East Scotland) (LD)

*Colin Smyth (South Scotland) (Lab)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maureen Falconer (Information Commissioner's Office)

Professor Julie Fitzpatrick (Moredun Research Institute)

Steven Thomson (Scotland's Rural College)

Ellen Wilson (Scottish Biodiversity Information Forum)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 27 November 2019

[The Convener opened the meeting at 10:00]

Agriculture (Retained EU Law and Data) (Scotland) Bill: Stage 1

The Convener (Edward Mountain): Good morning and welcome to the 33rd meeting in 2019 of the Rural Economy and Connectivity Committee. I remind everyone to make sure that their mobile phones are on silent.

The first agenda item is the Agriculture (Retained EU Law and Data) (Scotland) Bill. Before we go into that agenda item, I invite members to declare interests. I declare that I have an interest in a farming partnership.

Peter Chapman (North East Scotland) (Con): I declare an interest as a partner in a farming business in the north-east.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a very small registered agricultural holding, from which I derive no income.

The Convener: Thank you. This is our second evidence session on the bill. Today, we will take evidence from data and research organisations. I welcome the panellists: Maureen Falconer is the regional manager for Scotland for the Information Commissioner's Office; Steven Thomson is a senior agricultural economist and policy adviser at Scotland's Rural College; Professor Julie Fitzpatrick is the chief executive officer of the Moredun Foundation and scientific director of the Moredun Research Institute; and Ellen Wilson is chair of the Scottish biodiversity information forum.

The first question is from John Finnie.

John Finnie (Highlands and Islands) (Green): Good morning. There are quite a number of questions coming up, as ever. However, will the panel members give their initial reflections on the bill, and on whether it meets their expectations and aspirations about how we go forward?

Professor Julie Fitzpatrick (Moredun Research Institute): I think that the bill reads very well indeed. The retained European Union law is, in general, highly relevant to the Scottish position. I think that the objectives of the common agricultural policy well meet Scotland's needs, as

defined many years ago when the CAP was set up.

I think that the two acts on rural development, the three acts on direct payments and other aspects broadly fit with what Scotland will require. It is also important that we have the ability to make regional and national decisions about CAP reform, and that, too, is described well in the bill.

On data, I consider that the bill is correctly focused on the agri-food-chain aspects of agriculture, and that the regulation to compel supply, handling and processing of data is appropriate. There are different categories of data requirement: they are all-encompassing and cover many of the different areas of data requirement. I will not say much about data regulation and processing because that is not my area of expertise. The reasons for the data are clear and appropriate.

In the general provisions in the bill, I like the idea of the power to operate CAP regulation beyond 2020.

My thoughts on the bill, from a data-processing and data information perspective, are generally positive.

John Finnie: If other panel members have general comments, those would be appreciated. There are quite a number of specific questions to come, but I would like to hear your initial thoughts.

Steven Thomson (Scotland's Rural College): It is welcome that we have a bill in situ, because we need it if we are going to take agriculture forward and take payments beyond the end of 2020 when the current CAP ends. We need provision either to be able to maintain the existing regulations or to amend them as Scottish ministers and the Scottish Parliament see fit. That flexibility is important because there have always been concerns that we are overregulated. Some schemes might not be nuanced enough for the Scottish situation and, as Julie Fitzpatrick mentioned, the bill includes flexibility to ensure that we deliver policy in the right areas.

Some issues around governance remain. When the Brexit process started, I had concerns about who would act as the European Commission, the European Parliament and all the other EU institutions, because they are currently the legislators: member states have to apply to them for permission to make changes. It is important that we still have in place a check and balance. Quite a lot of it what happens will be dealt with under affirmative procedure, which is good. Ministers need the flexibility to make minor amendments without changing the nature of the legislation.

The update on data is welcome, because it explains explicitly why data is being collected and for what purposes, and it will enable the Government to share data with institutions such as ours, and to help them to analyse data in order to understand better how policy is performing and how the sector is performing. The provisions are welcome.

Maureen Falconer (Information Commissioner's Office): I suppose that everyone is looking to the ICO and asking, "Can they do this?"

The Convener: I should have said at the beginning of the session that if a question is not directed at you but you wish to speak, just indicate that and I will bring you in. If you all look away at the wrong moment because no one wishes to answer, one member of the panel will be nominated.

I am sorry for interrupting, Maureen.

Maureen Falconer: That is okay.

Under article 36(4) of the Regulation (EU) 2016/679 (General Data Protection Regulation), when draft legislation is proposed that involves the processing of personal information, policy makers are required to consult the ICO. The Scottish Government did that at the appropriate time.

The only issue about the content of the draft legislation on which I wanted to engage with the Government was the part about relying on consent for research purposes. That was not because we were going to tell it that it could not do that. Actually, as a matter of fact, it was—we wanted to suggest that it should not rely on consent, because the research that was going to be done, such as gathering information to better determine future policy, is in the legitimate interests of the policy makers. From a research perspective, consent is very difficult, because it skews results; therefore, legitimate interest is the more appropriate legal basis on which to rely.

From the regulatory perspective, the ICO had no issues with what was proposed in the bill at that time. The bill has since changed slightly, and I still have no issues. I told colleagues earlier that I was going to email to say that I did not think that you needed me to come along and speak to you, setting out the reasons why. However, the email got so convoluted that I thought that I might as well come along in person to tell you. I appreciate that data protection legislation is not the easiest legislation to get one's head around.

Ellen Wilson (Scottish Biodiversity Information Forum): I am not a policy expert, so I do not usually comment on bills. However, overall I welcome the opportunity that the bill provides to improve and simplify matters. That said, the

simplification element brings concerns about whether it would allow us to understand the impacts for biodiversity and for the sustainable development goals. That might be getting into a bit too much detail. Broadly, I welcome the opportunity that the bill brings.

Stewart Stevenson: I seek clarification on what Julie Fitzpatrick said about the CAP meeting Scotland's needs. I think that I heard some support for that in what Steven Thomson said about the support regime, but there was perhaps less support in relation to regulation. I am thinking of the three-crop rule, which dealt with a Mediterranean issue and did not suit Scotland for a second. Julie Fitzpatrick might want to say whether she was talking about support functions rather than regulations, or otherwise.

Professor Fitzpatrick: I mentioned support functions, but some of those come from the regulations, and that link is important. I am not a lawyer, but having read the bill and the supporting notes, I consider that the proposal covers that link. It allows for interpretation of Scotland-specific payments and for other regulatory issues to be covered under the bill. It is less about the regulations and more about the policy.

Stewart Stevenson: Thank you.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Good morning, panel. The consultation document "Stability and Simplicity: proposals for a rural funding transition period" asked for views on changes that might be made to schemes and policies in the transition period to a new rural policy in 2024. To what extent is the bill fit for purpose in delivering the changes that will be required for that transition period?

Steven Thomson: That is quite challenging, because a consultation is a consultation. In the consultation that you are asking about, hugely disparate views and opinions were given.

There has to be scope to amend what we are doing in terms of the policy. Pilot schemes are very important: if we are to deliver policies, we must be able to test them at small or regional pilot scale, to see whether they work.

In the bill documents, I kept reading the phrase "Less Favoured Area". That relates to legislation that has not so far been amended and which the Government wants to maintain while it considers a new scheme or delimitation for areas that face natural constraints.

The bill allows for straightforward roll-over of the legislation. Whether Parliament or society would want us to move faster, given the climate emergency and the need to take action more quickly in relation to our new net zero emissions targets, is something that the Government and

Parliament will have to consider. In the bounds of what the stability and simplicity approach is set up to achieve, I think that the bill covers that.

Maureen Watt: Would you recommend that the date be brought forward, or does it have to be 2024?

