



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 7 June 2017**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**  
**19<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

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

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Carole Barker-Munro (Scottish Government)  
Ginny Gardner (Scottish Government)  
Simon Hodge (Forest Enterprise Scotland)  
Gemma MacAllister (Scottish Government)  
Rory Morrison (Scottish Government)  
Catherine Murdoch (Scottish Government)  
Jo O'Hara (Forestry Commission Scotland)  
Humza Yousaf (Minister for Transport and the Islands)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Rural Economy and Connectivity Committee

Wednesday 7 June 2017

*[The Convener opened the meeting at 10:01]*

#### Forestry and Land Management (Scotland) Bill: Stage 1

**The Convener (Edward Mountain):** Good morning, everyone, and welcome to the 19th meeting in 2017 of the Rural Economy and Connectivity Committee. I ask everyone please to ensure that all mobile phones are on silent. We have received apologies from Fulton MacGregor and Gail Ross.

The first item on the agenda is the Forestry and Land Management (Scotland) Bill, which was introduced to the Scottish Parliament on 10 May. We will begin our scrutiny of the bill by taking evidence from the Scottish Government's bill team, the Forestry Commission and Forest Enterprise Scotland. We have a large panel of witnesses this morning. I welcome from the Scottish Government Carole Barker-Munro, who is the bill manager; Ginny Gardner, who is the head of forestry devolution; Catherine Murdoch, who is the deputy bill manager; and Gemma MacAllister, who is a solicitor. I also welcome Jo O'Hara, who is the head of the Forestry Commission Scotland; and Simon Hodge, who is the chief executive of Forest Enterprise Scotland.

The committee has a lot of questions and we have a large panel, so I ask witnesses to try to catch my eye if they want to speak. I urge committee members and witnesses to keep questions and answers as short as possible. We will go straight to exploring themes around the bill. Rhoda Grant will ask the first question.

**Rhoda Grant (Highlands and Islands) (Lab):** Was anything that had been in the consultation subsequently dropped from the bill?

**Ginny Gardner (Scottish Government):** The consultation had three themes. The one that is particularly relevant to the bill is the legislation and regulation theme. We did not drop from the bill anything that was in the consultation. There was a commitment on sustainable forest management, a long-term commitment to forestry and a commitment that the details of regulation would be taken out of primary legislation and put in secondary legislation. Those were the main points under the legislation and regulation theme, and they are still in the bill.

I will say a little bit more about the other two elements. Our proposals on organisational structures are not in the bill, because we propose to bring the structures into the Scottish Government. That will give them the same legal identity as the Scottish ministers; therefore, there will not need to be a public identity for the public bodies in the bill.

The other element is cross-border arrangements, which are subject to negotiation with our colleagues in the United Kingdom and Welsh Governments. We will require a Scotland Act 1998 order to set them up, but we do not need anything in the bill.

**Rhoda Grant:** What is in the bill that was not consulted on, and how did you subsequently consult and get feedback on that?

**Ginny Gardner:** The Scottish Parliament information centre briefing alludes to the fact that we did not specifically mention a forestry strategy in the consultation; what we mentioned was a long-term commitment to forestry. In the course of our discussions with stakeholders, we heard concern that short-term political timeframes would affect the long-term commitment to forestry, so we sought to allay those concerns by including a statutory duty to prepare a forestry strategy. That is in line with feedback that we received in the responses.

**Rhoda Grant:** What was the most controversial issue in the consultation? What received the most feedback? I suppose that some issues might have received a lot of supportive feedback, but what appeared to be most controversial?

**Ginny Gardner:** We had a yes or no question on the proposals for organisational structures; although a majority of organisation respondents supported the proposals, a majority of individual respondents did not.

The main issue that people fed back was concern about loss of expertise and skills, but the Scottish ministers believe that our proposals for organisational structures deal with that issue. We have made a commitment that all members of staff from Forestry Commission Scotland and Forest Enterprise Scotland will transfer to the Scottish Government, and the Scottish ministers have made a commitment that the local office network will be retained. Therefore, the local engagement and knowledge that exist will be retained.

Another issue that people spoke about was making Forestry Commission Scotland and Forest Enterprise Scotland a single body. The Scottish ministers already see them as separate bodies with separate functions. Keeping them separate is also a response to feedback from stakeholders about separating the regulator, which is the

Forestry Commission Scotland, and the regulated, which is Forest Enterprise Scotland.

**Rhoda Grant:** I understand what you said about expertise and that, on day 1, the expertise will be exactly the same. However, as part of the Government, how will that expertise be continued in the future, and how will you continue to ensure that foresters are in a position of influence in the Scottish Government, given that civil servants move around?

**Ginny Gardner:** There are two elements to that. The first is that there are already a lot of specialists in the Scottish Government; it is quite normal to have groups of specialists with continuing professional development. There are procurement specialists, lawyers—such as Gemma MacAllister—accountants and so on. It is not unusual to have groups of specialists in the Scottish Government; that would not change for forestry.

Secondly, we recognise the importance of forestry skills and we have a commitment to retain them in the Scottish Government.

**John Mason (Glasgow Shettleston) (SNP):** I want to look at part 2 of the bill and the question of forestry functions and strategy. Functions are moving from the forestry commissioners to the Scottish ministers. Will those functions be the same or different?

**Carole Barker-Munro (Scottish Government):** The functions will be different in that they are being modernised. At the moment, forestry commissioners have functions that have been layered up over time since the Forestry Act 1967. In bringing the functions to the Scottish ministers, the opportunity has been taken to put a main general duty on the Scottish ministers for sustainable forest management that recognises the inherent balance in forestry. It also links to the sustainable development of economic, social and environmental objectives. That is a different type of duty, but it is still a principal duty on the Scottish ministers to promote forestry and to take account of the various outcomes that forestry can contribute to.

The second duty—the duty to prepare a forestry strategy—is new. There is a forestry strategy at the moment, which Forestry Commission Scotland prepared, but there is no statutory requirement to do that. That will be a new duty on the Scottish ministers.

Those are the two main duties that are placed on the Scottish ministers in part 2 of the bill.

**John Mason:** Let us leave the strategy for now; I will come back to it. Will we see much difference in practice? You talked about modernising. Is it

more a question of using modern and up-to-date language?

**Carole Barker-Munro:** I see it as being more about using modern and up-to-date language. Sustainable forestry management is a very well recognised and internationally known concept that is supported by the industry and the environmental sector, and it happens at the moment. It is underpinned by “The UK Forestry Standard”, using which people demonstrate that they are doing that. There is new language.

**John Mason:** So you do not foresee big practical differences, and we will not expect to see them.

**Carole Barker-Munro:** The policy is not to make big practical differences; the difference is that the bill acknowledges the multiple roles of forestry, rather than there being a series of little bespoke duties that have been layered up over time and are sometimes quite difficult to negotiate and navigate. There is a broader duty that recognises the multiple benefits at the outset.

**John Mason:** Okay. Thanks.

You mentioned the forestry strategy. I understand that there is a strategy at present, but it is not required by statute and that, with the bill, a strategy will be required by statute.

**Carole Barker-Munro:** That is correct.

**John Mason:** If we already have a strategy, why do we need to put it in statute?

**Carole Barker-Munro:** The policy of having a forestry strategy in statute will require ministers to have a strategy and to recognise the importance of forestry. That connects back to the question from your colleague Rhoda Grant about how to retain skills and staff in the Scottish Government. If there is a statutory requirement for a strategy, there must be policies and there must be outcomes that we are looking to gain from forestry, so staff in the Government will be needed to deliver those. It is about putting forestry front and centre among ministers’ objectives and recognising the importance to the sector of a strategy.

**The Convener:** When I was looking at the bill, I noticed that the strategy will have to balance economic development and environmental enhancement. How do you see that balance being achieved? Sometimes there will have to be compromises.

**Carole Barker-Munro:** There is already a balancing objective that Forestry Commission Scotland has to meet in balancing three pillars. That already happens in the strategy.

May I bring in Jo O’Hara?

**The Convener:** The bill does not say that there will be three pillars; it just says that economic development and environmental enhancement have to be balanced. Perhaps Jo O'Hara can explain that.

**Jo O'Hara (Forestry Commission Scotland):** Sure. The principle of sustainable forestry management is about bringing together social, environmental and economic objectives. That is well understood among the forestry profession here and globally. As Carole Barker-Munro said, we have worked on that using "The UK Forestry Standard" and the existing forestry strategy. That is why it is in the bill.

I endorse what Carole Barker-Munro said about the current duty. The Forestry Act 1967 was about productive forestry. Over the years, other balancing duties have been brought in. Basically, the bill catches up with modern forestry practices. It balances all the different objectives that forestry can deliver at site, regional and national levels, and is part of the modernisation agenda. The language in legislation is catching up with modern forestry.

**Simon Hodge (Forest Enterprise Scotland):** I want to pick up on the point about how things work in practice. Consultation—on the Scottish forestry strategy, the strategic directions for the national forest estate, and individual parts of the estate or individual afforestation or forestry proposals—is a large part of the approach. Through that consultation process, the nitty-gritty of what the appropriate balance looks like in each case is worked through.

