

Environment, Food and Rural Affairs Committee

Oral evidence: Work of the Environment Agency, HC 221

Tuesday 17 May 2022

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Members present: Geraint Davies (Chair); Barry Gardiner; Dr Neil Hudson; Mrs Sheryll Murray.

Questions 1 - 75

Witnesses

I: Emma Howard Boyd, Chair, Environment Agency; Sir James Bevan, Chief Executive, Environment Agency.



Examination of witnesses

Witnesses: Emma Howard Boyd and Sir James Bevan.

Q1 **Chair:** Good afternoon and welcome to our session on the work of the Environment Agency. Would you be kind enough to introduce yourselves?

Emma Howard Boyd: Good afternoon. I am Emma Howard Boyd and I am chair of the Environment Agency. Thank you for having me.

Sir James Bevan: I am James Bevan and I am the chief executive of the Environment Agency.

Q2 **Chair:** It is great to see you both. Can I ask you, Emma, straightaway, because you are coming to the end of your tenure, in brief, what your reflections are on your time as chair, and then, looking to the future, perhaps, the biggest challenges we face?

Emma Howard Boyd: I am very pleased to be here this afternoon. It is a real privilege to be in front of the Committee. Over the years that I have been chair, you have held some very helpful hearings and done some incredibly useful work on behalf of the Environment Agency in looking at the things that we do.

If I go back to when I was appointed chair, it was an acting chair, in the immediate aftermath of the 2015 Boxing Day floods. At that stage, climate change was something that almost seemed to be very brave to be talking about. Where we are now as the Environment Agency, the climate emergency is a strategic thing that we are looking at across all of our work. It is a challenge for our work today and is probably going to be one of the biggest challenges that we will face in the future.

Over my time as chair, we have had some huge successes, in particular delivering the £2.6 billion six-year flood programme on time and on budget, better protecting over 300,000 homes, and using that flood programme as a test base for many of the nature-based solutions that are being embedded through our increasingly expanded flood programme. I am sure we are going to talk about the latest £5.2 billion flood programme and what that means for the agency but also for the country.

We are dealing with something like 76,000 incidents every year, and those are getting worse because of climate change. They are not just flood-related; they are pollution-related as well. We are seeing our work influenced by the growing climate and nature emergency.

We have also, during my time as chair, introduced our flood strategy, again working very much alongside Government, looking out to 2100 but pairing that with five-year action plans and being very specific about who needs to do what. I am sure we will come back to talk about that too.

As part of our flood programme, we have been integrating our work on water, because the solutions to too much water are often the solutions to



too little water and to water quality.

- Q3 **Chair:** Looking to the future, on the basis of your experience, what do you think are the big challenges? Can I just ask you immediately what you think of the current arm's length body review for the Environment Agency? As we are seeing big environmental challenges and extra investment, of course, we are looking at the prospect of reconfiguring the service. What is your response to that suggestion?

Emma Howard Boyd: Our focus right now is on delivery. On the back of the spending review, we were really pleased to see a significant uptick in the resources that we have received, particularly on the flood side, but for some of our environmental regulatory work as well. For us right now, we are focusing on delivery and, when it comes to the arm's length body review, I think you are referring to where our Secretary of State, in the nature recovery Green Paper, posed questions about whether, given the programme of work that the Department faces, there are the right structures for the Department and arm's length bodies.

The advice, in the conversations I have had with the Secretary of State and, indeed, James has had with various execs, including the Perm Sec of Defra and members of the Defra executive committee, is to focus on the right outcomes. Again, given the success that we have had on things like our flood programme, it is about making sure that we remain focused on delivery over the next five years and not making change for change's sake.

We are very much up for making improvements in the way we work. As chair and chief executive over the last five years, we have focused on making those sorts of improvements while making sure that they are focused on delivering the right outcomes for the environment but also for the communities that we protect.

- Q4 **Chair:** Sir James Bevan, as chief executive, is this the right time, when you have more investment and you are facing big challenges from climate change in terms of flooding and other problems, to either consider breaking up the Environment Agency, so that you have flooding and then non-flooding, or perhaps the reverse, pushing it together with another organisation like Natural England? Is that a good idea at this particular moment, in terms of delivering the outcomes that Emma has just mentioned?

Sir James Bevan: As Emma has just said, the point is to do things, and I, Emma and the rest of the organisation are focused on delivering the best possible outcomes for the people and places we serve.

Does that mean the Environment Agency is perfectly designed? No, no organisation is. Does that mean we are as efficient as we can be? No, no organisation is, and we need to constantly be looking at what more we can do and how we can do things better, but I do think you have to set a fairly high bar for radical structural reform of any kind at the moment, because my experience—and I have led some of those in my previous



lives—is that it is very disruptive of delivery. You tend to lose people, and we have some very talented people who we do not want to lose. It always costs more than you think, and you usually get lower benefits than the consultants tell you that you will. My preference, as the chair has just said, would be for us to carry on delivering, with the new money that we have from the Government, the outcomes that we exist to deliver.

Emma Howard Boyd: Particularly on the people side, we are seeing huge interest in the climate and nature emergency from the business community and from the investment community—indeed, from the very people who we work with on the civil engineering side in delivery of our flood work. We are at risk of losing some of our talented individuals, particularly when there is significant interest from the business community in some of the work that we are doing.

Q5 **Chair:** My understanding—and correct me if I am wrong—is that employees in the Environment Agency work terribly hard, often in very difficult conditions, with flash flooding and the like, and they have not had a pay increase for some years now. In your view, would there be a risk of disruptive change, losing people and focus, and not delivering more and more with the extra investment we have had, in order to do more for the public at a difficult time? Is that right?