Steven Thomson: The date does not have to be 2024. That is an arbitrary date that the Government has included in the bill because, post-Brexit, it wants to provide stability and clarity that will allow farmers and land managers a degree of certainty in developing and investing in their businesses.

If we need to move faster because of other factors, such as the climate emergency, or, equally, the biodiversity emergency that we face, we might want to move the industry forward faster. Generally, farmers to whom I have spoken think that three or four years is enough of a horizon for change. They had the same concept of change during the CAP reforms of 2015, when the talk was of a five-year transition. Some farmers wanted a faster transition, so that they would far more quickly reach a point of clarity that would allow them to make decisions.

10:15

Peter Chapman: I will follow up on that. You have spoken about “a degree of certainty”. The people in the agricultural industry and the farmers to whom I have been speaking are desperate for some certainty.

According to the policy memorandum, the bill allows for pilot schemes, which you mentioned. When I questioned officials last week about what ideas they have on what those might look like, I got no answer. There seems to be no idea of what any of the pilot schemes will look like. That will be a huge problem for the industry, which is desperate for ideas about where we are headed. There is a complete vacuum that the bill does nothing to fill. I would welcome your comments on that.

Steven Thomson: The bill does not address what the concepts or the construct of the pilots would be. From my understanding, however, there has been discussion in Government about pilots. I am not party to where any of those discussions are going, but I imagine that the farming and food production future policy group is considering some things. It is meant to be making recommendations in the early or middle part of next year, so those will be progressed thereafter. Until we see what the pilots look like, we cannot really make progress.

Peter Chapman: No, we cannot.

Steven Thomson: That is the reality. The stability aspect gives some certainty in that payments to farmers will continue for a period. Of course, the bill also contains a capping element, as was mentioned in the consultation exercise. Currently, the cap is €600,000. It is suggested—according to the consultation, the figures got favourable mention, at least in their reporting—that the cap would be between £50,000 and £75,000. That would be a huge reduction for some farmers. I have always said that in setting a cap, one must be very careful not to cap the wrong people—that is, the linchpins in an agriculture or food system. Some of the biggest potential recipients are among the biggest agribusinesses. Adversely affecting them could have a knock-on effect on wider industries.

Professor Fitzpatrick: For the sake of simplicity, one of the things that we could do more quickly, in order to benefit many stakeholders, is ensure access to data that is available for research, analysis and synthesis. It is difficult to get information in a number of areas due to data protection. Sometimes, data is relatively easy to get—for example, in an emergency. Better access to some of the data that is held by farmers would be very beneficial. That could be implemented quickly, and it would go some way towards addressing Peter Chapman’s question.

At the moment, there are many discussions about pilot schemes—for example, about how we could ensure use of data in sustainable agriculture in order to measure productivity, which we need to do, animal welfare and health benefits. That data needs to be released in order that we can make that synthesis and make pilots interpretable.

There are substantial discussions about how that would fit in with CAP payments, whereby some of the moneys that might currently be under pillar 2—although I know that it will not be called that in the future—could be used flexibly to give targets to pilot schemes in order to ensure that they are appropriate for wider aspects of agriculture.

The Convener: Do you want to come in on that point, Ellen?

Ellen Wilson: I do not want to come in particularly on that point, but on the point about open data. Open data is critical; I would make data open by default. It is essential that all stakeholders can access, question, analyse and play with the information from the farmer and his neighbours—all the way through to the Government and non-governmental organisations. It is essential that policy lets us access data.

Maureen Watt: What is hindering that sharing of data? Is it GDPR?

Ellen Wilson: I think that there is poor understanding of GDPR. It is probably used in defence when it could be used as an opportunity. It should not be preventing or inhibiting data from being used for appropriate purposes. Examining environmental impacts, for example, is a recognised purpose, but GDPR gets in the way. It is very difficult to acquire data fast, openly or with fair presumptions.

Professor Fitzpatrick: Another issue concerns data that is collected for specific purposes. If we want to use that data for a different purpose, which might or might not be aligned with the original purpose, we need to get permission to do so. That is certainly the case across the animal health sector, and I imagine that the approach applies more widely.

The Convener: I see that Maureen Falconer wants to come in. In responding, can somebody say whether commerciality aspects in respect of data collection from neighbouring farms need to be considered? Perhaps Maureen can pick that up.

Maureen Falconer: I cannot speak about commerciality, but I will pick up on what has been said about use of data, including big data.

I bring to the committee's attention what is in the preamble to the GDPR—these aspects are also in the preamble to the 1995 data protection directive, from whence derived our previous regime. The former talks about data protection as the purpose of the GDPR, but people forget that it also refers to the free movement of data. It talks about protecting personal data, but one of the big purposes behind data protection legislation is to allow free movement of that data. As I said, people often get caught up in the first part of the GDPR, on protection, and forget about the second part.

In addition, people look at the articles in the GDPR but not at the recitals. We are fortunate in having the recitals in that piece of legislation because, in addition to the letter of the law as set out in the articles, they provide us with the spirit of the law. Recital 4 states that

“personal data should be”

used

“to serve mankind.”

That is what the GDPR actually says.

Again, people do not realise that the whole point of data protection is to provide a framework for safe and secure use of personal information. That includes data sharing. The legislation is set up not to be obstructive, but to provide a good framework for use of personal information.

For many years, the ICO has been trying to encourage use of open data in order that data is

freely available for people to use. It is absolutely within the legitimate interests of a Government that is making policy decisions to gather as much data as it can so that it can create evidence-based policy, which is what people want. From a data protection perspective, and from my perspective—I know that it is easy for me to say this—that is not an issue. However, it absolutely is an issue for individuals who get caught up in it.

Steven Thomson told me about the issues that he has had recently. There is a lack of understanding that relates to the myths that surround data protection, just as myths surround health and safety legislation. If people would only realise that data protection legislation is an enabler rather than an obstacle, data sharing would be so much easier.

Richard Lyle (Uddingston and Bellshill) (SNP): I return to Steven Thomson's point. If there is a vacuum in the UK Government, how can the Scottish Government or the bill team know what to do? They are not being told how much money they will get or what systems are going to be used. That is the point. Do you agree? If there is a vacuum, how can we make a plan?

The Convener: Perhaps Ellen Wilson can reply, without being overtly political in her answer.

Ellen Wilson: Actually, I would like to return to John Finnie's question. He asked whether the legislation is fit for purpose with regard to the transition from what we have now. I am not able to comment so much on the detail of the legislation, but I can come at the issue with a fresh pair of eyes from the biodiversity data angle.

I do not know whether the committee is familiar with the report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, a summary of which was published recently. The report makes it clear that, without a transformative change in these types of policies, there is no policy scenario under which we will reverse the declines in biodiversity. That is not writ large in the bill, which does not really reflect the contribution of the agricultural sector to those biodiversity declines. It does not bring to life the opportunities to respond to those declines—it could go further in that regard.

The Convener: Emma Harper has a supplementary question, and then we will move on to the next topic.

Emma Harper (South Scotland) (SNP): My question is about data. We have been trying to find out how many dairy farm workers are from European countries. Across my region and in north-east Scotland, there are many dairy farm workers from European Union countries, but we have been unable to find out which countries they are from and where they are working. That

information is directly related to Brexit and the freedom of movement of people in the future, but we cannot make policy for the future if we do not have that data in the first place. People are not asking for the names, addresses and ages of those European workers; we just want the basic figures so that we can move forward and plan our policies for the future. Is there a misunderstanding here? How can we get that data?

The Convener: When panel members answer, they should bear it in mind that farmers will be listening in order to know how many pages they will have to complete in the survey.