**Jamie Greene (West Scotland) (Con):** I hear what is being said about the bill being about modernisation of forestry management.

Does anyone on the panel have fundamental concerns about the fact that many functions are moving from the Forestry Commission Scotland, which is, in effect, a fairly independent public body with a civil service role, to being under the responsibility of the Scottish ministers, who are, by default, political appointees? Is there any concern that the move is not just about modernisation, and that it may have a detrimental effect on the independence that the Forestry Commission Scotland currently has?

10:15

**The Convener:** It looks as if Ginny Gardner is in the firing line for that one. *[Laughter.]*

**Ginny Gardner:** Well spotted, convener.

I am not sure that the Scottish ministers would recognise the situation that you describe regarding the current independence of the Forestry Commission. Commission staff are civil servants,

as you say, and they work very closely with the Scottish Government. Jo O'Hara and Simon Hodge are, on a daily basis, part of the senior management team of the directorate in which we all work. In practical terms, the Forestry Commission Scotland and Forest Enterprise Scotland already operate as if they are part of the Scottish Government.

**John Mason:** The bill requires that there will be a strategy. We have an existing strategy, so can we just slot it in, or would changes have to be made? Would it fit or not?

**Carole Barker-Munro:** There would be no legal impediment to adopting the existing strategy. However, it is now quite old, and the current land use strategy contains a commitment to review the forestry strategy.

**John Mason:** Thank you for that.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I will be fairly brief. The policy memorandum states:

"responsibility for all plant health in Scotland will now reside in one place."

However, it is not clear whether the bill encompasses the duties in the Plant Varieties and Seeds Act 1964 that relate to sale of plants and seeds in particular. Can you clarify that?

**Catherine Murdoch (Scottish Government):** I will cover that. The 1964 seeds act—to give it its shortest name—is currently not used for dealing with forest or silvicultural reproductive materials to any great extent. We are transferring those functions to ministers, but we do not expect a change on the ground, if that is the point of your question.

All the functions in the Plant Health Act 1967 and in the 1964 seeds act that are currently carved out for the commissioners will transfer back to ministers. We do not see any immediate change happening in how they are used.

**Stewart Stevenson:** I suppose that I am making the rather simple point that those functions touch on the health of our plants. Forestry is one thing, but plants and seeds can provide vectors for diseases, fungi and all sorts of adverse health events. I want some assurance that everything is going to work together in a way that serves the needs of all the different parts of the system.

**Catherine Murdoch:** I see. Currently, most of the action to protect plants across the UK is undertaken through the Plant Health Act 1967, which governs, for example, importation of seeds. The 1964 seeds act is more about bringing things to market. Protection from the threat of plant diseases is dealt with under the Plant Health Act

1967. Those functions will all be with the Scottish ministers. Everything will be in one place.

**Stewart Stevenson:** Everything will be in one big pot.

**Catherine Murdoch:** Yes.

**John Finnie (Highlands and Islands) (Green):** I have questions on management to further sustainable development. The bill states:

“The Scottish Ministers must manage forestry land in a way that promotes sustainable forest management”,

and it sets out the meaning of “forestry land”. I would like further clarity on two points. First, section 10(b) refers to

“other land that the Scottish Ministers manage for the purpose of exercising their functions under section 9.”

Can someone clarify that, please?

**Carole Barker-Munro:** I am happy to do that. The

“other land that the Scottish Ministers manage for the purpose of exercising their functions”

could be any land that is not in the national forest estate. The Scottish ministers own the national forest estate, and it is managed by Simon Hodge and his team. The Scottish ministers also own other land that could be used for a variety of purposes, and the provision enables that land, for the purposes of its management, to be brought within the remit of the bill so that sustainable forest management might apply should they wish to plant trees on that land.

The other category of land that the provision would refer to is land that belongs to someone else and that the Scottish ministers manage under an arrangement under section 14 of the bill. In that case, they manage the land on a contractual basis on behalf of another person.

**John Finnie:** Right. My second question was going to be about section 14. How does that differ from the present arrangement? Is it consistent with the present arrangement?

**Carole Barker-Munro:** In terms of forestry land, it is consistent with the present arrangement. Forest Enterprise Scotland already manages land on behalf of other people, and I am sure that Simon Hodge will be happy to tell you more about that. Section 14 provides the legislative underpinning for that to happen. The provision enables a land management service, but also a land advice service, and those are two functions that Forest Enterprise Scotland already undertakes.

**Simon Hodge:** I will add to that briefly. The current forestry legislation basically pins the entire management of the national forest estate to forestry and forestry purposes. As the years have

gone on, there has been a desire for us to be involved in delivery across a wider set of objectives, particularly as one third of the estate—some 200,000 hectares—is not forestry land but other land.

As we have been using our skill sets to develop agendas and link with, for example, communities, wider habitat management, and agriculture and new entrants, we have had to peg all of those in some way to forestry. The bill provides an opportunity to recognise the value that that other land can deliver for purposes other than forestry.

**John Finnie:** Thank you.

**The Convener:** John, I do not want to cut across your bows. I would not mind asking a question on that subject, but if you have more to ask on it, please lead on.

**John Finnie:** No, I was going to move on to another subject.

**The Convener:** Okay. I cannot quite see how all of this will pan out. It seems that land that the Government owns that is not part of the national forest estate will now become part of that estate. Will you clarify that for me? If the Government owns a chunk of land up in the Cairngorms, will the management of that land fall under the act? Will Creag Meagaidh fall under it? Will it stay with Scottish Natural Heritage or will it become part of the forest estate?

**Carole Barker-Munro:** Under the bill, the only way to add to the national forest estate is to purchase land for the purposes of forestry, in which case it will automatically be added to the national forest estate. The bill does not automatically add any other land that the Scottish ministers own to the national forest estate, so it will retain that status.

**The Convener:** So land that is owned at the moment does not fall naturally into the national forest estate. Only land that is purchased or acquired for forestry falls within the management of that.

**Carole Barker-Munro:** Yes—after the bill is enacted. The way to add to the national forest estate will be to purchase land for that, and it will then become part of the national forest estate. The bill does not automatically bring the rest of the Scottish ministers’ landholdings or indeed any other public sector landholdings within what is defined as the national forest estate.

**The Convener:** Thank you. Sorry—I was a wee bit confused.

Sorry to cut across your bows, John.

**John Finnie:** Not at all.



**The Convener:** I think that Peter Chapman has a supplementary question.

**Peter Chapman (North East Scotland) (Con):** I would like to clarify Simon Hodge's statement that a third of the land—200,000 hectares—is not under forestry at present. That seems an awful lot of land that you have control over that is not planted. Is a lot of it awaiting replanting, having been felled? Does that come into the 200,000 hectares?

**Simon Hodge:** No. Land that is felled and awaiting replanting is still considered to be forestry land. The land that is not forestry land is principally mountainous hill land, extensive peat bogs or the approximately 30,000 hectares of land in active agricultural use, as well as other types of land such as riparian land and some coastal land.

**Peter Chapman:** Okay. Thank you.

**The Convener:** Sorry, John—back to you.

**John Finnie:** Thanks. We have touched on section 9 and the management of forestry land. There seem to be some similarities between sections 9 and 13. What is the difference between the land that applies in those sections, and its terms of management? Also, when would the power be called upon?

**Carole Barker-Munro:** Section 9 is principally about forestry land or land that is principally designated for forestry, including the national forest estate. The purpose of section 13 is to fulfil the policy that, through the new executive agency forestry and land Scotland, the Scottish ministers should be able to have a broader land management role, moving away from a silo approach of purely managing forestry.

Under section 9, forestry land should be managed for the purposes of sustainable forest management or instead it can be used for sustainable development,

“having regard to the forestry strategy.”

That will enable an opening up of the purposes that such land can be used for.

Land under section 13 is not forestry land; it is other land. The purpose for which it should be managed is sustainable development. Sustainable forest management and sustainable development are twin beasts—SFM is about forestry land and sustainable development applies to other land.

**John Finnie:** Thank you. I am conscious that section 13(2)(a) refers to the compulsory purchase of land outlined in section 16, but I think that colleagues are going to ask questions about that so I will leave it there.

**Mike Rumbles (North East Scotland) (LD):** This is the one part of the bill that I am struggling

with. It would seem that section 16 gives power to the Scottish ministers for the first time to compulsorily purchase land to achieve sustainable development, but there is no definition of sustainable development in the bill. Section 16(1) states:

“The Scottish Ministers may compulsorily acquire land that they require for the purpose of exercising their functions under”

sections 9 and 13. Section 9(1) states:

“The Scottish Ministers must manage forestry land in a way that promotes sustainable forest management.”

It seems to me that that gives incredible power to the Scottish ministers to compulsorily purchase land and add it to the forest estate. Is that correct?

**Carole Barker-Munro:** There are a number of points to address, so I apologise if I take a little bit of time over this, but it is important.