Emma Howard Boyd: We have seen restrictions on pay over the last decade, at senior management level, but equally across the organisation. We are not the only public sector organisation to face these constraints. In particular, our colleagues who are working at the lower end of the pay scales, and often volunteering for incident roles in our flood work, are dealing with the cost of living crisis and having to visit food banks. I want to call out for our staff up and down the country who have been working tirelessly over recent years on our agenda at the Environment Agency.

Q6 **Chair:** Finally, Sir James, what do you think the costs and benefits are of a merger of the Environment Agency with another organisation? Indeed, the 2018 Stacey review called for a single farming regulator and for a slimmed down Environment Agency. What is your view of that as well? Various changes have been thrown around.

Sir James Bevan: To answer the question you asked earlier, Chair, before coming on to your other two, I would not be in favour of splitting the Environment Agency into a flood agency and a separate Environment Agency. We had a flood agency 25 years ago, which was called the National Rivers Authority. The reason we created the Environment Agency was that, as Emma has just been saying, it makes sense to deal with all aspects of water together, and that is a very compelling argument. As Emma said, the Environment Agency has delivered well on flood defence over the last 25 years.

There are arguments for looking at bringing together all the environmental regulatory and non-regulatory functions of the bodies in



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the Defra group. A few years ago, there was a proposition to merge the Environment Agency and Natural England. Those are the two bodies that work most closely together in that space. I could see benefits in that. I could also see downsides of the kind that I have identified in terms of cost and disruption to delivery, but it makes more sense, if you are talking about structural reform, to bring functions together and to integrate than to, if you like, dismember.

Finally, on the single farming regulator, that is an important issue and we want to make sure that farmers have the easiest possible customer experience, if you will pardon the cliché, in dealing with a whole range of agencies. We understand that we need to avoid putting undue pressure on farmers, particularly at this time.

The main argument against a single farming regulator, if that regulator is regulating farming's impact on the environment, is that the environment is one system and, if you have more than one body regulating that system, in which case you would have the Environment Agency and this farming regulator, you have disaggregated your ability to regulate what is, essentially, one system. While there are some arguments in favour of a single farming regulator, there is a stronger argument for keeping the regulation of farming's environmental impact with the Environment Agency.

Q7 Chair: In a word, Emma, what would your advice to the Secretary of State be about the future of the Environment Agency? "If it is not bust, do not fix it, and just give us the resources to do the job". Is that basically it?

Emma Howard Boyd: That is a huge part of it. We can do more with our sister arm's-length bodies to streamline our work, but there is an even bigger prize for the environment if we look at how we work with other Departments across Government. One of the things I look at is infrastructure spend. This decade, the UK is set to spend some £650 billion on infrastructure. If you look at the money allocated to us for flood defences—and we go out for only another five years—it is a thin green line of defence.

All of that infrastructure—and we are talking about the built environment, roads, rail, schools, hospitals—needs to be ready for climate change. It needs to be resilient to the floods and the heatwaves that we are beginning to experience. It needs to have net zero at its heart. Also, in all of that construction, we need to be looking at nature's recovery. Our combined resources as Defra and the Defra family would be better focused on how we engage with all of that new build and all of the other things that are happening in this country, where we need to upgrade, retrofit and get ready for this changing environment through an environmental lens.

Q8 Chair: So the Environment Agency should be intimately involved with infrastructure development across the piece, so that it is resilient in terms of climate change. Is that basically right?



Emma Howard Boyd: Yes, and we are beginning to do that. We have members of our senior flood team working with different infrastructure construction organisations across Government. I have been sitting on something called the infrastructure steering group, chaired by Alex Chisholm in the Cabinet Office, bringing together various senior representatives of the infrastructure Departments. We have so much to gain if we are all facing into these bigger programmes, where we need to see environmental and climate change protection.

Q9 **Mrs Murray:** I recognise what you said about the flood defence programme, but I understand that just 17,162 houses had been protected by the end of the third quarter in 2021-2022, which compares to the cumulative 2021-2022 target of 45,000 houses. Why is the Environment Agency currently missing its flooding and coastal erosion targets for the number of homes better protected?

Emma Howard Boyd: That is a very important question for the start of our new flood scheme, and we are paying a lot of attention to how we make sure that the programme catches up. Part of that comes down to the time at which we have the allocations and receive them. Part of that comes down to the complexity of starting a new flood programme, and getting all the permissions relevant and ready to start on that programme.

We are working very closely with the full programme, because some of those programmes are going to be led by other risk management authorities, to make sure that we are getting on track throughout this year, and have reprofiled the build programme so that the money we were allocated gets allocated at the right time.

Q10 **Mrs Murray:** As you are currently not due to continue and we are looking at a successor, perhaps, Sir James, you could possibly outline what plan you have to get this six-year plan up and running and on track.

Sir James Bevan: It is on track. The first thing I would add is that flood defence is worth it. If you look back over the last several years, every time there is a major storm, and there are more and more violent storms because of climate change, you see a progressive reduction in the number of homes flooded and a progressive increase in the number of homes that would have flooded had that flood defence programme not—

Q11 **Mrs Murray:** But you have missed your target and now you are predicting only 34,000 houses during 2021-2022, not 45,000.

Sir James Bevan: Just to answer your question, I am reasonably confident that we will meet the target. Why do I say that? First, for the last six-year programme—2015 to 2021, 300,000 homes better protected and £2.6 billion—as Emma said, we met that target. We were on time and on budget, and we beat the target. We did 314,000 homes better protected. We had some challenges during that period. I was the chief executive and Emma was the chair, and everything looks like failure in the middle.



Halfway through that, we had some particular concerns that we might not meet the target in 2021. We rejigged various things that we needed—various structural relationships with our contractors—and we did meet and beat the target. That is one reason why I am cautiously confident.

The second reason is that we know what the challenges are. This new six-year programme, which runs until 2027, as you know, is twice the size in terms of money—£5.2 billion. It is 50% bigger in terms of the number of schemes we have to build. It has a much higher proportion of schemes that are led not by the Environment Agency but by local authorities or other risk management authorities, over which we have influence but not control, so it is more complicated.