It is a genuine question, in the sense that a lot of data is collected. It is about how we use the correct data.

Maureen Falconer: From what Emma Harper said, I think that she is talking about aggregate data. It is not personal data; it is anonymised, so the data protection legislation does not kick in. I do not know why you are not getting the data, if that is all that you are asking for. If there is no compulsion to provide that information, it might be that people—farmers or whoever—are just not willing to take the time to provide it.

Steven Thomson: I can answer the question from a data perspective, having done the migrant labour survey, in which we used the official databases to try to work out how many European migrant workers are working in Scottish agriculture. There were no questions about which countries people come from in any of the official documentation, so we had to go back and survey them. We found that some of the bigger producers that have traditionally not been in the CAP had not been returning their census forms. The bill tries to overcome that issue by giving the Government some powers to take action against them.

As the convener pointed out, there is a challenge in that agriculture is heavily surveyed. We probably know more about the agricultural sector than we know about any other sector, because of the CAP payments. I always have concerns that, as we are dealing with commercial enterprises, some of the data might include sensitive business information. We have to take cognisance of that when we look at statistical data and data sources. Not all of the data should be open, and not all of it can be.

It is up to the individual to make a commercial decision on whether they are going to use the various tools that are in the public domain in order to help them to make decisions. Some of the data might be provided by Government or by research organisations, and there will be conditions attached to its use. We have to be careful about that.

One condition that always applies when we get access to data is about disclosure. When we gather data on farmers, we are careful, and we have to follow pretty strict procedures as to how we report that data.

The biggest concern for Government is probably that some of the data that it collects is provided by farmers on a voluntary basis. Farmers volunteer to help the industry to better understand what is happening in the industry. If we suddenly decide that the data should be open and we should know who these people are and so on, those farmers might choose—legitimately—not to provide it. In some instances, we have to take an awful lot of care with the data that we are talking about.

Stewart Stevenson: This question is for the ICO, once again. It is about anonymised data. I understand that there are some constraints to prevent anonymised data from revealing personal data. In particular, where the count of personal data in a category is five or less, the information is not disclosed. Most farms will have fewer than five people on them so, in many cases, anonymised data is not a magic bullet. I wanted to get that on the record.

Maureen Falconer: Stewart Stevenson is absolutely correct. That is more to do with statistical matters. I cannot remember the actual word—I am not a statistician—but there are rules and regulations, or understandings, around the use of statistics. Where there are small numbers in a population, someone could be identified even though only the figures are being used. For example, thinking of disability, if there is one person in a wheelchair in a small population, it is likely that people will know who that person is even if their name is not mentioned. We have to be careful and think about how the statistics might be perceived.

10:30

There is also an issue in respect of anonymised data. Some people think that, if the data that is in their hands is anonymised, it is no longer personal data, but that is not necessarily the case. When anonymous information is published and I access it from my side of the fence, it is anonymous, because I will not know who the individuals are, as long as statistical controls—that is the term that I was looking for earlier—have been applied.

However, on the other side of the fence, if I have the anonymised data and the key to unlock it and apply it to an individual, it is personal data that I have in my hands. That does not mean that I cannot publish it and use it. I can do that, but if I have the key to unlock it, there needs to be that realisation that what I have is personal data.

The Convener: We will move on to the next question. I apologise to Steven Thomson, as the previous area of questioning took quite a long time. You will probably get a chance to come in in a moment, Steven.

Mike Rumbles (North East Scotland) (LD): Good morning, panel. I am interested in making sure that the intention in the Scottish Government's policy memorandum is reflected in the bill. The policy memorandum says that the bill is intended to legislate for changes up to 2024. However, section 3(1) of the bill states:

"The Scottish Ministers may by regulations modify the main CAP legislation for the purpose of securing that the provisions of the legislation continue to operate in relation to Scotland for one or more years beyond 2020."

I raise that because section 2 gives the Scottish ministers powers to

"simplify or improve the operation of"

CAP legislation, but one person's modification of the main CAP legislation could be somebody else's improvement and major change.

I am certain that the Government's intention is to legislate to implement the future rural policy that it is working on now for 2024. However, I see a problem in the way that the bill is written. After 2021, we might have a different Government that will look at the powers provided through the bill and decide that it does not need to introduce a bill on policy for post-2024. Do you have any comments on that?

Steven Thomson: You are right about modification, in the sense that one person's improvement could be to somebody else's detriment.

I think that the terminology of improvement is used in a general sense. In my work with Brian Pack on red tape and the regulation of farming, we identified a number of possible simplifications, but we were told that we could not have them because of the EU rules—the EU would not accept them. I think that simplification in those areas would make life easier for people on the ground.

I cannot speak for the Scottish Government because I am not part of it or party to its thought processes on the issue. The "one year and thereafter" approach seems logical, given that the Government proposes to introduce a new bill. I get the point that a new Scottish Government in 2021 might not need or want to introduce a bill and that there is nothing to compel it to do so.

I think that you are asking whether the power needs to be time bound in order to force a future Government to introduce a bill, so that the power does not roll over in perpetuity. I cannot answer that.

Mike Rumbles: Do you think that we need a new bill for 2024 onwards that relates to the policy that the Government is working on at the moment?

Steven Thomson: If we do not have one, we will still be in our present path dependency and will potentially not deliver the outcomes that society, the Government, the Parliament and—probably—farmers want. We are stuck in a path-dependent agricultural policy, but we have an opportunity to break that path dependency by coming up with something slightly different. That is not to say that we could not have lots of winners and lots of losers, but we should start to focus on the outcomes that we want to achieve. I think that that is what the Government is looking to do, but I am not part of the futures group, so I cannot comment on that. We should be looking afresh for something new.

Richard Lyle: Mr Thomson has said what I believe: we need to look for something new. I said in my previous question, which was not answered, that the vacuum in the UK Government is spilling over to the Scottish Government, which does not know what we should do. We need to have a plan and to ensure that it suits everybody. As Mr Thomson rightly says, there is an opportunity to look at the issue.

The bill gives the Scottish ministers powers to modify the financial provision in the CAP legislation, for example to ensure that there is a legal basis for setting a maximum spend for agricultural support and to amend how funds are spent, who gets the funds and how much individual recipients get. What are your views on the changes that need to be made? Do you have any concerns about what Scottish ministers might or might not do? What do you recommend? I will be interested to hear your answer, Mr Thomson.

The Convener: It sounds as though that question is for you, Steven.

Steven Thomson: Have you got a week? [*Laughter.*]

The Convener: It would also be helpful to hear from other members of the panel.

Richard Lyle: I am sorry that I gave a long preamble. We do not know yet what money will be available, but the main question is about how we should spend whatever money is available. Should the jam be spread out more to reach people who did not get enough in the past? Should we try to help everybody or just a section of people? I am interested in the panel's views.

Steven Thomson: Those are challenging questions. A lot of people have mulled over where we need to go with agricultural policy. The bill's provisions are quite strong in that they allow ministers to amend—under the affirmative

procedure, I think—how much we transfer between pillar 1 and pillar 2. The provisions would allow us to change the national ceiling, which is the budgetary constraint. As Richard Lyle rightly said, we do not know what that constraint will be. The decision on what the budgetary ceiling for agriculture will be is for this Parliament to make, as well as for the United Kingdom Parliament. The Scottish Parliament has not made that decision, never mind the UK Parliament, and one has to follow the other.

On priorities and whether we should change the way in which things have been done, we need to determine the outcomes that we are trying to achieve. We are trying to achieve lots of different things through agricultural policy. When we look at the principles of the CAP that are listed, I think, in the explanatory note, we realise that we are dealing with a really broad-brush policy. We are trying to deal with biodiversity, climate change and farm and rural incomes. We are trying to achieve an awful lot. We cannot target our policy unless we better understand the outcomes and the geography of the outcomes.