The first point is that powers of compulsory purchase are not new for forestry; they are in the 1967 act. Those powers have been taken over and broadly replicated in the bill.

**The Convener:** Before you move on from that point, it would be helpful if you defined what the compulsory purchase powers are under the 1967 act. They are purely for forestry, are they not? They do not include sustainable development.

**Carole Barker-Munro:** The powers are purely for forestry and purposes connected to forestry.

**The Convener:** Which does not include sustainable development.

**Carole Barker-Munro:** Which does not include sustainable development.

**The Convener:** Thank you—I just wanted to clarify that.

**Carole Barker-Munro:** Those powers have been lifted from the 1967 act and included in the bill. As we have mentioned, one of the purposes of the bill is for the Scottish ministers to have a broader land management role. There is a symmetry in the bill in that all the powers that are available for forestry are available for the broader land management purpose. That is why the power to acquire land and the power to acquire it through a compulsory purchase order have been included.

Mike Rumbles is correct that this would be the first statute under which the Scottish ministers, purely for the purpose of sustainable development, would have CPO powers. The Scottish ministers and a number of public bodies have powers in the rural area that could relate to sustainable development, but that particular term would be new to the legislation.

Checks and balances are provided in the bill. The underpinning legislation by which land would

be acquired through compulsion is the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, which sets out the standard procedure for the exercise of those powers, and that provides the checks and balances. There is also a Scottish Government policy document that sets out the purposes of compulsory purchase. It is for those reasons that that power is in the bill.

**Mike Rumbles:** Therefore, the bill does not just transfer current compulsory purchase powers under the law as it stands; it increases ministers' compulsory purchase powers.

**Carole Barker-Munro:** Yes, that is correct.

**Mike Rumbles:** I am just a little bit exercised about the fact that the Scottish ministers may compulsorily acquire land that they require—it will be up to the ministers to decide what they want to do with this.

**Carole Barker-Munro:** It would be up to ministers, following the procedures set out for all compulsory purchase powers.

**Mike Rumbles:** It seems to me that we would be giving an incredibly wide power to the Scottish ministers. Is that not right?

**Carole Barker-Munro:** I agree that it is a widening of the current compulsory purchase power.

10:30

**The Convener:** It might help if Carole Barker-Munro gave an example of what she thinks this might encompass.

**Carole Barker-Munro:** I can give an example with regard to forestry—

**The Convener:** I think that we understand how it will apply to forestry; the issue here is sustainable development.

**Carole Barker-Munro:** The powers would be exercised in accordance with the Government's policy of the day for the outcomes that it wanted the new agency to achieve. The current policy is that the new agency's focus is to be on forestry, so I am afraid that I am unable to give the committee a specific example of when a Government of the future would use the power in relation to sustainable development. As I have said, it is there because of the desire for symmetry across the piece.

**Mike Rumbles:** I am a little confused as to why you cannot give us any examples. After all, this is an important piece of legislation. We are talking about taking land away from people who own it—and doing so for a particular purpose—but you do not seem to be able to give an example of when the power would be used. We are being asked as

a committee of the Parliament to give ministers this new power, but I can see no specific examples of the different situations in which it might be used instead of the power that ministers have now. I have no problem with the powers that ministers have at the moment, but I am utterly confused about the need for the new power.

**The Convener:** We have pushed Carole Barker-Munro quite hard on this point, and I am happy to bring in Simon Hodge for a comment, but perhaps it is an issue that we should take up with the minister.

**Simon Hodge:** I have been searching my mind for an example to give you. As Carole Barker-Munro has suggested, looking back the way, we have not seen these kinds of situations to any degree. However, I remember a case a couple of years ago involving a designated peat bog that had a historical permission for peat extraction. Given its designation as a special area of conservation, we worked closely with the Scottish ministers on finding a solution to avoid the bog's destruction as a result of peat extraction. In the end, we went through a process of buying the site out and bringing it under management to restore it to favourable condition. Compulsory purchase was not discussed in that case, and the situation did not pertain directly to the 1967 act, but to my mind it is an example of the sort of situation where one could imagine the power being considered as an option.

**The Convener:** Carole Barker-Munro was right to say that this is an important point, because members are now queuing up to ask questions. John Finnie is next.

**John Finnie:** "Sustainable" is a much used and, I would suggest, much abused word—although I would say that, wouldn't I? Was it a conscious decision not to define the term in the bill?

**Carole Barker-Munro:** It was a conscious decision. "Sustainable development" is a well-used term, and it is used in legislation without being defined. Gemma MacAllister might be able to give some examples of recent bills in which it has not been defined.

**Gemma MacAllister (Scottish Government):** I am happy to do so. The term "sustainable development" is not defined in the bill, but there is established case law that says that its meaning is clear to the legislature, judges and ministers. The Scottish Government's view, then, was that it did not have to be defined.

**John Finnie:** But the terms "forestry land" and "national forest estate" are defined.

**Gemma MacAllister:** The default interpretative rule, if you like, is that where a word is not defined in a piece of legislation—and not all words are

defined in legislation—it takes its ordinary meaning. In other words, a judge would look simply at the plain, ordinary meaning of the words.

**John Finnie:** Would it be possible, then, to share with the committee in writing the definition of “sustainable development”?

**Carole Barker-Munro:** We are happy to come back to the committee with the judgment that Gemma MacAllister referred to, but I point out that the purpose of defining “forestry land” in the bill is to give transparency for the public and MSPs with regard to the land that should be subject to sustainable forest management. There is a transparency element, because members of the public should be able to identify what constitutes forestry land and therefore the places where ministers should be practising sustainable forest management.

**The Convener:** I am looking again at you, John, because I am as intrigued as you are by this line of questioning.

**John Finnie:** The national forest estate might be a well defined area, and I understand what you say in relation to rulings. However, although you might feel that it might not apply with regard to the bill, if you were able to give a definition of “sustainable economic growth”, that would be extremely helpful. If there was a precedent for that, it would be good to know.

**Carole Barker-Munro:** It would probably be quite helpful if we wrote to you to set out a number of definitions.

**John Finnie:** That would be appreciated.

**The Convener:** That would be helpful. Looking around the table, I can see a few raised eyebrows with regard to what things mean.

**Peter Chapman:** I need to declare an interest in that I am a farmer and own farmland in Aberdeenshire. My concern is that the bill is incredibly broad. What is to stop the minister on a whim deciding that he would like a chunk of my land in the north-east so that he can plant on it? If he came forward and said, “I quite fancy a bit of that; it would make a nice forest,” how would I argue against that if I did not want to sell? The bill is incredibly wide and, I think, incredibly dangerous.

**The Convener:** I also own a bit of land, so I am nervous about ministers, too. I should declare that I have an interest in a farming partnership. I suspect that Stewart Stevenson is going to say that he has a wee interest, too.

**Stewart Stevenson:** Indeed, I have 3 acres adjacent to forest land, which is, therefore, land that someone might naturally think to extend a forest into.

**The Convener:** Now that we have got that out of the way, I invite Carole Barker-Munro to come back in.

**Carole Barker-Munro:** My colleagues who deal with policy on compulsory purchase would take issue with the idea that it would be done on a whim, as there are procedures for these things. Checks and balances are set out in Scottish Government policy. We are happy to provide further information if we can. Compulsory purchase is not an area that we lead on, but the bill reflects Scottish Government policy, which is to have the powers available for situations in which agreement cannot be reached.

**Gemma MacAllister:** The power would always be exercised in accordance with the published guidance. I hope that you have seen the circular that talks about exercising the power when it is in the public interest to do so. Nothing would cut across that.

**Peter Chapman:** I must say that I remain to be convinced. I look forward to your written submission on the point. I think that the bill is far too wide, far too broad and far too dangerous. We need to give the matter considerable thought.

**Jamie Greene:** Due process has been mentioned a few times. If the minister decides, from a policy point of view, to purchase a piece of land, what is the process that the minister has to go through? Who does the minister have to satisfy in order to allow that to happen?

**Gemma MacAllister:** Compulsory purchase is an issue that is being dealt with by my legal colleague, who is not here today. However, the procedure was established in the 1947 act that Carole Barker-Munro referred to. It sets out a procedure that has been followed on many occasions and which includes checks and balances such as publication requirements and opportunities for being heard via a hearing or a public local inquiry, and it hooks into legislation that gives provision for compensation. Further, as I said, the power would only ever be exercised in the public interest—that is what is in ministers’ published guidance.

**Jamie Greene:** The land need not be purchased for the purposes of forestry; it could be purchased for sustainable development, although that is an undefined term. Is that correct?

**Gemma MacAllister:** “Sustainable development” is not defined, but it is not unusual not to define terms in legislation. The term will take its ordinary meaning. There are many terms in many pieces of legislation that are not defined. In those cases, when it comes to those terms being interpreted, the ordinary meaning of the words or the term are considered. As I said, there is established case law, with a judge saying that

“sustainable development” is a clearly understood term. I believe that various accompanying documents such as the policy memorandum and the Scottish Parliament information centre briefing have referred to internationally accepted definitions of the term.