It has been a difficult start for a range of reasons in this first year, which has just completed. Covid and market conditions have made it difficult to access both the people and the supplies we need. That has affected the whole of the infrastructure sector and we have not been immune to that. The additional complexity of the schemes and the fact that we have to work with more partners have contributed. That is why you are right that, in year one or just over, we did not hit our target. Our target was that we were aiming to hit 45,000 properties better protected by the end of last year. In the end, we did something like 33,000.

It is always a hockey stick. In the way that these six-year programmes work, there is always a low number in the first two or three years and then you reach your higher numbers in the outgoing years. We have the same plan for this six-year period.

I am confident that we will do it, because we have a lot of very good people who are committed to doing it and because we know how important it is, including to you and your other constituents represented here, but it is more of a challenge because we have relatively less money to deliver it, as it is a much bigger scheme. It is difficult to find all the expertise that we will need when we are competing with the private sector, and some of the technical challenges on these smaller schemes are bigger. I believe in our people. We will find a way and, if there is not a way, we will make one.

Q12 Mrs Murray: You think that you have the capacity to successfully invest the £5.4 billion funding programme for flooding and meet the target.

Sir James Bevan: I said I was cautiously confident that we would meet the targets, but I was also careful to say, because it is the case, that we do not have all the resources we would like in order to meet that target. The £5.2 billion is the capital figure, so that is, essentially, the money for the hardware. We do not have as much money for what is called resource, which pays for, essentially, people, as we would have liked.

We have more than we had in previous years, and we are grateful to the Government for that, but it will be a squeeze, because, in terms of the numbers of projects that we have to build over the next five to six years, that is proportionately greater than the money we have to buy the extra



staff we will need to deliver it. It will be a stretch, but we should be ready to accept that challenge.

Q13 Mrs Murray: As you said, I hope you do, because I know that a lot of my constituents who have suffered from both coastal and river flooding would like to see some better protections, as would, I am sure, the constituents of my colleagues.

Can I turn to the protection of assets? The proportion of assets maintained at or above target condition was 89.4%, against a target of 98% during October to December 2021 and compared to 95.4% in the second quarter of 2021. What action are you taking to ensure that you have a clear picture of the state of flood protection assets?

Sir James Bevan: Again, this is a really important issue. One thing I have learned in the last six years of my tenure is that it is a lot easier to build flood defences than it is to maintain them, and it costs a lot more to maintain them over 50 or 100 years than it does to build them, so it is a really important question. It is getting harder to maintain the nation's stock of flood defences, because there are more of them and the Environment Agency built a lot more over the last decade or so; because there are a lot of ageing defences built in the 1960s that are getting increasingly expensive and difficult to maintain, as they are crumbling; and because climate change is giving all of them much more of a kicking.

The technical challenge and the cost of maintaining this stock of defence is rising. You are right, Ms Murray, that we target 98% of our key assets being in the desired condition. That is the Treasury-approved figure at which you get the best value for your pound. We have not been at 98% for our key assets for the last two or three years. That is because we have not had quite the resources that we needed, which is, essentially, the money to pay for the people that we need to get there.

We did get an uplift in funding in the recent spending review for the next three years, which is very welcome. That will enable us to maintain our asset base at about 94% of assets in the desired condition, but we want to get back to 98% as soon as possible. That will require, in due course, further investment.

We check very carefully the state of all of our key assets, so we know where they are and what condition most of them are in. Where they are not in the desired condition, we always have mitigations in place to make sure that the standard of protection for the communities affected has not been diminished.

Q14 Chair: The concern here is that up to 10% of our assets are thought to be protecting communities, but they are not in proper condition. This is about flood risk management, of course, as opposed to absolute protection. People have this idea that it is some sort of safeguard that will protect them, and things can fail. Is there not a risk across the country that there are assets that people think will protect them and that, in the worst instance, perhaps will not?



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Sir James Bevan: It has been quite hard, over the last couple of years, to really get a handle on the very precise percentage. The number I am giving you, 94%, is a finger in the air estimate based on our latest inspections and on what we know coming out of the Covid pandemic, but we are reasonably confident that we are there or thereabouts. Most of the assets that we want to be in the right condition are in the right condition.

As I said, we know where they are not and we are punctiliously making sure that there are interventions in place. That might be a temporary repair or some other form of protection that will ensure that, if that asset is needed, there will not be an enhanced risk to the communities concerned.

Q15 **Chair:** We do need to know if you think there should be more resources or capital investment to maintain assets, as opposed to just claiming, "We have more and more assets". From a public interest point of view, we are happy to make recommendations, of course, if we think that there are risks that could be taken away.

Emma Howard Boyd: You have hit on a very important point.

Q16 **Mrs Murray:** You said there was a lack of manpower. Could you just tell us if you have any partnership working with the private sector to make sure that the work is completed?

Sir James Bevan: Yes, we do. We do some of our maintenance and inspections ourselves. A lot of it, though, is done through contractors. We have a series of trusted contractors that we use. The problem is twofold. It is having enough money to fund the people, whether they are our own people or contractors, to do the asset inspections and repairs that need to be done. We would like more, although, as I said, we do have an uplift, for which we are grateful, in this spending review.

The second problem is supply. At the moment, it is very hard, because of the state of the market, to get the experts that you need when you are competing with a private sector infrastructure sector that can pay, frankly, a lot more than the Environment Agency can pay.

Emma Howard Boyd: I wanted to make the point about maintenance. We all need to keep focused on that, not least because our assets are receiving a battering from the floods that they are experiencing, but also where some of our defences are land banks that shrink during dry weather. This is going to be important going forward. We also need to recognise the importance of revenue funding for people as well as for incident management. Over the period to come, we are going to need to make sure that we are investing in how people prepare for the incidents themselves.