Food is fundamental to agricultural policy so, at some point, we need to support food production. We need to support marginal areas where there is extensive food production, but we also need to think about trees, for example, and whatever else we are doing in relation to land management. We need to take a step back from the broad-brush approach that is being taken through non-targeted area-based payments. What are they rewarding? They are rewarding minimal activity in some areas. We need to look again at that whole process.

Richard Lyle's point about those who did not have funding highlights the path-dependent nature of agricultural policy. We always revert to saying that we do not want to have too many losers, but we often forget about the people who came in later and did not have funding in the first instance.

As an aside, I note that I gave evidence yesterday to the just transition commission, which has been set up to provide advice to the Scottish Government. I think that it will come back with recommendations on where our policy on agriculture and land management might need to go in order to accelerate things towards achieving the target for net zero emissions.

Given all the objectives that the Government is trying to achieve, we must be careful about how we target such support in the future. Our approach does not need to be the same for the whole of Scotland. We have been very critical of the EU for apparently having a one-size-fits-all policy, but that accusation is not really true. If we look at agricultural policies across Europe, we see that they are entirely different, although their bases

under the EU framework might be the same. We need to do the same thing in Scotland. What works in Lothian might not work in Shetland or the Western Isles, so we need to have the flexibility to have a more place-based or regional understanding of our policy.

Professor Fitzpatrick: I reiterate what I said at the beginning of the meeting. I like the bill because its approach is generally positive. It is good that we are aiming to retain EU laws where appropriate, but the bill allows us to refocus on Scottish issues and have the flexibility to support the appropriate sectors in Scotland. As Steven Thomson described, agricultural payments can be made in all sorts of ways, but the main point is that they have to drive beneficial changes in Scotland, which might well differ from the changes in other parts of the UK.

The payments need to be based on productivity. I am a firm believer that food production is an essential aspect of the Scottish economy, and it is also important for Scottish people to be able to eat our regional and national foods. For the first time, we have an opportunity to combine food production with sustainable metrics—for example, with food production that also addresses the target of having zero carbon by 2045. We could do that in different ways in different food production sectors such as lowland, upland, hill and moorland, and crofting. However, in order to do that, we need to develop methods of measuring sustainable production and apply them to the right areas. A considerable amount of work is being done on that. A key aspect is regional benchmarking, which involves setting out what we expect Scottish farming to do in each region.

That brings me back to data. The relevant data is there, but we need to benchmark it and use it regionally if we are to drive improvement and change. For me, the CAP repayments should be used to drive beneficial change and hold recipients to improving their management of agricultural land. We could argue that such an approach could be used in other parts of the UK, but there are specific issues in Scotland that we need to address in that way.

Richard Lyle: Basically, we should target the money towards achieving better outcomes and better food production.

Professor Fitzpatrick: Yes.

Richard Lyle: People would then have an incentive because, if they wanted a wee bit more money, they would have to do better.

Professor Fitzpatrick: Absolutely. Such incentives could be set in areas such as quality food production and animal welfare. In areas where we want to promote sustainability, they could be set in environmental schemes that

protect biodiversity and allow farming to go hand in hand with it. I could give lots of other examples in the environmental area, but the idea is that, in the various sectors, there should be targets for each person to do better than they are currently doing, for the benefit of the whole of mankind.

Ellen Wilson: I echo the comments of Steven Thomson and Professor Fitzpatrick, but I want to make a point of my own. If the division of money across the UK came down to application of the Barnett formula, that would not be great for biodiversity. Scotland holds more and richer populations of important threatened species, so it has many more of them to conserve and many more are left here than exist in other parts of the UK. It is therefore crucial that Scotland receives sufficient funding to honour the value that such species have for biodiversity, in which regard Scotland punches at a level way above those of the other UK countries.

10:45

Mike Rumbles: Steven Thomson and Julie Fitzpatrick have made it clear that they think that the bill is comprehensive legislation that could change policy. That brings me to the point that I want to make. If we give that power to a future minister, post-2021, under this primary legislation he will be able to bring forward new policy and all that the committee will be able to do is say yea or nay. We will not be able to change anything that the Scottish Government brings forward.

Earlier, I asked whether you thought that, post-2024, it will be more appropriate to have a policy bill—which the Scottish Government tells us it wants, and I support that view—so that we can get our teeth into it and improve it. Whatever colour we are, we know that all Government bills can be improved. My worry is that, if we pass this bill in its current form, the Scottish ministers will not need to bring forward a policy bill. What do you think?

The Convener: Who wants to reassure Mike Rumbles?

Steven Thomson: If the Scottish ministers wanted to make fundamental changes to the current agricultural policy, that would need to be done in the form of a new bill. They could amend how much is going in from pillar 1, but remember that we will still be bound by the EU in all of that. If we want to trade with the EU, under the terms of the withdrawal agreement—whether we agree with it or not—we will still be bound by ceilings and certain percentages that can be paid under different aspects. International trade will determine future agricultural policy needs as much as we think it should, and, until we start going down that route, we cannot design a future agricultural policy. Our trading partners will be important in

dictating or bounding what we can put into future bills.

Nevertheless, your point is clear: the question is whether, under the bill as it stands, the Scottish ministers can change materially the principles of the existing legislation enough that we would not recognise the agricultural policy. I do not think that they could do that under this bill. For example, I do not think that they could get rid of the basic payment. I am not a legal expert; the committee members know the law better than I do. However, I suggest that, if the Government were trying to make such changes, it should do that through a bill.

Mike Rumbles: You said that we could transfer funding from one pillar to another.

Steven Thomson: We can do that now under EU rules. We have been able to transfer from pillar 1 to pillar 2, and we chose to do that from 2007 onwards. We were one of the few states that made voluntary transfers from pillar 1 into pillar 2—there were also the compulsory EU transfers. That is where the measure is. If a top-up is needed in pillar 2, we would take some money out of pillar 1 and top up pillar 2, in order to have pilot schemes. That is my understanding of what ministers are trying to achieve.

The Convener: My understanding of the bill is that they could take all of the pillar 1 funding and put it into pillar 2. At the moment, there is a modulated bit that goes across. Is that your understanding or is that wrong?

Steven Thomson: As I keep saying, I ain't a legal expert.

The Convener: Okay. Maybe we need to ask the minister about that.

Steven Thomson: Maybe there needs to be a restriction on the amount that can be moved between pillars.

Professor Fitzpatrick: I understand the question but I cannot answer it, because there are complexities in the wording of the bill that need to be looked at by lawyers. We are suggesting that everything looks as if it is there; the timing and the issues of other policy bills are a matter for the Government and the lawyers. However, the principle is that we retain flexibility so that, over time, we can make adjustments as and when our farming systems change.

Jamie Greene (West Scotland) (Con): We could spend a lot of time discussing the future of the policy and what it should look like. The panel will be aware that the current UK Government has committed to the same levels of funding that exist under the CAP until 2024. However, that is obviously a financial amount; there is not necessarily a policy behind it, and there is

divergence of policy across the four nations, which have produced separate papers and which are very much looking at that issue.

Going back to what the bill is or is not, does the panel think that the intention of the bill is simply to allow the Scottish ministers to continue to pay under the current scheme, or is it to diverge from the current scheme or to simplify or improve it in some way? Indeed, is it to go beyond that—as do parts of the bill, such as sections 7, 8 and 10—and allow us to make regulatory and marketing standards changes, as well as changes to the financial method of paying farmers?

Steven Thomson: My understanding is that the UK Government had committed only up to 2022 because that was going to be the end of the parliamentary session; it cannot not commit up to 2024.