**Jamie Greene:** What judicial recourse or statutory options are available to members of the public if they disagree with the intentions of the minister with regard to compulsory purchase?

**Gemma MacAllister:** That is where the objection procedure comes in. It is all about someone having an opportunity to be heard and have their concerns put forward.

Because of the nature of the powers, the legislation is interpreted strictly by the courts. That is part of the checks and balances that Carole Barker-Munro spoke about.

**The Convener:** Just to clarify, and to use an example that I have seen, if someone owns a small patch of land and the Forestry Commission wants access to its woods on the far side, in the past, it would do that by negotiation, but in future it could compulsorily purchase a track through the farm and argue that that is in the public interest. I think that the bill will allow the Forestry Commission to do that, or am I wrong?

**Carole Barker-Munro:** The Forestry Act 1967 allows the Forestry Commission to do that at the moment, if the purpose is forestry.

**The Convener:** If there is another route, the Forestry Commission cannot do it, but under the bill, it could, under the sustainable development provision. Perhaps you could ponder that.

**Carole Barker-Munro:** I would like to ponder that one.

**Mike Rumbles:** We have heard a number of comments about there being checks and balances, although I am still not clear what they are. From what has been said, it seems that the minister will decide what is in the public interest. Is that correct?

We have heard that the power will be used only after negotiation, but if Parliament gives the minister the power of enhanced compulsory purchase, that will strengthen his or her hand in any negotiation with landowners about what he or she wants to purchase. I am not clear what the checks and balances are under the enhanced power that we are giving the minister.

**Carole Barker-Munro:** The best way for us to answer that is for us—with your permission, convener—to write to the committee with a detailed explanation of the way in which compulsory purchase works overall, because that is the procedure that we are tapping into. It would

be helpful to set out how the process works for a number of powers and bodies.

**The Convener:** A letter on that would be helpful.

**Rhoda Grant:** I have a quick question on that issue. My reading of the bill suggests that the power can be used for forestry purposes, but the example given was the preservation of peatland. I am not clear whether the bill refers to non-forestry land.

**Carole Barker-Munro:** The power of compulsory purchase refers to forestry and non-forestry land. The forestry land provision is not new; the provision on non-forestry land for the purposes of sustainable development is new.

**Rhoda Grant:** Can you direct me to where that is in the bill, because that is not my reading?

**Carole Barker-Munro:** Section 16(1) says:

“The Scottish Ministers may compulsorily acquire land that they require for the purpose of exercising their functions under ... section 9”,

which relates to forestry, and “section 13”, which is for the purpose of sustainable development.

**The Convener:** Before we move on to John Finnie, I have a question on disposal of land. Currently, the Government policy, with the agreement of the Parliament, is that it can dispose of land to rationalise, but the proceeds must be reinvested in the forest estate. There is a concern that section 17 of the bill gives the Government the ability to dispose of land but does not require it to reinvest the proceeds in the forest estate.

**Carole Barker-Munro:** Section 17 gives the Scottish ministers the powers to dispose of land. Those are not much different from the current legislative powers that ministers have to dispose of land. However, at the moment, a policy is in place around the proceeds being reinvested.

Simon Hodge wants to come in on that.

**Simon Hodge:** Just to clarify, we have two streams for disposal on the estate. One is called rationalisation, which is the disposal of small pockets of land and buildings that are no longer required. We use that income to fund the majority of our capital activity, such as the purchase of vehicles and fleet and capital works on management buildings and the like. The other, which hitherto was called rationalisation but is now the new woodland investment programme, involves a larger-scale sale of land for reinvestment, principally into woodland creation, although in the past few years it has also been used to invest in, for example, integrated land management with active farming for new entrants.

Therefore we have the larger-scale sale for reinvestment in woodland creation and the smaller-scale rationalisation to fund Forest Enterprise Scotland's capital requirements.

10:45

**The Convener:** I can see that Carole Barker-Munro wants to come back in, but I am worried about the amount of time that we have to deal with the number of themes that we have left. She can come in briefly.

**Carole Barker-Munro:** I just want to draw the committee's attention to the fact that any disposals of the national forest estate have to be undertaken in accordance with the forestry strategy.

**The Convener:** Okay.

**John Finnie:** I have some questions about community bodies. Section 18 of the bill allows the delegation of management of forestry and other land to community bodies, and sections 19 and 20 deal with other aspects of that. Will you outline how the powers in sections 18, 19 and 20 differ from similar powers in the Forestry Act 1967?

**Carole Barker-Munro:** The power in section 18 is a straight lift from the 1967 act, with the exception that it is for not just forestry land but any land. Again, that is a broadening and a contribution to the community empowerment agenda. The definition in section 19 is the definition in the 1967 act that was amended by Parliament two years ago via the Community Empowerment (Scotland) Act 2015, so it is a straight lift but with a slight broadening to take account of the wider role.

**John Finnie:** Okay. I will ask some other questions quickly, if I may, convener. Ms Barker-Munro, how did you arrive at the meaning of a "community body" as set out in the bill? How does it compare to the meaning in the 2015 act?

**Carole Barker-Munro:** We arrived at that meaning because it is currently law. It is in the 1967 act, as amended via the 2015 act, so it was the Parliament that arrived at that definition for forestry purposes, and we have purely replicated it. There are a number of different definitions of a community body in statute, depending on the purpose. The 2015 act has different definitions of a "community body", depending on the purpose for which the provisions are used.

**John Finnie:** The policy memorandum states that the bill is

"contributing to the community empowerment policy agenda."

How will that be achieved, please?

**Carole Barker-Munro:** The bill will enable communities to get involved in managing parts of

the national forest estate. As I said, that is based on existing law and we have merely lifted it and put it into the bill, because we saw no reason not to.

**John Finnie:** It was a question and not an accusation. [Laughter.] I am sorry if it was presented as the latter.

**Carole Barker-Munro:** I will pass it over to Simon.

**Simon Hodge:** On our current practice, we have just launched a new community asset transfer scheme that, in effect, broadens an existing mechanism to allow communities to bid to acquire parts of the national forest estate. Crucially, that increases the breadth from communities of geography—local residential communities—to communities of interest, which is consistent with the 2015 act. I see those provisions in the bill as enabling us to continue to operate on that basis rather than as significantly broadening the powers. We have already brought our practices in line with the 2015 act, and the provisions will ensure that the bill is aligned with those existing powers.

**John Finnie:** Thank you, that is very positive. I am afraid that I am going to have to use the term "compulsory purchase" again. Perhaps you can respond to this question in writing if you cannot answer it just now. It relates to land that is bought through compulsory purchase to further the achievement of sustainable development. Will the bill allow ministers to delegate the management of that land to a community body?

**Carole Barker-Munro:** I will respond to that in writing, but I believe that the legislation will allow that. However, I will need to check whether certain rules are in place about what can be done with land after it is purchased through a CPO.

**John Finnie:** Okay. Many thanks indeed.

**The Convener:** It would also be helpful to know with regard to land no longer required for sustainable development whether the Government will have an obligation to sell it back to the person from whom it was compulsorily purchased, which I believe is the law at the moment. It would help if you could clarify that.

Members have a lot of questions on felling. Richard Lyle will lead on it.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Basically, I am going to put it all together, if I can. The policy memorandum states:

"While the Forestry Act 1967 focused on timber production, the new regime allows for a broader view to be taken."

However, the consultation document included few details on a new felling regime allowing a broader

view. Why does the Scottish Government feel that a broader view of felling is needed? In what way are the provisions in the bill broader than the scope of the current felling regime? How much detail on the changes to the felling regime was included in the consultation document? What were respondents' views on the proposals about felling?

**Catherine Murdoch:** I will try to keep my answer short, as per the convener's instructions. We have broadened the regime in the sense that we are tying all decisions on felling permission back to sustainable forest management. The old regime focuses strongly on allowing felling for timber production. We are tying decisions back to sustainable forest management. In taking decisions, a view will have to be taken on the balance of the three aspects that we discussed earlier.

In the consultation, we said that some of the detail in the Forestry Act 1967 would drop down into secondary legislation, and that is what we are doing. The detail of how the regime will be broadened, in terms of the process and what applicants can expect, will fall to secondary legislation. That will allow us to work with the sector to ensure that when we talk about referring back to SFM, it understands what that means, and that the processes that we put in place will function correctly.

**Richard Lyle:** I turn to regulations on felling. The part of the bill on felling lacks detail, as much of the detail will be provided in regulations. The bill provides for regulations on a number of matters, including applications for felling permission, decisions on applications to fell a tree, compensation for refusal of felling permission, felling directions, restocking directions and appeals against decisions by ministers.

Why is so much of the detail on the felling regime to be included in regulations rather than in the bill? What will the timetable and the process be for developing and consulting on those regulations?

**Catherine Murdoch:** The thinking behind having all of that detail in secondary legislation is that the provisions in this area are very detailed. For example, the Forestry Act 1967 provides for exceptions to the situations in which it is necessary to apply for a felling licence; it goes into detail on, for example, the diameter of trees, which is amended by secondary legislation when it needs to be. We have taken the view that it would be fairer to the sector, in the first instance, to work with it to create all the regulations. It would have been difficult for us to do that prior to the bill being published, because the framework is quite different. We will now work with the sector to put all of the detail together and we intend to have it

ready for commencement. Our current working date is spring 2019.