When we looked at what would have happened if the weather system that hit Europe came to the UK—and we know that some 61% of people living at flood risk are not aware that they are living at flood risk—you



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can very easily see how much we do need to emphasise the investment in our incident warning and informing.

We are in a very good place now, but we know that, over time, given what we expect we will be experiencing from weather events, we need to be ready to act in that mode, because it is not just whether our defences are fit for purpose, but, over time, some of our defences, as we have seen with the significant rainfall events, may be overtopped. They will always protect only up to a certain level.

When I have the privilege of going and opening a flood scheme, I have to remind the local community that, although they should be able to sleep better at night, and they will be and are better protected, there is always that risk, because they are living at flood risk, that, despite our best efforts, there could be a weather event that the flood defences are not able to deal with.

Q17 Chair: Is there a case for inbuilt resilience or retrofitting houses in the event that there is a flood, so that the people are not completely destroyed, but instead can rebuild their lives after washing down their plastic walls or whatever?

Emma Howard Boyd: Set out in our flood strategy is the whole range of different ways that we can work with communities. Some of it is about the defences we build, the grey infrastructure, the blue/green infrastructure and the property level resilience and, equally, how we prepare communities to look after themselves in an incident.

Q18 Barry Gardiner: On this issue between the maintenance and the capital costs, what assessment have you done of the differential costs of maintenance of soft green infrastructure versus hard concrete and steel? Do you have a hierarchy whereby you always seek to put in place first a defence that is a soft green infrastructure, whether it is a salt marsh or a woodland in an upland, rather than a reservoir or a seawall?

Emma Howard Boyd: We will work through what is relevant for the catchment using nature-based solutions, if they are the right thing to do. Often with nature-based solutions, it is about shaving off the top of a water curve as something cascades down a catchment. We have programmes in place where we have invested in nature-based solutions, but are tracking them over the years to see how they are working in terms of protection, but from a maintenance perspective as well. They are nature-based solutions, not fixed assets, so we have to make sure that, although they are often far more cost-effective, they can be maintained and we have the right relationship with the landowner or whoever it might be, because there are so many different nature-based solutions, to make sure that they are being maintained to the right level.

Q19 Barry Gardiner: Has a piece of research been done or is it underway to assess the differential costs of maintenance of nature-based versus concrete and steel?



Sir James Bevan: Yes, we do have that knowledge and research, and we are constantly refreshing it. We know that investment in capital or maintenance is good value for money, but investment in capital defences will pay back at least £5 on every £1 that you put into it. We know that, in terms of investment in maintenance, which we have just been discussing, every £1 spent on maintenance saves £7 on capital, so we know what the ratios are.

We are always triangulating, when we are looking at the project, between the best possible value, the fastest possible delivery, and the best quality, and then, as Emma said, making sure that it also meets the requirements of the local community. There is usually a balance in each scheme between protection and resilience, and we have to get that right according to the location and the wishes of the community.

There is always a balance between hard defences, lots of concrete, and “soft” natural flood management. Most of our schemes now are a mix of both, so we are very much in that territory.

Q20 Dr Hudson: Thank you to Sir James and Emma for being before us today, and thank you, Emma, for your hard work and service to the EA over the years. I represent a seat in Cumbria, which, unfortunately, is in the front line for extreme weather and flooding events, and I want to put on record my thanks to the staff and workers with the EA who do such a lot in terms of protecting people—and I am sure I speak for other colleagues as well—and responding when these events happen. Thank you for that.

Sir James, you talked about the assets that you have been allocated, and you have an uplift coming up, but you would like to have some more resource in terms of people. Can you just give us a ballpark or an ask that we could take away to Government to say, “Yes, the EA has said it would like more”. Yes, we all want more, but what exactly would you like that we could help you ask for?

Sir James Bevan: Just to give you a very ballpark figure, the new capital programme is 100% bigger in terms of budget. It is £5.2 billion versus £2.6 billion. It is 50% bigger in terms of the number of schemes that we have to build. What we have said is we would like 20% extra staff to deliver that effectively. In my view, that is an efficiency, because we are not asking for a proportionate increase, but it does not seem to be unreasonable to ask for the funding to pay for that modest increase to deliver a much bigger—

Q21 Dr Hudson: An extra 20%, but do you have a ballpark in terms of what that would cost?

Sir James Bevan: In terms of cost, we are not talking about large amounts of money. We currently have something like 4,500 of our 10,000—

Chair: You can drop us a line, if you would like.



Dr Hudson: Come back in writing, because that helps us.

Sir James Bevan: My main point is that a small amount of extra resource would make a big difference, but we will give you the numbers.

Q22 **Dr Hudson:** That would give reassurance to communities up and down the country, if we could try to push for that.

Can I change topic now and get on to the huge topic of sewage discharges? In 2020, there were 400,000 sewage discharges totalling over 3 million hours, and we all agree that that is unacceptable. The Government have said that that is unacceptable, but, while that has gone on, the EA has said that 99.2% of water treatment works complied with their permits for sewer discharge, so how do you square the fact that this is all going on, but, apparently, the permits are all okay?

Emma Howard Boyd: Water and water quality are very high up our agenda at the Environment Agency, as you will understand, and it has been really good over recent months and years to see this go up the public's as well as the Government's agenda. We have been working ever more closely with the economic regulator, Ofwat, to look at how we encourage or mandate the water companies to do more work in this area. James, would you like to talk about the specifics of the permits?

Q23 **Dr Hudson:** It is the specifics: 99.2% of water treatment works complied with the permits, according to the EA, but we know that there were 400,000 sewage discharges in 2020 alone.

Sir James Bevan: Yes. The first thing I will say is that you are absolutely right to raise this, because nobody wants rivers full of sewage. It is good that there is a public outcry. It is putting more pressure on us as a regulator, on the water companies, and probably on the Government as well. That is a perfectly legitimate and, indeed, good thing to be happening.