Jamie Greene: That depends on what happens in two weeks' time and who the Government of the day is.

Steven Thomson: Yes. We will not know the date that any commitments will be made up to until the next Parliament comes in. As I mentioned, the policy will then have to come through this Parliament. Although the UK Government may give the Scottish Government money at the existing levels, this Parliament will have to allocate that money to agriculture. My understanding, from speaking to Treasury colleagues, is that they will not ring fence the money and that, potentially, it will come in the Scottish allocation.

On the other provisions, from reading between the lines and speaking to policy colleagues, I believe that the bill is meant to allow the Government to deliver existing policy as it is and make amendments that are beneficial to the farming population and perhaps society, as we move towards climate change targets and improve biodiversity, through the principle of the new policy development process. The bill clearly talks about enabling future policy development; it does not talk about wholesale changes in policy at this moment in time. Added up, all the different parts of the bill suggest that it is interested only in trialling new aspects that would come forward in a future bill or policy.

On European marketing, if we are no longer going to be part of the collective, we would want to be able to withdraw from collective initiatives. For example, there was an initiative whereby the European Union was trying to promote lamb consumption across European Union markets collectively—not Scottish, British or Spanish lamb specifically, but just lamb. We would probably automatically not want to be part of such initiatives, so we would need to withdraw that part of the bill.

There also needs to be scope to maintain intervention. The EU has that potential, and America uses it in emergencies. We need to have the scope for storage and intervention in the markets in exceptional circumstances. A hard Brexit or a no-deal Brexit may be such an exceptional circumstance in which we might need scope for that far sooner than we think.

Jamie Greene: I have a brief supplementary question. If there were to be not just simplifications or improvements but substantial changes to the way in which we support farmers, through a new system that came off the back of whatever policy the Government of the day introduced, would you prefer such changes to require a substantial piece of legislation that went through this Parliament? Would that be a better approach than using this bill to make those sweeping changes?

Steven Thomson: If the system was substantially different, it would need pretty strong scrutiny not just by this Parliament but by stakeholders, the wider public and the people who would be affected by it. If there were to be substantial changes to the way that we support the land-based sector through agricultural policy, I would want parliamentary scrutiny of them.

Peter Chapman: I ask Steven Thomson to clarify something that he mentioned in his previous answer. Is it his understanding that any money that comes from the Westminster Government to support agriculture in Scotland will not necessarily be ring fenced and that that money could be siphoned off for other things once it arrives in Edinburgh? If that is his understanding, that is a huge worry for me and for agriculture in general.

Steven Thomson: My understanding is that we would be given the Scottish allocation, of which agriculture funding would be just one part, and that it would be for the Scottish Parliament to determine how that money was spent. That is my understanding—I might be wrong—from various discussions at Westminster and up here.

Jamie Greene: I will move away from payments and turn to standards.

I do not know whether any panel member watched, or has read the *Official Report* of, last week's evidence session. I asked, if there was a divergence in direction of travel between the EU and the Department of Environment, Food and Rural Affairs on matters of marketing or regulatory standards, what effect the bill would have on the Scottish Government's ability to choose between them. The answer that I received from Dr George Burgess was:

"If standards diverge because of decisions taken either at European level or by DEFRA and we have to decide which way to go, the bill will give us the flexibility to do it ... we would look at whether the balance of advantage would

be for us to retain alignment with England or with the EU.”—[*Official Report, Rural Economy and Connectivity Committee*, 20 November 2019; c 25.]

Do panel members have any views on that? Does the bill bring any benefits, advantages or problems in terms of regulatory divergence?

Professor Fitzpatrick: It would be beneficial to have the option of following both. Again, that would allow a Scottish interpretation to be applied to the comparison of regulatory decisions made by the EU and by the UK. The regulations might change because of our different farming systems—our continuing focus on sustainable productivity, for example. Animal welfare is another really important issue on which we need to be able to compare what the EU decides to do and what the UK does. I think that the bill covers that, through the agricultural activities and areas defined within it.

Steven Thomson: A concern that I have always had about putting the EU acquis into UK legislation is that, if we are to trade with the European Union going forward, we will need to comply with its rules and regulations anyway; therefore we cannot be too divergent. We need the flexibility to deal with its changes and regulations, otherwise we might not be able to sell product to it. We also need the flexibility to relabel things as Scottish or British when labelling standards are slightly different.

Standards need to be set in the frameworks and the regulations that surround agriculture. We do not just talk about agricultural policies as being payments, remember: there is a whole series of legislation surrounding things such as traceability and pesticides. We need commonality on those standards across the UK, and we will probably need quite a lot of similarity with the EU. I think that the bill allows for that. When I read the bill, at first, I was slightly confused as to its wording, but then I came to understand what the Scottish Government officials intended in terms of their ability to adapt to whatever Westminster might choose to do.

Stewart Stevenson: I will move on to the collection and processing of data—we have covered quite a bit of that subject en route.

My main question is probably for the Information Commissioner’s Office. In the current context, what is the legal need for us to update how we acquire, process and use data?

11:00

Maureen Falconer: Where do I begin? I feel a bit like Steven Thomson felt earlier.

I will talk through the basics of data protection. In the processing of personal information,

processing is anything that can be done with a piece of personal data. That is set out in the bill, and it simply mirrors what is already set out in the GDPR and the Data Protection Act 2018. We have to work within six data protection principles, which form the framework for the lawful processing of personal information. The first two principles are the most important, because they provide the foundation for any processing of personal information. You could get the rest right, but if you do not get the first two right, you are building on sand.

Stewart Stevenson: Fascinating as that it is—it is necessary that we understand it—I wonder whether I might ask a narrower question. Why are we doing anything with data in relation to this relatively narrow bill? What is driving that?

Maureen Falconer: The current data protection legislation allows us to share information, so why is that addressed in the bill? Is that your question?

Stewart Stevenson: Yes.

Maureen Falconer: It is in the bill for the sake of clarity and to ensure that there is an unambiguous legal gateway to allow for information sharing. I looked at the Scottish Parliament information centre briefing on the bill and saw that alternatives had been thought about. You could have relied on the Agriculture Bill that is going through Westminster, but you would have been trying to fit the processing activity into something that was not specific to that activity, so you would have had to use broad terms. Instead, the bill breaks it down into specific terms. It sets out the purposes, which is the second data protection principle; the lawful processing, which is the first principle; the issues of fairness and transparency, simply by being here; and the regulations that have to follow in relation to the information.

Stewart Stevenson: One of my colleagues will talk a bit more about the purposes section of the bill—section 16—so I will not open a discussion on that at this stage.

It is simply about using the existing powers and, in a bill that is about agriculture, stating them in relation to agriculture. That is the purpose, rather than the creation of any new powers.

Maureen Falconer: Indeed.

Angus MacDonald (Falkirk East) (SNP): We discussed data collection earlier, but I am keen to hear the panel’s views and reflections on the way in which Scotland collects and uses agricultural data. What types of data that is currently collected by the Scottish Government do your organisations rely on?

Steven Thomson: We rely on it all. Our research, which is funded significantly by the

Scottish Government, makes heavy use of some of the Scottish Government data sets. In particular, we use the farm business survey, which is the financial data that is currently gathered under an EU regulation, to understand the financial performance of agriculture.

We use data such as the June agricultural census and the December agricultural survey. Colleagues in other institutes make heavy use of the agri-environment climate scheme—AECS—application system data, which allows us to look at what is happening in farms at field and more nuanced levels. We use data from the cattle tracing system and the ScotEID data sets. We use data from a wide ambit to portray a picture of agriculture in Scotland and to look at whether policy interventions are having an effect—whether that is the desired effect or otherwise.