**Richard Lyle:** My last question is about refusal of felling permission. Section 29 relates to compensation for refusal of felling permission. Under what circumstances might the Scottish ministers refuse an application for felling permission? What is the current process for compensation in such circumstances?

**Catherine Murdoch:** The detail of the situations in which felling permission might be refused is among the detail that we have yet to work out. At one end of the spectrum are situations in which it would be detrimental to the environment to fell or it might be desirable not to fell from a timber supply point of view. However, I am led to believe that it is quite rare for felling permission to be refused—I am looking at Jo O'Hara, because she is the current regulator. It is much more likely that felling permission will continue to be given but that conditions will be attached that require restocking.

It is less a case of stopping felling happening and more one of maintaining woodland cover after felling takes place. The way in which felling is regulated and will continue to be regulated is that conditions can be attached to permission to fell, and the regulator can require restocking when felling has taken place illegally. Those are the basic principles now and that will continue.

**Richard Lyle:** That is fine—thank you.

**The Convener:** Would you like to come in on that, Jo?

**Jo O'Hara:** If it would be helpful.

**The Convener:** I was a bit confused by the fact that it seems that someone can be refused permission to fell but can then be ordered to fell in the interest of sustainable development. Someone might be refused permission to fell for a nature conservation reason, but the majority of the trees might blow over and they might be ordered to fell them and then to restock the land. I do not quite understand how all that will work.

**Catherine Murdoch:** The confusion is perhaps because it looks linear in the bill—that is just how it is set out—but it is not linear in practice. The reason for having the ability to direct felling is more about avoiding harm caused by trees, although it is rare for such a situation to arise. That ability exists, but I am not sure how often it is used. A stand of trees that is grown for timber that someone wants to fell is a separate situation and a regulation is in place that allows us to require restocking. Situations in which we, as the regulator, would direct felling are quite different—those would be where trees are causing harm.

**The Convener:** I noticed that Jo O'Hara is nodding in agreement that that situation does not happen often.

Mike, do you want to come in before I move on?

**Mike Rumbles:** Yes, please. The bill is obviously directed at commercial tree felling and that sort of thing, but it has just struck me that section 23 says:

"A person commits an offence if the person fells a tree".

It then sets out a list of exemptions. I want to ask what is, in a way, a silly question. In rural Aberdeenshire, a lot of people have large 1-acre gardens with trees in them. Are we bringing such people into the bill? I am pleased to see Catherine Murdoch shake her head. However, as a layperson reading the bill, I see that it says that

"A person commits an offence if the person fells a tree".

**Catherine Murdoch:** Yes, it does look like that. In reality, the current offence is felling a growing tree. We continue with that offence; it is simply a question of construction. An offence needs to be clear, so that people understand when they are committing an offence. On top of that, we will have exemptions. Currently, those exemptions could set a minimum area, for example. Therefore, we would take the single tree out of the equation by creating an exemption for it.

**Mike Rumbles:** Right. There are exemptions in the bill and the current law.

**Catherine Murdoch:** They will be set out in secondary legislation.

**Mike Rumbles:** The offence will not apply to residences.

**Catherine Murdoch:** This is a forestry bill. We are not looking at single trees, but we will put all the exemptions in secondary legislation. That is how it will be constructed.

**Mike Rumbles:** I just wanted that point to be clarified. Thank you.

**The Convener:** Jo O'Hara is going to come in and tell us that it is still all right to cut down the odd tree for firewood, no doubt.

**Jo O'Hara:** If you look at the current legislation—I would not blame you if you did not want to do that, because there are all sorts of complexity in there—you will see that it lays out all the exemptions, including whether it is a fruit tree, a tree in a garden or a tree in a park. To be honest, the exemptions need to be brought up to date, and that will be done in the secondary legislation that we are talking about.

**The Convener:** Peter Chapman has the next question.

**Peter Chapman:** My question is about notices to comply and compliance. Chapter 6 of the bill is about registering notices to comply with continuing conditions, felling directions and restocking directions. How do the bill's provisions on registration of notices to comply differ from the current system?

**Catherine Murdoch:** Broadly speaking, the current system allows the regulator to enforce a failure to comply with a felling licence or a felling direction on subsequent owners. We are putting in place a link to the existing system that will allow new owners to know exactly what they are purchasing, including any burdens that sit with that land. At the moment, it is less transparent than that. If you were to purchase land, you would be dependent on the seller telling you that they had a felling licence and that conditions would still run with that land. We are putting in place the opportunity for the regulator to take a view about whether those conditions should be put on the register, so that they would all appear in the usual searches that solicitors run when a person is purchasing a piece of land.

**Peter Chapman:** This is about purchasing an existing forest that is already growing trees—

**Catherine Murdoch:** You could be purchasing the land at the point when everything has been felled and restocking conditions still apply. It is about having transparency at that point. If you were to buy a mature forest, you would understand what you were buying much more easily than you would if you were buying a piece of forestry land that has been felled but has not yet been restocked.

**Peter Chapman:** I am happy with that.

**Jamie Greene:** A consequence of the bill will be the repeal of the Forestry Act 1967 in Scotland. The main thing that struck me from that is the fact that the current act states that all activities on national forest estate land must be tree related. The bill removes that restriction. Is anyone on the panel aware of any other substantial consequences or implications of the repeal of the 1967 act that the committee should be aware of?

11:00

**Carole Barker-Munro:** The view has been taken that some of the functions that were placed on the forestry commissioners by the 1967 act are obsolete or unnecessary. I would be happy to write to the committee with a list of those functions, but there are examples that relate to activities such as going on to a neighbour's land, shooting their rabbits and selling them back to him for the privilege. We felt that that was perhaps not a modern policy directive.

A slightly more sensible function is the powers that forestry commissioners have to make byelaws for access. Because of the Land Reform (Scotland) Act 2003 and the fact that access is now a local issue, and because the Scottish ministers do not have powers to make byelaws for access, those powers should not be kept for the Scottish ministers. There are some examples of the opportunity being taken to modernise, refresh and remove some of the obsolete functions. I am happy to provide a list of those if it would be helpful.

**Jamie Greene:** It would be helpful to get a list of things that are being dropped or lost as a result of the repeal of the 1967 act, and additional or new things in the bill so that there is a clear comparison.

**Carole Barker-Munro:** We would be happy to provide that.

**Jamie Greene:** Further to that, why do some aspects of the bill that widen the scope of the Scottish ministers' powers fall into this bill when they should perhaps have been included in the Land Reform (Scotland) Act 2016? Why are they being included in the bill if they do not relate specifically to forestry?

**Carole Barker-Munro:** The main element of the bill that is not related to forestry is the one that we have already touched on, which is the broader land management role. That is there to fulfil a manifesto commitment and policy to give the Scottish ministers a wider land management role and to establish forestry and land Scotland as a land agency for Scotland. The bill facilitates delivery of that manifesto commitment.

**Jamie Greene:** So the new forestry division will sit within the new executive agency.

**Carole Barker-Munro:** No. The new forestry division will sit within the Scottish Government. It will be a division of the environment and forestry directorate. Forestry and land Scotland will be the new executive agency and it will report to the Scottish ministers.

**Jamie Greene:** I think perhaps we need to see an organogram structure of how the agencies, divisions, directorates and ministers all fit together. That would also be quite helpful.

**Carole Barker-Munro:** I am happy to provide that.

**John Mason:** One of the most interesting aspects of any bill is its financial side. We have heard about the forestry governance project board, which was set up to look at the finances of the devolution of forestry. Can you tell us about that? Does it produce a report? Where are we going with that?

**Ginny Gardner:** The forestry governance project board was set up after the announcement by ministers in 2015 that they had agreed with the UK Government to complete the devolution of forestry. The board is chaired jointly by directors in the Department for Environment, Food and Rural Affairs and the Scottish Government. It also has members from the Forestry Commission. Jo O'Hara and Simon Hodge are on it, along with forestry representatives from England and Wales.

The board's remit is specifically about the cross-border arrangements. Because we need to agree across the three Governments, the board is not about finance in Scotland. It looks at the cross-border functions that are delivered by forestry commissioners across Britain and at the processes that will be put in place across the three countries for those arrangements in the future. The particular finance issue that arises is that, at the moment, the cross-border functions are funded by DEFRA on behalf of all Administrations and we are looking at how that funding will be shared going forward. It is a specific cross-border issue.

**John Mason:** Forest Research Scotland contributes £2.48 million to that. Will we be contributing more after devolution or less?

**Ginny Gardner:** The £2.48 million is specifically for research that only Scotland is asking Forest Research to do. Jo O'Hara might want to say a bit more about that. Forest Research gets its core budget from DEFRA—I think that it is about £8 million—and that covers research that is relevant to all Britain, not just to Scotland. We obviously want that research to continue.