We have to recognise that the current system that we have is designed to discharge treated waste water when there are heavy rainfall events, but we also have to recognise that it is doing far more than that at the moment. You have quoted the figures and they are scandalous. It is just unacceptable.

Why is there a disparity between what we think we know in terms of what is going on at water treatment plants and what we are seeing coming out of end-of-pipe? The honest answer is that I do not think anybody knows, but we are doing work to investigate it. The figure that you quoted—the 99.2% of sewage treatment works compliant with permit conditions—comes from our report for 2020 behaviour.

That was and may still be true, based on what we knew at the time on the data that we had. Until recently, we have not had very good data about what is happening at sewage treatment works. There are thousands of them, and the main reason that, as it were, this whole issue has come to light is that, a few years ago, the Environment Agency



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insisted, first, that the water companies put event duration monitors on what came out of their sewage outflows. We now make that data public and that helped lead to the outcry that we are all dealing with now.

Secondly, the Environment Agency insisted, in turn, that the water companies also put monitors on their own sewage treatment works, so we had a sense of what was happening at the works and whether those were treating the volumes of sewage that they were required by the permit to treat, before they were allowed to discharge it through sewer outfalls.

What happened when we required those additional monitors to be placed on those sewage works was that the water companies came to us and said, "We think that, when you look at this data, you will find that we are not compliant", and it was that understanding, which only came to us, frankly, within the last 12 months, that led to the investigation that the Environment Agency is now running, involving all of those water companies, about which I cannot say too much, but it is a very serious investigation that appears to show that there have been significant and widespread breaches of those permits.

Q24 Dr Hudson: Do you believe that the monitoring of water companies that you have in your weaponry at the moment is adequate?

Sir James Bevan: It is definitely better than it was, because, now that we know more, we can—

Dr Hudson: But not there yet.

Sir James Bevan: A range of monitoring arrangements is probably going to give us the most accurate and effective picture. The Environment Agency needs to have its own monitoring, and we do. We test what goes into rivers out of the outfalls of water companies. The water companies need to do their own monitoring, and we have a thing called operator self-monitoring, which, as part of a broader system, is a good thing, because it forces the water companies to know what their own plants are doing, and it forces water company chief executives to know what is coming out of their plants.

I am also a big fan of the fact that community groups, NGOs and others are setting up their own monitoring arrangements, so that we can, together, build a more comprehensive picture of what is going on.

Q25 Dr Hudson: The Environment Agency has called for a collaborative approach and a step change in water management. What does that mean in practice?

Emma Howard Boyd: If we look at how water is regulated, you have the environmental regulators, the nature regulators and the economic regulator. If we just take the example that James has talked about, getting to where we have got to has taken collaboration between us and the other regulator to make sure that the investment required in that monitoring is factored in and undertaken by the water companies. That is



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where we start seeing the progress that is required, but we need to speed up on this. As we are making these changes, there is extremely good collaborative working now taking place between the Environment Agency and Ofwat.

We launched the investigation together in November last year, looking at the wastewater treatment. Ofwat is carrying out its investigation. We are carrying out our investigation and sharing information where we can. How they are regulating is to a different level, so we are talking about different levels of sanctions, but that is one area where we need to collaborate.

While holding the water companies to account, we need to collaborate with them as well. This is where we need to be able to have those strong conversations around how scandalous it is and has been in terms of what has been put into waters from water companies. We also need to make sure that we have the right tools from a regulatory and a penalty perspective.

Q26 Dr Hudson: We have the Environment Agency, Ofwat and the Office for Environmental Protection. Do you think, collaboratively, those three working together have the teeth available to them to hold the water companies to account in order to stop these unacceptable discharges?

Sir James Bevan: None of us is as good as all of us, so you need all the regulators working together, including the Drinking Water Inspectorate, which is the third water regulator. There is a role for the Government. The Government have announced their own proposals, which we support, to tackle sewage overflows.

Q27 Dr Hudson: Working together, do you have the teeth to hold the companies to account?

Sir James Bevan: I was just going to say that there is also a role for the people who are polluting our waters. Let us remember that the people who are responsible for the pollution in our waters are the people who pollute them, so water companies and farmers are the two biggest sources, and they need to take their responsibilities. There is a role for the public, because every time we leave the tap on when we are brushing our teeth, or flush a wet wipe down the loo, we are contributing to the problem.

Yes, the regulators need to have teeth, and we do; yes, they need to work together in the way that Emma has rightly identified, but, if we are to have clean and plentiful water, everybody needs to collaborate.

Emma Howard Boyd: Where we have seen the financial penalties increase, that is a good thing and that sends a much stronger signal. For too long, the penalties have been operational expenses. Where we have worked with Ofwat, which can give out economic penalties, we have seen us working on the same environmental issues, but some of our figures that have come out of the environmental performance assessment, which



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happens every year, are linked to financial penalties. The more serious they are, the more the water companies, their boards and, indeed, their investors will respond.

We have seen, in other areas that we regulate, civil sanctions. What is the responsibility to you as a director of a company? Could you be struck off? Could it go to other custodial sentences? There is a whole range of things that we should be exploring. The report that came out of the Environmental Audit Committee looked at linking to exec pay and to dividends. All of these things need to be explored in order to send the right signals that damaging the environment should have a financial impact as well.

Q28 Chair: Just so that we are clear on what you are saying, Emma, from the Environment Agency's point of view, it does seem to me that these big water companies are willing to allow sewage and pollution to provide destruction of our environment, and then, when they are fined, they just say that it would have cost more to put it right. Are you saying that, if there is an environmental problem, those companies really should pay for the environmental cost plus a deterrent fine, with penalties against the individual directors, so they cannot just flounce off and do something else without any repercussions?