There are a host of other biodiversity data sets that are perhaps more in the public domain, but they are not really part of the data collection exercise that the Scottish Government is talking about. Under the bill, pretty much all those data sets will be used for research purposes, where appropriate.

Professor Fitzpatrick: I will not repeat what has been said, but I agree with what Steven Thomson said about all the data types that he described.

Moredun works mainly on animal health, so we are interested in farm productivity levels, which allow for the benchmarking of different quartiles of production; animal health and welfare data, which we get from Food Standards Scotland disease data; data on soil types and animal movements, including cattle movements; and data that is held by organisations such as Quality Meat Scotland, which receives funding from the Scottish Government.

I emphasise that the data types that are collected in Scotland will change in the future, because we are using big data much more and our understanding is evolving incredibly rapidly. The data types in Scotland that will link to the CAP and to the Scottish Government will differ from those in other parts of the UK. That is really important. I now better understand that the sections on data have been included because there will be different types of data in our systems.

Ellen Wilson: The biodiversity sector uses lots of data sets from agricultural information. In particular, the agri-environment climate scheme field boundaries are critical but are often difficult to get hold of. Having things set out spatially is relevant and important for us.

Our contribution will be the other way around: we might be involved in collecting many of the biodiversity data sets on which the Government

will rely to understand responses to particular prescriptions and interventions. It is particularly important to us that we understand exactly what intervention has happened, so that we can look at the impact and value of the scheme and at whether it is appropriately targeted.

Angus MacDonald: Are your organisations in a position to collect or process agricultural data on behalf of the Scottish Government?

Steven Thomson: Yes. Our colleagues are contracted to collect the data for the farm business survey. The Government does not go out into the fields and deal with the farmers. It is likely that there are other instances in which the Government uses contractors to collect such data. Part of our organisation knows the identity of such individuals, but that data goes to the Government, which anonymises it, and then I get the anonymised data sets.

There is real complexity to understanding data. We have not mentioned data linkage, but one of the powers of research is being able to link different data sets together to enhance our understanding. Under the GDPR, we are allowed to do that, but it now involves a slightly more complex process. We have to be robust and explicit in how we do things.

People collect data for the Government in various ways. I probably could not list them all just now, but I could ask our colleagues which governmental data sets we collect.

Angus MacDonald: That would be helpful.

Ellen Wilson: The biodiversity sector, for all taxonomic groups, relies on volunteer data collectors, who come from all walks of life and from all locations in Scotland. Their work culminates in the “State of Nature” reports, which are the flagship reports in which the Scottish Government has an interest. The reports set out the declines and the impacts in relation to the industry that we are talking about.

I am a member of RSPB Scotland, and we collect lots of data from long-term bird monitoring schemes. However, the wider Scottish biodiversity information forum community will collect all sorts of taxonomic information and provide some of the expertise that is needed to verify data sets. We are instrumental in some of the verification processes that support biodiversity.

Steven Thomson: We collect a lot of survey data through either the strategic research programme or contract research. Generally, that information does not go to the Scottish Government. We hold it, control it and analyse it, and then we delete it when we are finished with it. Although the Government pays us to do those things, those are not the official data sets that we

have been talking about in relation to the bill. The Government needs explicit data sets to help us to best understand agriculture.

Emma Harper: Steven Thomson talked earlier about collecting lots of data in agriculture and there are obviously important reasons why we do that. We look at agri-food supply chains and the health and wellbeing of plants, animals and people, and there are issues around soil, biodiversity and climate change. Section 16 of the bill has multiple lists of what we are looking at when we collect data. I will not read them all out, but do you think that anything is missing or that the bill will cause any problems for collecting the data?

Professor Fitzpatrick: The lists are pretty inclusive from an agricultural point of view. I will leave biodiversity to Ellen Wilson. From my point of view, the bill makes good provision for data to be collected and it clarifies many of the issues. Some of the definitions of animals and so on are quite broad so that lots of things will fit into them; otherwise, the list would be incredibly long. The broad definitions cover the types of data sets that we would wish to use.

Ellen Wilson: Broadly, the lists are about right. My concern would be that if simplification drives the collection of less data it would mean that we could less effectively ascertain impact and value. We must continue to collect sufficient information around impact and value so that we can target and understand the impact of the system.

Emma Harper: There are climatic risks and risks from disease and pollution, so it is obviously really important that data is collected and managed.

Ellen Wilson: Very much so. All sectors can contribute to that. The offering from the citizen science side of things is collecting information over and above what the monitoring schemes currently provide. It can detect early arrivals and help with identifying particular diseases and understanding their ecology. There is a whole thing in support of collecting data that makes it possible to extend the evidence base and to verify and have early warning of invasive species.

The Convener: Does Steven Thomson want to add anything?

Steven Thomson: No. I was going to say that the bill is not specific on the social dimension—employment and the people engaged in the sector—but then I found it. It is important that we understand the challenges, but the bill mentions

“the health and welfare of people or animals”,

so there is a social dynamic in it.

Stewart Stevenson: I want to ask specifically about section 16(4)(g), which says

“monitoring or analysing markets connected with agri-food supply chains or agricultural activities”.

I am interested in the supply chain, because it is clear from the definitions that the supply chain is essentially everything from the cauliflower being in the ground to it appearing on my plate. It is acknowledged that supermarkets have a quasi—or perhaps actual—monopoly power in relation to farmers. Might we be able to gather data on that to offset the acknowledged weaknesses of the Groceries Code Adjudicator? Part of the adjudicator’s brief is to ensure that direct suppliers are treated fairly, but there is a widespread view that they are not. Is that your understanding of what that provision would enable? Are you aware of any Scottish Government activity on that at the moment? It clearly crosses the legislative boundary between Westminster and Scotland.

The Convener: I said at the beginning of the meeting that if everyone looks away at the same time, I will have to nominate somebody to answer. You all looked away but Steven Thomson put his hand up, which was lucky because he was going to be nominated anyway.

Steven Thomson: Such an exercise would involve the collection of market data on the prices that farmers get at various stages of the process. I understand that it would also collect data from abattoirs, on throughput and so on.

11:15

I am not sure that that has always been the intention. When the UK Agriculture Bill was introduced I thought, “Wow. How are they going to achieve that through the entire food chain?” It could be a real challenge to obtain that level of data throughout the process—from the ground to the plate, as Stewart Stevenson put it. The rationale behind the UK Agriculture Bill was to have fairness across the supply chain and to require data in order to determine that. That places a heavy burden on us to conduct a new data exercise that we do not currently do.

Data sets such as those produced by Kantar Worldpanel and dunnhumby mean that we can understand prices at the retail end. However, we do not know what the price differentials are between processors and retailers. The Agriculture and Horticulture Development Board collected some data that showed that it was possible to calculate the spread from farmer to retailer so that we could understand how much differential there was between the consumer price and the farmer price. The food processing element was the 50 per cent or so in between those prices.

I do not really know what the exact purpose of section 16 is, but it would be useful for us to understand better where the margins are. I know that there are very tight margins in the abattoir and food processing sectors, but that data is not publicly available.

Stewart Stevenson: You are not disagreeing—although you are not necessarily agreeing—with the proposition in section 16 that

“analysing markets connected with agri-food supply chains”

could confer a power to collect data from supermarkets. When that section is read with section 13, which is about requirements to provide information, that could require supermarkets to provide such data. I see that you are nodding your head, so I take it that you are reading it in that way.

Steven Thomson: That is how it reads. Again, though, as I am not in the Government I cannot tell the committee what the thought process behind the section is. If it is as Mr Stevenson suggests, that might mean that we would also have to collect data from distillers, millers and similar producers.