**John Mason:** Would the risk be that, because we have got more than our 8.3 per cent population share of forestry, we might end up having to foot more of the bill that DEFRA used to fund?

**Ginny Gardner:** We are still negotiating the share but we anticipate that our share of the budget that is currently in DEFRA will come to the Scottish Government.

**John Mason:** Is there agreement about how it will be shared out?

**Ginny Gardner:** That is still up for agreement.

**John Mason:** I think that we would like to be kept updated on that.

**Ginny Gardner:** Yes.

**John Mason:** It is suggested that there will not be a huge cost and nothing for local authorities or other bodies. However, one of the big chunks will be information technology costs. Whenever IT is mentioned at this committee, people get quite wound up and worried. The figures vary from £2.05 million to £8.05 million, which seems to be



quite a wide range. What is your comment on that?

**Ginny Gardner:** As set out in the financial memorandum, IT specialists in the Forestry Commission are working with our Scottish Government IT specialists on the exact nature of the integration of the current systems. They still have to fully work out aspects of that, which is why there is a greater range on some of the aspects under that item.

**John Mason:** I think that it would be fair to ask for updates on that as we go on.

**Ginny Gardner:** Of course.

**The Convener:** It might also be useful to know that that is the broadest range and that the cost will not go above it.

**Ginny Gardner:** That is the broadest range that the IT specialists have given.

**The Convener:** Those are all the questions that we have time for. The clerks will marshal the questions that I have not been able to bring in; we will submit those and remind you of the things that you have undertaken to respond to the committee on.

I thank you all for coming. In the coming weeks, we will be taking further evidence from various stakeholders, and I suspect that we might well be seeing some of you again when the cabinet secretary comes to update the committee. Thank you.

11:08

*Meeting suspended.*

11:12

*On resuming—*

## National Transport Strategy

**The Convener:** Item 2 is an evidence-taking session on the national transport strategy. I welcome to the meeting Humza Yousaf, Minister for Transport and the Islands, and from the Scottish Government, Heather Cowan, head of transport strategy and European funding; Bertrand Deiss, transport strategy officer; and Rory Morrison, senior research officer.

I invite the minister to make a brief opening statement.

**The Minister for Transport and the Islands (Humza Yousaf):** Thank you, convener. I know your preference for brief statements, and I will certainly make this brief.

The national transport strategy review will produce a successful strategy setting out a compelling vision for the kind of transport that people and businesses want in Scotland over the next 20 years. Scottish ministers are committed to delivering a collaborative review of the NTS that gives partners, transport operators, local authorities, businesses, the travelling public—of course—and communities right across Scotland a greater say in influencing the development of transport policy at local, regional and national levels.

We are offering opportunities to collaborate and co-produce with our key partners through our partnership group and various working groups. For example, regional transport partnerships and the Convention of Scottish Local Authorities will have representation on the roles and responsibilities working group as well as the NTS partnership group, which is co-chaired by COSLA, and the governance body—the NTS review board—which I chair.

Convener, as you and members will be aware, an early engagement consultation in the form of an online survey was carried out between December 2016 and March this year. The purpose of that exercise, the report of which was published last week, was to gather some views from members of the public and interested organisations across Scotland on strategic transport outcomes; changes, challenges and opportunities for transport; and the desired format of future engagement in relation to the NTS review. The total of 614 responses, 538 of which came from individuals, compares very favourably to the response to other fairly high-profile strategic plans and demonstrates how much people care about transport.

11:15

I will, if I may, briefly highlight a few key themes that emerged from the consultation. Respondents made a number of often connected points about increasing levels of active travel such as cycling and walking. Of course, the Government has invested £175 million in active travel since the start of the 2011 spending review and is committed to maintaining those record levels of funding.

Many respondents referred to sustainability and the importance of reducing levels of emissions. That was sometimes associated with reducing the number of car journeys through increased use of public transport and an increase in active travel. Another frequently raised issue was the need for high-quality and integrated public transport services as well as a commitment to addressing the transport-related challenges resulting from remoteness and rurality, and a final key theme was affordability and accessibility of transport.

As for how the review will progress, the findings of the early engagement exercise will now be used to inform wider public and stakeholder engagement, extending the review's collaborative ethos even further. We are developing a plan for full-scale, Scotland-wide stakeholder engagement to take place later this year, culminating in a full public consultation, and the intention is to publish national transport strategy 2 in the summer of 2019. The responses to the early engagement survey have provided a number of possibilities for progressing full-scale stakeholder engagement including online channels, social media, existing working groups, forums, dedicated events, special interest groups and community engagement. I would, of course, welcome any views that members might have on that.

My very final point is that, as members will know, seven working groups have been established in parallel with the NTS review team to address key challenges and topics in the review. Some of those groups have now met, and the first meetings of the remaining groups will be scheduled from this month onwards. The groups will meet every few months until approximately July 2018, during which time strategic policy options will be developed and then tested by stakeholders and modelling work.

That concludes my opening remarks, convener. I am more than happy to take comments, questions, suggestions and indeed advice from you and other committee members.

**The Convener:** Thank you. Before we go any further, do members have any transport interests to declare?

**Stewart Stevenson:** I declare that I am the honorary president of the Scottish Association for

Public Transport and honorary vice-president of Railfuture UK. I do not play any executive role in either body, but I have been part of the internal consultation on what is before the committee.

**Rhoda Grant:** I declare that I am honorary vice-president of Friends of the Far North Line.

**The Convener:** It seems appropriate, then, that Rhoda Grant leads off with the questions.

**Rhoda Grant:** How has the progress of the original national transport strategy been measured?

**Humza Yousaf:** That is a very good question, and it is partly the reason why a refresh was commissioned in 2015 and took place in 2015-16. That refresh looked at the original 2006 strategy which, as members will know, contained three key strategic outcomes and five high-level objectives, and a table in an annex of its report showed how we measured up from 2006 to the present day. That is how things have been measured; in some cases, there had been good progress while, in others, there was still some progress to be made.

**Rhoda Grant:** How far did the national transport strategy get in meeting its three strategic outcomes of improved journey times and connections, reduced emissions and improvements in quality, accessibility and affordability?

**Humza Yousaf:** I know that members will have seen it already, but it is certainly worth looking again at the table that was produced as part of the refresh. We can go into that in a little bit more detail, but I can highlight a number of examples with regard to the key strategic outcomes that Rhoda Grant mentioned.

One of the greatest successes, or areas where we have measured up well, is the reduction in casualties on our roads. The number of people killed in road accidents in Scotland decreased from 300 to 200, which is a 36 per cent reduction, despite there being a 2 per cent increase in road traffic. Improvements have certainly been made on the safety side.

There are good statistics on the use of public transport. We know that there has been an increase in the number of people taking the train. We also know that there was an increase in the percentage of trains arriving on time—the public performance figure—from 86 per cent in 2005-06 to 91 per cent in 2015-16. There have definitely been some positive developments.

However, we should not shy away from the fact that there are also areas where there have been significant challenges. The decline in bus patronage is an example of where the trajectory is going in the wrong direction, so there is work still to do. Although we have made significant progress

through the reduction in CO<sub>2</sub> emissions, we as a Government still want to go further on that.

The table in the refresh goes into more detail. There have certainly been some successes, but we are fully aware that there are some areas where we have to, and want to, go further.

**Rhoda Grant:** One of the outcomes is improved quality, accessibility and affordability. How do you measure that, given that it involves soft targets that are down to perception? How can you measure such outcomes in a way that ensures that people have confidence in them?

**Humza Yousaf:** That is a very good question. As well as the overarching national transport strategy, we also have a number of other fundamental documents that flow from it.

One of the things that I was very proud to do as transport minister was to launch the accessible travel framework last September, which is a framework for how we make our transport more accessible to people with mobility issues and disabilities over the next 10 years. The document states that a review group will measure outcomes. There have certainly been successes that I could point to. The bus industry has made great progress in improving the accessibility of our buses. It has to meet key targets that are set out in legislation and statutory guidelines.

On affordability, it is important to stress that the Government stepped in to cap the amount by which fares could rise, as a result of which any increase in train fares north of the border was much less than increases south of the border.

However, that is not to take away from the fact that members of the public still feel that elements of their transport could be made more affordable. We have tried to do that for our island communities by introducing the road equivalent tariff, which communities in the Western Isles welcomed greatly. It is right that we get challenged on that by communities in the northern isles. We are committed to taking action on ferry fares.

There have certainly been some successes on the affordability and accessibility front, which are measured through our documents, including the franchise agreement with ScotRail. However, I would never like to give the committee the impression that I believe that we have done everything perfectly and that things cannot be improved, because they can be. We hope that that will come out in the review process.

**Jamie Greene:** The refreshed strategy from January 2016 did not really provide any specific policies or proposals. It was very informative in the sense that it outlined the changes in the landscape that had been made over the previous 10 years, but what was its purpose, given that you knew that

a full review would be announced just a few months later?