Emma Howard Boyd: We need the polluter to pay and to understand that there will be serious penalties of a range of characteristics, if they continue polluting. Before we get there, you need that more collaborative type of enforcement. This has been going on for years. If we have struggled as the environmental regulator to get to the right information over time, which is what we have seen in the past, this needs to have the right level of sanctions, in my view.

Q29 Dr Hudson: In terms of the water companies not playing ball, what incentive is there for them to reduce the use of storm overflows when their use does not have to be recorded or reported if it is compliant with a company's permit? They can keep doing it.

Sir James Bevan: First, as Emma was saying, there is a financial incentive, because, increasingly, we are working with Ofwat to link performance, including on combined sewage overflows, to the financial penalties or rewards that water companies get through the Ofwat price review scheme.

There is a reputational incentive. The water companies do not like where they are. They are rightly being pilloried, and I have seen it happen in this room. That does make a difference. The water companies do not want to be there, so that is having an effect.

As the environmental regulator, we do have tools, up to and including prosecution, which we will use to bring the most serious offenders to justice.

Q30 Dr Hudson: What is the latest on the joint investigation with Ofwat into



unpermitted sewage discharges?

Sir James Bevan: That is continuing. I am choosing my words carefully, because it might well end up in court, so you will forgive me. We are working collaboratively with Ofwat. It is running its own separate investigation. As Emma said, it will probably do that more quickly than we will, because it requires a lower evidential standard to take decisions that it may take than we do. If we are going to bring a prosecution, we need a very high evidential standard, because we want to win it, if we do.

It is going well, in the sense that we are getting good collaboration from all the water companies. It is producing an enormous amount of data. We currently have about 2 billion data points out of the last six months, which we are going to need to take some time to analyse. It is suggesting, as we go deeper into this, and as I said a few minutes earlier, that there is evidence of widespread failure to abide by—

Q31 **Dr Hudson:** I am aware that you cannot comment in detail, but can you give us an idea of when this Committee and also our sister committee, the Environmental Audit Committee, will be able to look at the outcome of this? When do you think it will come to a head?

Sir James Bevan: We are conscious that this is a matter of particular public and political interest, so we are providing regular updates. We did a blog a few days ago, which we would be happy to make available to the Committee. It gives you the latest that we can say in public. We would be very happy, if we can arrange a suitable format, to give you an off-the-record briefing of where we have got to. We want to proceed pacily, because justice delayed is justice denied, but we also want to get this right, so it will be months rather than weeks before we get to any decisions.

We are not waiting for the outcome of this investigation to put pressure on the water companies to fix the problem. We are saying to each chief executive—I have had these conversations myself and I know that you have with the chairs—“Collaborate with us on the investigation. That is fine, but do not wait to fix the problem. You know where the problems are. We know where the problems are. You go and fix them, and we will come and tell you whether it is sorted”.

Emma Howard Boyd: That is a message that we want to deliver repeatedly. We will be publishing our next environmental performance assessment in the summer and, before that, I will be meeting with all of the English chairs—because we look only at England—of the water companies that we assess through the EPA, and reminding them to please get on with the solutions.

Q32 **Dr Hudson:** What action will you take as a regulator to achieve the targets in the Government’s proposed storm overflows discharge reduction plan?



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Sir James Bevan: We welcome that plan, and we worked with the Government and Ofwat to shape it. It is out for consultation. We follow with interest the responses. We are already working through what we will need to do as the regulator in terms of monitoring and enforcement in order to ensure that that plan is given effect.

As we have just been saying about the criminal investigation, we are not waiting to have the conversations with the water companies. We are saying, "This is coming down the path. Please get ahead of the curve and show us that you are forward leaning and already taking action before you are told to do so".

Q33 **Dr Hudson:** You welcome the Government's plans on this, but have your plans changed following the publication of the draft Environment Act targets on water quality? Is this a work that is being evolved, so to speak?

Sir James Bevan: The targets are also good, and we also helped shape them, so we support and welcome them. We are already doing work on what we will need to do to help the Government monitor the delivery of those targets and, as necessary, take enforcement action to make sure that they are met.

Q34 **Chair:** When we were in the EU, we had all these blue beaches in compliance. When will we be back in a position where those beaches that were blue beaches are again compliant to that standard? We have fallen behind that standard now, have we not, because of all these episodes?

Emma Howard Boyd: Our monitoring still shows that those beaches are compliant. We continue to monitor and have just started the bathing water season, where we are regularly testing, in the same way that Europe has been testing, to make sure that the beaches are at the same standard, so I am not expecting that to change at all.

This is where working with citizen groups comes in. The more information that is available, the more we will understand what is going on at a beach level. That should not change where we are now in terms of whether a beach has a blue flag. We are working very closely with communities and Government on the new bathing water status at a river level. We are very much aware there that all of the investment that was put in, in the run-up to many of the beaches improving their status, needs to work through in terms of river quality.

Q35 **Barry Gardiner:** I have a very parochial supplementary, just to ask when I might get a response to my letter on the sewage flooding in Kenton, at Woodcock Park, which I sent to you a couple of weeks ago.

Sir James Bevan: I do not think we have seen it.

Emma Howard Boyd: I am not aware of that.



Sir James Bevan: Now that we know about it, we will get you the quickest possible response.

Q36 **Barry Gardiner:** My constituents are very keen to know that you are coming down like a tonne of bricks on the appropriate offenders.

Sir James Bevan: We will be in touch with your office and give you a response.

Mrs Murray: Chair, we have some wonderful blue flag beaches in South East Cornwall, so you might like to consider the journey from Swansea to South East Cornwall.

Chair: No, I will be there. You are very welcome in Swansea too.

Q37 **Mrs Murray:** Can I turn to the farming rules for water now? Many of us are aware of the confusion that surrounded RPS 252, and the new guidance is welcomed, but how do the new farming rules for water guidance address the concerns raised about the now withdrawn RPS 252?