Stewart Stevenson: In fairness, I am only dealing with what is in the bill. I do not actually care what the Government thinks; I care only about what it writes in the bill.

The Convener: I am afraid that Stewart Stevenson’s questions have prompted a whole lot more. I will take questions from Emma Harper, followed by Maureen Watt, before I come to Colin Smyth, who will therefore have a bit of a pause before asking his question.

Emma Harper: My question is just a wee supplementary on that point. It is important that we look at such markets, because we do have challenges in the sheep sector. Our sheep meat goes to other places, because Scottish folk do not eat it. There is also volatility in the milk market or dairy sector, which means that we have a supply chain that might or might not be interrupted. Would that be part of this analysis of markets, so that we can look at where our supply chain is broken or fails to support the producers rather than the processors and then the retail giants such as Tesco?

Professor Fitzpatrick: Those are questions for legal advisers. I can see that we cannot just force companies or organisations that claim commercial interest to provide information unless they are in direct receipt of Government funding in some way. Although I agree with the principle that it would be nice to have data—and it is very important for the future of all our different food chains—I just cannot see that the bill would allow that to happen.

Maureen Watt: Given the answers to that question, and what Julie Fitzpatrick said earlier

about biodiversity and climate change, in the future will supermarkets have to change their view of what is provided by farmers and not be so prescriptive about the fat content of beef or whatever?

Professor Fitzpatrick: In an ideal situation everyone down the food chain would have discussions on such issues. However, given the realities of data protection requirements and companies having to produce data, I cannot see that the bill would allow that to happen. However, I agree that, in principle, it would be very nice indeed if we could have such a situation.

The Convener: We will leave the matter there and move on to a question from Colin Smyth.

Colin Smyth (South Scotland) (Lab): We have touched on this issue quite a lot. For the avoidance of doubt, the policy memorandum states:

“The data collected is used to analyse economic output”

and performance

“and the effectiveness of policies”,

and to help

“Scotland provide information in the Sustainable Development Goals.”

Are we currently collecting the right data for those purposes? Given the impact of coming political change and climate change, and the subsequent pressures on rural business, will we have to collect additional data in the future? Does the bill allow for that?

Ellen Wilson: We probably do not collect sufficient data; we would require an assessment to find out what we need to do to remedy that. The effects of climate change and biodiversity crises are coming up—indeed, they are with us now—and we need to ensure that agricultural policy and the bill support our ability to respond to those challenges. There is much to do.

Colin Smyth: Under the bill, will we be able to collect the data that will be required in the future? Will any restrictions result from the bill?

Ellen Wilson: The bill might permit more collection of data—the issues relate more to design and efficacy, and the purpose for which we would use the data. Some rigorous scientific design is needed in order to ensure that the criteria are met and that the data really does explain the impacts that are being felt.

Steven Thomson: At some stage, we will have to work out the extent of the data burden on people, because it should not be excessive. The Government does not ask for data on everything. Otherwise, farmers would be doing paperwork all

the time—some of them already think that that is the case.

I will make a point about supermarkets, because they get a hard time. Some of the people who are on aligned contracts with the supermarkets are jumping through incredible hoops in order to get premiums, so the supermarkets are driving private delivery of public goods and environmental benefits.

Professor Fitzpatrick: With regard to data collection in the future, changes in the trading arrangements for animals, plants and food products might pose additional risks in all parts of the UK, including Scotland. I hope that that does not happen. We always need to be prepared to start data collection at the very last minute where there might be, for example, an incursion by an exotic disease—or even by a new and emerging disease, because genetic mutations mean that new organisms can appear. There always has to be provision for the unknown unknowns.

Colin Smyth: Does the bill make provision for the unknown unknowns?

Professor Fitzpatrick: I think that it does. The list in the bill is not exhaustive, but it is broad enough to include almost everything that I can think of, without being too prescriptive.

Maureen Falconer: Section 16 sets out a list of very broad purposes. The Data Protection Act 2018's second data protection principle refers to "specified" lawful purposes. However, there is absolutely no problem with further processing under the data protection legislation as long as that processing is for a purpose that is not incompatible with the original purpose. Some of the purposes in section 16 are so broad that I could well imagine the data being used for further purposes that are aligned with the purposes in the bill. From a data protection perspective, that would be fine.

The Convener: Before we go on to the next question, Emma Harper wants to follow up on her earlier question.

Emma Harper: I just want to clarify that I meant to say that Scottish folk do not eat enough sheep meat—I was wanting to say, "Let's all eat more and support our local farmers."

The Convener: I was sure that that was what you meant in the first place. The next question is from Peter Chapman.

Peter Chapman: The Scottish Government states that there will be no additional requirements placed on farmers and crofters to collect additional data, which is very welcome. As Steven Thomson mentioned, farmers are out there to produce food—they do not want to be sitting in offices all day collecting data.

The Scottish Government also says that it is exploring new technologies including satellite mapping. How useful is satellite mapping? Is it available now, and is it used? Are there new technologies coming down the road that would help us to collect data without placing additional burdens on the producers who are at the sharp end?

Ellen Wilson: Everything from drone imagery through to artificial intelligence will really help, but it still has to be tailored. There is no substitute for checking what is happening on the ground and training the computer to understand what it is seeing and interpreting. That comes back to design, which needs to be based on why we are collecting the data and what we will get from it, so that we can take advantage of technologies. There are huge opportunities.

Professor Fitzpatrick: I agree. The opportunities to make data collection easier are numerous. There are good examples including smart farming and targeted pesticide applications for crops, as well as sensors on animals that measure their wellbeing and temperature, how they are moving around, and the onset of disease. The bill has to be able to cope with new technologies, which we hope will reduce the burden of data collection on farmers while still ensuring that the data is collected.

Steven Thomson: We are discussing two elements here. One concerns private data, which involves the farmer buying a piece of tech: in general, data from that will not make its way into the public domain, whether we like it or not. As researchers, we might get access to such data through collaborations.

With regard to Peter Chapman's question on satellite imagery, the answer is yes—it might provide scope for farmers not to have to declare information in their June census form or AECS form. The technology can be used to see which crops are growing, which would save time and effort.

On bovine electronic identification, there have been a lot of discussions with ScotEID on whether a new tagging system could replicate or get rid of the passport, which places another data burden on farmers. There are opportunities in lots of areas for removing, through technology, the regulatory data burden. I know that the Scottish Government is trying to minimise the amount of effort that goes into filling in forms for the June census and the December survey. I understand it that the Scottish Government is looking at all opportunities.

The Convener: We have nearly finished questions—I have just one more. That last answer has made me feel slightly better; I know how much farmers across Scotland look forward to getting

their census forms when they come out. [Laughter.]

Farmers are asked a list of questions, many of which could be self-populated in forms by information that the Scottish Government already holds—for example, on numbers of stock on a holding. All that information is already recorded. It also includes information on cropping and the age of the grass, from the previous agricultural census form that was filled out.

Some farmers will get more than one agricultural census form, because fields can form different holdings. Is there any chance that the data provisions in the bill will make the process easier? I hope that farmers will not have a book to fill in, and that the Government forms will be self-populated with some answers that it already holds. Who would like to answer that? Perhaps Steven Thomson can go first. It would be a nice Christmas present for farmers if he can tell them that that is the case.

Steven Thomson: You have just told them that, convener.

The Convener: No—I am asking whether you think that that will be the case.

Steven Thomson: All right. I think that the Government has been trying to do that. You are quite right that because we collect data for official purposes at business level, and data at holding level for other purposes, those cross-purposes are leading to confusion.