**Humza Yousaf:** There are a couple of things that I would say to that. One is that the refresh helped inform us of the reasons and rationale for a full-scale review. We did not know before the refresh was undertaken that we would do a review straight after it. The refresh looked at the evidence base. As members will know, there was a fair change in evidence between 2005-06, when the strategy was produced, and where we got to 10 years later in 2015-16. It was important to refresh the evidence base and to look at the analysis of the evidence. That enabled us to determine that there should be a full-scale review.

It is probably also worth making the obvious point—as politicians, you will understand this—that it would have been somewhat unfair to establish a full-scale review towards the tail end of a parliamentary session. Bearing in mind that we are talking about a two to three-year review, if there had been a change in Administration, the review would have been halfway through when the new Administration came in, which would have been quite unfair, as it would have been able to do little to influence the process. The start of a parliamentary session is probably the right time to begin a full-scale review, and that is what we have done.

**Jamie Greene:** You mentioned that one of the outcomes of the interim refresh of the NTS was the current full-scale review. Why did it take the Government 11 years to undertake a full-scale review of a matter of such importance? The fact that 614 people and organisations responded to the Government's survey is surely a testament to the scale of the interest in the NTS. Eleven years seems like a terribly long period, given that other policy documents are generally refreshed on a much more frequent basis, such as every five years.

**Humza Yousaf:** In the context of the review that is under way, I am happy to explore whether there should be a statutory timeframe for review. I am not inclined to go that way—my gut tells me that that is probably not a good idea. With the current strategy, there is the ability to have a review every four years. In 2010, discussions were held with the NTS stakeholder group which, as you would expect, includes representatives of organisations such as COSLA, the Confederation of British Industry Scotland, the Scottish Trades Union Congress, passenger organisations and commuter interest organisations. In 2010, that group took the view that a review was not necessary.

Ultimately, the decision is one for ministers to take but, in consultation with the stakeholder group, it was decided that a review was not necessary at that point. The national transport

strategy was still very relevant in 2010. With the NTS, we take a 20-year view, because changing behaviour and making transport improvements is a long game. That decision was not taken just by ministers; I assure the member that it was taken in consultation with the stakeholder group.

Ten years on, we are in a position in which all stakeholders think that a review is a good idea. The decision to review the national transport strategy is not just a ministerial one. When I meet regional transport partnerships, COSLA, the Society of Local Authority Chief Executives and Senior Managers and other stakeholders, I get the strong sense that there is a view that now is the right time for a review. I do not think that there are any differences of opinion on that.

**Jamie Greene:** I appreciate your frankness, but I would like to clarify something. Are you saying that it was the NTS stakeholder group, not ministers, that decided not to carry out a review of the NTS over the past 11 years?

**Humza Yousaf:** No. I think that I said that, ultimately, ministers take the decision. The NTS is a Scottish Government strategy, so it is up to ministers whether to review it, refresh it or tinker with it. However, I hope that I gave the impression that the decision was taken in collaboration and consultation with the NTS stakeholder group.

I would have to think who the transport minister was in 2010; you could obviously ask him. My briefing suggests that the NTS stakeholder group was consulted. I am not saying that all the stakeholders had the same opinion; given how many stakeholders there are on the group, I am sure that that would not have been the case. After taking advice from them, the minister at the time took the decision—absolutely rightly, I think—that there was no need for a full-scale review four years after the publication of the strategy.

**The Convener:** Thank you for mentioning the former minister. I am now going to have to bring in Stewart Stevenson.

11:30

**Stewart Stevenson:** Does the fact that the first national transport strategy has Tavish Scott's signature at the bottom of it illustrate that it represented a consensus and that we ought to be able to find common cause on a long-term view of where we are going? After all, it was a previous transport minister—possibly me—who picked up that strategy and ran with it. The fact is that disagreements and differences of view are more likely to arise when we examine individual projects than when we consider the overarching strategy, on which history tells us that we ought to be able to reach a high level of agreement.

**Humza Yousaf:** That is correct, so I will not add much to that. I give credit where credit is due: the coalition Government that was in power before the Scottish National Party put together a document that has stood the test of time and is well respected. When I speak to chief officers of transport across the country, it is clear that they respect the national transport strategy and hold it in high regard. However, I am aware that we are one day away from an election, so I should not praise the Opposition too much—*[Interruption.]*—despite the protestations of Mr Rumbles.

The purpose of the review is for the strategy to stand the test of time, which is why we want to develop it as collaboratively as possible. This has been a learning exercise. The Convention of Scottish Local Authorities has told me once or twice that it should co-chair a group or be represented on one; other stakeholders have said something similar. I have demonstrated my willingness to be as open as possible. We must try to find a balance between accommodating such requests and having death by committee, where there are far too many stakeholders to enable a decision to be made and too many working groups to enable us to function. I think that we have managed to strike that balance well.

**The Convener:** I do not recognise the idea of death by committee—I am sure that that has not been referred to.

**John Mason:** I assume that there will be some changes to the national transport strategy as a result of the review. Will that have an impact on the day-to-day decisions of the Government and Transport Scotland?

**Humza Yousaf:** Any changes could have an impact. The national transport strategy is an overarching document that sets out the high-level outcomes that we want to achieve, whereas the day-to-day decisions that we make on a variety of investments will be informed by context on an issue-by-issue basis. There are other documents and strategies, including the strategic transport projects review, which is of great importance to members because it affects investment in strategic transport routes in their areas.

I have no doubt that the review will focus our thinking but, as I said, it relates to high-level strategy as opposed to the day-to-day decisions that have to be made and which affect members around this table.

**John Mason:** I think that you said that the target date for the new strategy was summer 2019. Can you give us a bit of detail about what will happen between now and then, and how stakeholders can feed in and so on?

**Humza Yousaf:** We are doing a bit more work on how stakeholders can feed in, on the back of

the early engagement that has taken place. Once I have a firmer view of what is being done, I will be happy to write to the member on that.

With regard to the period between now and summer 2019, because of our collaborative approach I would ask members not to hold me to what will happen in every single month. However, I can say that, as well as the call for evidence that we have already announced, there has been a call for evidence from the research group, which is one of the seven working groups. Between now and July 2018, the working groups will continue to work and meet. I can give members details of the seven working groups, which are split up into functional and thematic areas.

Strategic policy options will be developed from January to July 2018 and collated in August 2018. Those options will then be tested by stakeholders. A framework to enable the monitoring of NTS2 will be developed between August and December 2018, and that is likely to include key performance indicators. The draft national transport strategy will be produced in January 2019, and that will be followed by a consultation period between February and May. The NTS2 document is due to be developed in the summer of 2019.

The working groups will report back to the review group so that, by the time we get to the consultation in early 2019, we should have a pretty solid draft that has been informed from the grass roots up—from stakeholder engagement right the way through to public engagement throughout the country. I hope that, by the time of the consultation, we will have a good idea of how the transport strategy will look. To road test the strategy, we will have a final consultation period beforehand.

The project is for two to three years to allow us to get into the meat of the issues in depth. Each issue will be discussed. Each mode of transport has 101 different issues that we could spend a considerable time delving into. It is therefore important that we take our time and take a strategic and evidence-based approach.

**John Mason:** That is helpful.

To follow up Jamie Greene's line of questioning on what has happened between 2006 and now, have you had any thoughts about what will happen from 2019 onwards? My gut feeling is that things should be reviewed after five or 10 years, and that there should be some kind of plan. It seems to me that, for the past 11 years, what was happening at what point has been a little vague.

**Humza Yousaf:** That will be part of the review work. As the minister, I am very aware that the monitoring of NTS2 could be stronger and a little more robust than it was for the current strategy. Although the current strategy was developed in

collaboration with the stakeholder group, my instinct and gut feeling are that we should firm up on when reviews and refreshers should happen and, in order to give confidence, we should take a slightly more KPI-based approach. However, I do not want to take that decision unilaterally; I want to work with the review groups and other stakeholders on it. That said, I accept John Mason's point. He and Jamie Greene made the point well. I can at least reassure John Mason that we are aware of that issue.

**John Finnie:** Good morning, minister. You alluded to the early views survey. The analysis of that identified 11 key themes and was very positive. Those themes included "Promoting cycling, walking and active travel", "Environmental issues, including reduced emissions", "High quality, integrated public transport", "Rural and island transport", and "Affordability and accessibility". That reads like a Green manifesto. What was the purpose of the online survey that was launched in 2016? How will those responses influence the development of the revised NTS?

**Humza Yousaf:** I am not going to take the manifesto bait a day before the election, but the point is well made. Wherever I go, whatever mode of transport is being discussed and whatever the topic is, there is real interest in active travel—it is an integral part of the discussions. Whether I am talking about ferries or people are talking to me about bike storage, trains, dualling the roads or our infrastructure projects, the question is: what is the active travel component? Active travel seems to be a key part of almost every discussion that I have. I agree with John Finnie about active travel being at the forefront of people's minds.

I would be interested in speaking to Tavish Scott at some point about his key consideration in 2006, which will clearly be a key consideration for us. There has been a change in people's mood in demanding action on active travel; that demand might not have been at quite the same level in 2006.