Sir James Bevan: I am really glad that you raised that. As I said earlier, there are two major contributors to a lack of good water quality. Farming is one, and the sewage and water companies are the other. That is why the farming rules for water are a really good thing. They were introduced, as you know, in 2018. They are designed to reduce the effect of diffuse agricultural pollution on waters, and we strongly support them.

We are responsible for enforcing them, and the most important rule of all eight of them is rule 1, which is about when you can and cannot apply particular kinds of manure and fertiliser on land that is near a watercourse.

In the first couple of years since those rules were introduced, we deliberately did not enforce them, because the Government asked us not to. The Government asked us to work with farmers, through advice and guidance, to help them get used to it, which we agree with, so, at least up until 2020 or so, the Environment Agency was monitoring and advising but not enforcing those rules.

We did make clear, though, when they were launched, that we expected the farming community to abide by them as soon as they were able. Over the last year or so, we have been being more robust in terms of enforcement, which led to the regulatory position statement that you have referred to, which is an instrument that the Environment Agency can adopt when we decide, if there is good reason, that we will not apply a particular measure, in order to allow a particular organisation or individual space not to abide by it, if there is good reason for it.

The reason we introduced that RPS was that many farmers told us that they were not in a position to properly apply the farming rules for water, so it was designed to be helpful to farmers.

There was then a period of controversy and confusion, where members of the agricultural community said that the interpretation that the



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Environment Agency was giving them of what the farming rules required was either confusing or impossible for them to meet. We did not agree with that, because it was based on what we understood to be best agricultural practice, but that was a widely held view. We understood the concerns that that was causing farmers and the water companies which provide some material from their own processes to go on to land.

The upshot was, as you have just said, that the Secretary of State thought the best thing to do was to issue some statutory guidance to clarify how those rules should be applied. We welcomed that decision. That guidance came out in March. It does not amend the rules, but it sets out the Secretary of State's expectation as to when the Environment Agency will or will not take enforcement action, and it gives farmers flexibility not to abide by certain provisions of the farming rules for water, if it is not practicable for them to do so and they have taken all reasonable precautions to help mitigate any damage.

It has given more flexibility to farmers in how they apply the rules. We are still, with the full support of Defra and the Secretary of State, ensuring that the rules and the interpretation that the Secretary of State has given are given effect, so are continuing to visit farms. We now have more resources to do that. We are continuing to furnish farmers with advice and guidance, rather than wield a stick, but we will wield a stick where we think that farmers have no excuse for not abiding by those rules.

Q38 Mrs Murray: In other words, then, you mentioned there that you were enforcing the rules robustly after a couple of years of giving guidance, but then, after this was reviewed by the Secretary of State, it is absolutely correct to say that, in terms of enforcement, you will generally prioritise giving advice and guidance and, if breaches continue—and only if they continue—you may impose civil or criminal sanctions. This is really important at the moment, when farmers are currently operating with such economic pressures. Could we just have some clarity there? It is really important.

Emma Howard Boyd: Some of this detail is also set out in the Government's response to the Environmental Audit Committee earlier this week, where not only is that clarification given but also the pockets of investment that will be made available for farmers to respond to the advice that we are giving in terms of how they need to change their behaviours.

The pressures that the farming sector is under are understood, as are other means of helping farmers over time to get in compliance with the farming rules for water.

Q39 Mrs Murray: Just to also double check with you, the FRfW will not ban all autumn manure spreading. Am I correct?

Sir James Bevan: You are correct.

Q40 Mrs Murray: Could you perhaps just expand a little bit for me? Under



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what circumstances will you take action? Give us a scenario: a farmer mistakenly spreads some fertiliser, you come along and you say, "You are outside of the time. It is a first offence". What would you do? What would need to happen for you to prosecute that farmer?

Sir James Bevan: It is a completely fair question. We need to do two things. As you say, Mrs Murray, we need to support farmers through difficult times and we need to make sure that we protect our waters. We will avoid choosing. We want to do both of those things. The guidance that we have from the Secretary of State is crystal clear and you quoted most of it very accurately. It does make clear that as the regulator we do still have the right to take enforcement action if we judge that necessary. It is also very clear, as has been our approach all along, that that will be a final resort. We will always lead with advice, guidance and support. That is clear.

Right now, we are in the position where, because we have had some additional money from the Government, for which we are grateful, we now have more people we can put on to farms to provide that advice and guidance. A few years ago, we had only 30 Environment Agency staff who were able to visit all of the farms in England. We now have another 50 more of those. They are going out. As they are going out, they are providing more advice and guidance to farmers. They are also finding more breaches, but we are taking a proportionate, risk-based and empathetic approach to that.

In the kind of scenarios that you are describing, for a farmer who is trying to do the right thing but for whatever reason is unable to do the right thing the first time, we are not going to take that farmer to court. We are going to help that farmer get to the right solution. At the other end of the scale, where a farmer has had repeated warnings, has been told time and time again what needs to be done, has possibly even been given assistance to do that—there are Government schemes available to do that—is wilfully failing to follow the rules and is significantly damaging the environment, we will go after that person.

Q41 **Mrs Murray:** Everybody can accept that situation. With the increase of staff and the increase in numbers of protections, you have said you have identified a lot more breaches. Has there been a substantial increase in prosecutions?

Sir James Bevan: It is yes to the first question. As we see more, as we go to more farms, not unreasonably we find more breaches. We are not yet in the territory of doing large numbers of prosecutions. Just to give you the numbers, in the financial year 2020-21, we did just 276 inspections across the whole of England. We found 224 non-compliance instances, almost all of which or all of which were probably dealt with through advice and guidance.

In the last financial year, 2021-22, we did over 1,800 inspections. That is a reflection of the additional resources that we have. We found 991 cases



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of non-compliance. We issued 2,766 notices to farmers to carry out improvement actions. We know that over 700 of those have already been undertaken, and we will go back and check that the others have been. As long as those are being processed and dealt with in the way that we want, we will not be resorting to tougher enforcement action. We will prosecute farmers who wilfully and significantly damage the environment.