I often hear that there are 54,000 farmers in Scotland. I know that there are 54,000 holdings, however, which is totally different from the number of farmers as business units. That is the issue—there is a technical difficulty. The Government has used the CTS data, where it has that information, to populate the survey. It is probably not using the sheep inventory, because that is done at a different point in the year and it needs to understand the number of lambs. There are challenges. I understand the frustrations, but the data is useful.

The Convener: Does anyone else want to comment?

Ellen Wilson: It should not take a bill to enable us to make the process easier. We should be continually improving how we hold, collect and store data. There is endless opportunity, and it would be great fun to do that. Wouldn't it be wonderful if we could continually improve every single aspect of data collection? Improvement should be perennial, and the process should become more and more wonderful. There is so much public good coming from the sector that it really merits investment in monitoring and in the service design side of things. If the bill can make

provision for a proportion of the available funds to go into that side, it would help everybody.

Professor Fitzpatrick: My final view is that, because of the lack of time for data issues, it is really important that we focus on the most important data, and that we use that data in the most important and beneficial ways in order to drive the country to achieve the many outputs that we want. If we combine the datasets that we have, and if we get even better datasets in the future, we will have a great opportunity for science, farming and the countryside to come together and produce excellent outputs.

The Convener: That is a positive note on which to end. I thank all members of the panel for coming this morning. Your evidence has been extremely helpful.

11:30

Meeting suspended.

11:36

On resuming—

Petition

Salmon Farms (Closed Containment) (PE1715)

The Convener: Agenda item 2 is consideration of petition PE1715. I declare an interest in a wild salmon fishery. Although that does not directly relate to the petition, some people might feel that there is a link.

PE1715, which was lodged by Mark Carter on behalf of Marine Concern, is on the closed containment of salmon farms in Scotland. The committee is invited to consider what it wishes to do with the petition. I remind the committee that we considered the issue as part of our research on the aquaculture industry.

John Finnie: I acknowledge the representations that we have received in respect of the petition. The Public Petitions Committee has considered the petition, and the Scottish Government's response referred to on-going work by the Scottish Aquaculture Innovation Centre. I would like to hear from it about its particular views on the issue and, indeed, from the Scottish Salmon Producers Organisation. I am sure that other interested parties that are listening could contribute as well. It is important that we keep the petition open and seek the views of those organisations.

Richard Lyle: I agree with the points that John Finnie has made. I have had the benefit of being on the Environment, Climate Change and Land Reform Committee and this committee. I do not see any evidence for the petition, but I am quite happy for letters to be written and to await further discussion.

Jamie Greene: I thank the petitioner for keeping this important issue on the committee's table. It is fair to say that the committee has done a substantial amount of work on the issue and that it put a lot of time and effort into the aquaculture report. However, that was a year ago. I know that we had a recent update from the cabinet secretary earlier in November. Although people might have views on, and agree or disagree with, the petition's premise, it has been a very helpful way of ensuring that the matter is still in the public domain and that the committee's report is still valid and still has substance and importance.

I suggest that we engage with any stakeholders who have a view on the content of the petition and would like to comment on it. It would be very interesting to hear their responses and, indeed, the Government's view on them in due course, if that is appropriate. We could take a view from

there, again parking aside any individual views on the matter. That would be helpful and respectful to the petitioner.

Stewart Stevenson: I support what John Finnie has proposed as a way forward for the committee. However, in looking at the wording in front of us, I think that it would take a very powerful argument to persuade me to accept the petition. Let me explain why. It includes the wording

"solely utilises a closed-containment method".

That is a fundamental problem, which I have difficulty with. Even more than that, it talks about

"a closed-containment method with full water filtering in Scottish waters."

The meaning of that is slightly ambiguous, but it appears to suggest that the salmon fishing industry must remain offshore, whereas I know that there are trout farms, for example, that operate onshore. I would not want the petition to make it difficult to have onshore farms, if that is the appropriate solution to certain problems. I therefore have some difficulties with the wording of the petition.

I think that we should be informed by what is going on, and the Scottish Aquaculture Innovation Centre's work is a clear and obvious place from which we should solicit information before coming to a conclusion.

Emma Harper: Like my colleague Mr Lyle, I was on both the Environment, Climate Change and Land Reform Committee and the Rural Economy and Connectivity Committee a while back, but I was not on them when the salmon inquiry was conducted. I would like to see further information, and I am interested in what the Scottish Aquaculture Innovation Centre has to say and in further evidence on the subject.

Angus MacDonald: I, too, have the benefit of having been on both committees, and I was previously deputy convener of the Public Petitions Committee, so I have followed the petition since it came before the Parliament. It is clear that the jury is still out on whether the technology exists to make closed containment economically viable, so I support John Finnie's suggested course of action. I support seeking the views of the SAIC, and we should also seek the views of the Scottish Salmon Producers Organisation regarding the commercial viability of closed containment.

Mike Rumbles: I think that the petition is quite clear, whether you agree with it or not. I was not going to say much, but I am somewhat confused by Stewart Stevenson's contribution, which has muddied the waters for me. I think that it would be helpful to find out more information about the matter.

Colin Smyth: I agree with John Finnie's proposal. When we carried out our inquiry, we took a lot of evidence from people who were strongly in support of closed containment systems, but there were also people who gave evidence who questioned their current viability—although viability changes over time. It would be good to examine the issue and see whether there has been any change since we carried out our inquiry and did our report.

Peter Chapman: I basically agree with John Finnie's suggestion. We should look at the most recent evidence on closed containment—it is right and proper to do so. I, too, have serious doubts about whether the technology is up and running to the extent that it could be viable in future. However, let us look at the evidence and not close our minds. I am content to do that and to leave the petition open at this time.

Maureen Watt: I agree with the majority that we should get some more information before we decide how to proceed with the petition.

John Finnie: I want to make a point of clarification. I did not express a view one way or another on the merits of the petition. As it happens, I am not persuaded, but I want to have an open mind, as Peter Chapman and others have suggested we should. The way to address the matter is to get the most up-to-date evidence and make a decision thereafter.

11:45

The Convener: Thank you, everyone. I think that everyone has now had a chance to say something, so I will sum up the position, although I will add a wee comment before I do that.

Having done a detailed and, I think, well-received report on the aquaculture industry, it is important for the committee to continue to consider the matter. I have looked at figures that the Scottish Government has produced on mortalities in fish farms. As members know, the figures are produced one month in arrears. However, on the website, it is only possible to see them up to the end of September, so that is not quite up to date.

There were 747 cases of mortality across fish farms in Scotland, in 108 of which how many fish were lost was never reported. That was interesting. There was one farm or producer in particular that had the majority of those 108 incidents. During the period, 3.5 million fish were lost to the industry. In my opinion, that is quite a large figure. That is why I support the committee's desire to examine the matter further to see whether there are ways in which the industry can consider what it is doing and to help it to develop a way forward.

I think that we all agree that we should write to the Scottish Aquaculture Innovation Centre to seek further information on how it is supporting innovation in the field and on what is going on, and that we should write to the Scottish Salmon Producers Organisation to ask it to provide details of the research on closed containment that is being undertaken by the industry.

Jamie Greene: Would it be appropriate, as part of that, to write to the relevant Government minister responsible for the area or to a Government agency?

The Convener: I think that it would be appropriate to decide what we want to do next in that regard once we have that information. The information that we get from those two organisations may help to chart a path forward.

Mike Rumbles: For the sake of due process, I do not know whether the petitioner, Mr Carter, is listening to this, but should we let him know what we are doing?

The Convener: Of course the petitioner will be kept informed of exactly what the committee is doing.

If members are happy, I propose to do as I have described. Are we agreed?

Members indicated agreement.

11:47

Meeting continued in private until 11:55.

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

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