On Mr Finnie's direct question, the partnership group has already discussed some of the findings of the early views survey. It should be said that we decided to call for evidence not just because it was a good idea. Although we chose the topics, the suggestions for which ones we might want to examine came from our research and review group. Given the responses and the key themes that have come back, the group probably got it right. I am pretty impressed by getting 600-plus responses. That number exceeds those for other transport strategies for which we have asked for responses and even those for other Government strategies. Clearly, the topics that were chosen for the early engagement have garnered public interest.

**John Finnie:** You will be aware that survey respondents were particularly concerned that the revised NTS should focus on the development of safe cycling and walking networks. You spoke earlier about being committed to maintaining record levels of funding for active travel. I hope that that will be included in the next budget settlement, because there has been a real-terms reduction in the funding of active travel in the current budget. How will the development of cycling and walking networks feature in the revised NTS?

**Humza Yousaf:** I was happy to get Green support for the budget—I am sure that one of the reasons for that support is the record level of investment in active travel that we have committed to over this parliamentary term. However, I have no doubt that, like other members, the member will press the Government always to go further and look for more money to spend on active travel. I know what the Greens' view is on that, but I can say that, as the minister in charge of that area, if I can find additional spend for active travel, I am open minded about using it for that.

The way in which the revised NTS takes the active travel agenda forward will come out of the review process and discussions. I assure the member that that agenda is a key consideration for us. It is also worth saying that Sustrans is part of the high-level review group that I chair, so it has a seat at the top table, if I can put it that way.

I have been very public and have gone on the record—even in front of this committee—about the importance of, for example, segregated cycle paths for increasing active travel. We have an active travel task force that is looking at the issues at the local and national levels to see, for example, where there might be barriers to improving cycling infrastructure. All of that will feed into the revised NTS. However, there is no shortage of active travel organisations represented in the NTS working groups and the review group. I assure the member that active travel is very much at the forefront of our thinking.

**John Finnie:** Thank you.

**The Convener:** John Mason has a follow-up question on that.

**John Mason:** I will just follow on from some of the things that John Finnie has been saying. On the issue of safe cycling, there has clearly been a bit of a clash in Edinburgh between improving public transport by introducing the trams and claims by cyclists that their safety has been compromised in order to get the trams running. Is that something that would be reflected at NTS level or would it be looked at elsewhere?

**Humza Yousaf:** I think that Mr Mason might be referring to the tragic incident of the cyclist who

was killed after going over tramlines. The City of Edinburgh Council and Transport for Edinburgh have responsibility for the trams, and they take that responsibility incredibly seriously. They have said that they will look again at what safety provisions can be implemented on the tram network for cyclists and pedestrians. I think that we should give them the time and space to do that good work. I have a lot of time for Transport for Edinburgh, which I think is an excellent organisation.

As I said, there are seven working groups. One of the thematic groups is looking at the delivery of safe and resilient transport. I mentioned some of the successes in my remarks to Rhoda Grant—the reduction in fatalities on our roads, for example. However, looking at the flipside of that, there is clearly some work to do when it comes to safety for cyclists, who have been identified as one of the most vulnerable groups on the roads, along with pedestrians, older drivers, young drivers and motorcyclists.

11:45

The issue is certainly something that keeps me awake. How can we reduce the serious incidents and indeed fatalities that our cyclists face? I want cycling to become more popular, and that is happening, but for me having segregated cycle paths is a part of that. It is so important to get that right.

The issue will be considered as part of the thematic group on delivering safe and resilient transport, but even outwith the review process it is something that—rightly—takes up a lot of my attention. We will not wait for the review process to continue to do work on the agenda. I give the member an absolute assurance that we continue to do work on it.

**Richard Lyle:** Transport Scotland has established a research and evidence working group, which has four members from Transport Scotland, including Mr Rory Morrison, who is here. I want to target my questions to him after the minister has answered my first question. There are four professors on the working group, two from England and two from Scotland. How did we settle on them? Are they proficient in their field of transport?

**Humza Yousaf:** The research and evidence working group is important because we always want to take an evidence-based approach to what we do in the Government and the refresh in 2015-16 showed that the evidence base for the work that we do could be more robust.

Recently, I attended an excellent presentation by one of the members of the research and evidence working group, Professor Tom Rye, at

the annual general meeting of the Society of Chief Officers of Transportation in Scotland. I wonder whether we can ask him to share that presentation with the committee. He spoke about the need for a better academic evidence base to test our presumptions and assumptions about transport, and I found that absolutely fascinating. As I said, the working group was very much involved in our consideration of what call for evidence should go out, and it also has its own call for evidence, which closes in July.

I mentioned Tom Rye in particular, but all the academics on the working group—including, of course, the chair—are recognised as being of extremely high calibre and are well respected in the transport industry. I am happy to hand over to Rory Morrison to add to that.

**Richard Lyle:** I have three questions for Mr Morrison. What is the purpose of the research and evidence working group? Do you have carte blanche to take evidence to aid the review? Will you be talking to users and stakeholders—basically, everyone who uses transport—in order to formulate what you report back to the minister?

**Rory Morrison (Scottish Government):** There are several parts to that. I am an analyst for Transport Scotland and I provide the secretariat to the working group—I partly organise it. I reiterate the minister's comment that the academics who were chosen were selected partly because they are senior academics in their field and they offer a good coverage of the strategic transport issues that the review will touch on.

The group is chaired by Jillian Anable, whose areas of research include demand-side solutions to reduce carbon and energy use in transport, and we have members who are interested in the societal implications of autonomous vehicles and other new mobility solutions. Transport research is a broad field and no four people could represent everything with the same depth of knowledge, but the members have a broad understanding of the types of work that are going on in transport research more generally and they can connect the group to other on-going research.

There are several aspects to the group's function—one is to manage the call for evidence, which was made in April and closes for comment at the end of July. The group will also have a scrutiny and challenge function throughout the review in relation to evidence; it will be able to respond to ad hoc requests from working groups on issues to do with evidence and research and it will scrutinise the evidence that is used in the formulation of policy. The group has an external chair, which reflects its autonomy and separation from the policy-making aspects of the process.

**Richard Lyle:** Minister, how will the research and evidence working group's output be used in the drafting of the revised national transport strategy? How would you deal with a situation in which the group provided evidence that was at odds with your thinking or Scottish Government policy?

**Humza Yousaf:** On the latter point, I would have to be relaxed—if evidence or suggestions from working groups directly conflicted with Government policy, we would of course have to consider how to deal with that at the time. I do not expect huge conflicts. The process is grass roots and collaborative, in that we are not just helping to inform people but being informed.

If there are suggestions that we should focus our energies more on a particular aspect of transport or give further consideration to something, we must be guided by those suggestions. There is no point in going through a two to three-year, in-depth review process if we are not going to take on the advice from stakeholders. The outcomes will be backed by evidence and research, which will make them more robust. There is no point in a Government minister instructing a review and then choosing to ignore it. We will give matters the proper consideration that they merit.

**Richard Lyle:** I am glad to hear that. Thank you.

**The Convener:** The final question comes from Stewart Stevenson, appropriately enough.

**Stewart Stevenson:** I remember the previous strategic transport projects review extremely well—I think that it ran to 3,600 pages, although I cannot quite remember; it was certainly of that order. There were 29 broad headings. How will what is currently going on in the national transport strategy inform the new STPR timescales? We heard a little about timescales but has a date been set for the new STPR?

**Humza Yousaf:** The only thing that we have said about the timetable of STPR2 is that the review will be concluded in this parliamentary session. I appreciate that members might think that that is vague, but it is because we need the overarching national transport strategy—NTS2—to be substantially complete before we make major progress on STPR2.

The current STPR is a live and relevant document—I think that it is a very good document, which I find to be held in high regard as I travel around the country.

Some preliminary work on STPR2 has commenced, to help with the review of the NTS. That work will include development of future transport scenarios, which will set out what

transport in Scotland might look like. Clearly we should wait for that overarching, 20-year vision of transport before we delve into STPR2. The intention is to conclude the review during this session, and our starting the preliminary work means that we will be able to get moving on it soon after NTS2 has been published.

**The Convener:** There are no more questions for you, minister, so if there is anything that you particularly want to raise that we have not asked about, I am happy to give you a brief chance to feed in your points.

**Humza Yousaf:** The only thing that I will add is that we sent details of the analysis from the early call for evidence to the committee last week, but I appreciate that minds are focused elsewhere just now. However, once the dust has settled from the election and so on, I will be very keen to hear from members not only about their priorities for what NTS2 should look like—no doubt we will delve into that between now and summer 2019—but about how they feel that we should carry out public engagement in their own geographic areas of interest and more widely around Scotland. I would be very interested to hear about that. There will be huge amounts of interest in NTS2 and I am very keen to make sure that everybody is involved in it.

**The Convener:** Thank you, minister, and I also thank you for bearing with us, as we were a little bit late in calling you in due to our previous work.

That concludes the committee's business, but I ask members to stay behind for a moment.

*Meeting closed at 11:55.*



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