Emma Howard Boyd: We first introduced some work around this in and along the River Axe. The person who led that programme for us at the Environment Agency is a farmer. Again, he has been involved with training some of the newer colleagues we have taken on, because we know—and we may come to this later on—so much of the responsibility around agriculture, farming, water quality and other potential environmental damage falls on the shoulders of the individual farmers. We have addressed this at the NFU conference and talked about getting the balance right. Farmers mostly want to be good stewards of the land. Equally, we need to make sure that where we are seeing the wrong behaviour persistently we have the right tools to sort things out.

Q42 **Chair:** In terms of air quality, you will be aware that something like 63,000 people die prematurely each year from air pollution. It costs us something like £20 billion a year to the economy in terms of productivity and the NHS. This Committee has suggested that the Government attempt to get World Health Organization air quality standards of 10 micrograms per cubic metre by 2030. Indeed, Imperial College has just come out with a report that says that Government can do that on current policy. Is that something that is achievable by 2030, do you think?

Emma Howard Boyd: The current target is 2040. Certainly, our response has been that we would like to see greater ambition in terms of the period of time over which the targets are met. Our work around air quality is focused on industrial emissions. Where we have the right regulatory framework, we have seen the targets and the emissions reducing over time. Our other work has been around air quality monitoring, where we are responsible for the monitoring around bits of the country.

Again, we recognise that a lot of the levers for improving air quality sit with different sectors and different parts of the way the country and Departments are organised. It does need a concerted effort to reduce air quality in a timely fashion that goes beyond the boundaries of the Department in order to achieve that. We would certainly like to see greater ambition in terms of the timescales in which this issue is dealt with.

Q43 **Chair:** You mentioned industrial outputs. In terms of burning wood pellets, because we are the greatest burner of wood pellets in Europe now, is that a major contributor to poor air quality, in your view? What are you doing to reduce it?

Emma Howard Boyd: I am not aware of the detail of that.



Sir James Bevan: This is just to underline, as Emma said, that we think these are the right targets that the Government have announced.

Q44 **Chair:** So we are clear on this, the Government have said they will get these targets now. They have kicked it forward to 2040. These were targets that this committee was recommending they achieve by 2030. Imperial College is saying that is achievable, even on current policy. You are saying that you agree with 2040, not 2030. Is that right?

Sir James Bevan: No, I am not saying that. I am saying that the two targets, the annual mean concentration target and the population exposure reduction target, are the right targets in terms of the metrics that they set, the numbers that they describe. As Emma has said, we would like to see those targets hit before 2040. We do want to see more ambition. Is that doable? Nobody knows but let us press on with ambition. The most important thing, though, is that all of us need to be clear sooner rather than later about who is going to do what in order to get us to those targets.

Again, this is a matter for Government, for regulators, for the industries concerned, for local authorities and everybody who was generating particulate matter. EA has a role, as Emma said. We regulate heavy industry. There, the regulation has brought down the various emissions, including particulate matter. Most of the particulate matter that we deal with is stuff coming from power plants. Drax would be a good example, where they do burn wood pellets. I was there a couple of weeks ago. That is very tightly regulated and, in our view, a well-performing site so we do not have concerns about particulate matter or emissions from Drax or other well-run power plants.

The sectors that are not yet strongly regulated are the ones that we need to focus on. In particular, the two sectors are domestic heating and transport. Those are not our responsibility to regulate, but we do need to make sure that we are putting as much pressure on those sectors as we are on the heavy industry that we regulate.

Q45 **Chair:** Do you think there is a case for you to have responsibility in some sense for regulation of domestic production? It is a matter of law, because something like 40% of the PM2.5 in urban environments is now coming from woodburning stoves; 2.5 million people have them. What do you think we should be doing about that?

Sir James Bevan: First, there is another national role for the Environment Agency, which Emma also referred to, which is monitoring. On behalf of Defra and in partnership with a bunch of other organisations, we run a nationwide and UK-wide monitoring system on air quality, which measures various things, including particulate matter. It is all up online. We are working with Defra to expand that monitoring network so we can have more and better coverage of PM2.5, which is the particularly worrying particulate matter. That is an area where the EA has a major national role to play and we are playing it. To be honest, I would be more



cautious about giving EA a role in regulating domestic wood stoves, because that is better done by a local actor, possibly a local authority, than by a national one.

Q46 Chair: Then, on incinerators, I know the latest incinerators coming forward are much more effective in terms of filtration than the old ones, but it is still the case that ultra-fine particulates are getting through the filters. The science seems to be suggesting that the issue is not the volume of PM but the number of particulates. The very small particulates, the ultra-fine ones, do much more damage than the bigger ones. If you get PM2.5 and chop it into bits, even half that mass will do more damage than twice the mass of the bigger bit. Are you concerned about the increasing numbers of incinerators we are seeing in urban environments?

Sir James Bevan: No, at the moment, based on the evidence we have seen. We regulate big incinerators. Smaller ones are regulated by the local authority. The big incinerators, the kind that you are talking about, we regulate. We are punctilious in consulting the local communities before we take any decisions to grant operating permits. We are punctilious in checking the way in which the individual incinerator operator is running the operation, to make sure that we can be satisfied that there is no threat to public health or to the environment.

Every incinerator that I have seen, and I have seen quite a few, as I am sure Emma has, is well designed and well run. As far as we are aware, based on the evidence that we have seen, it is not posing a threat to public health. If it was, we would not be giving it an environmental permit. Rightly, as you say, we should constantly be looking to see whether there is new evidence. If there was any evidence to the contrary, we would take that very seriously.

Q47 Chair: There may some evidence I can send you. Do you feel there is an issue of the number of consents that are provided for new incinerators by BEIS? There is some evidence that, for the number of consents that have been given, if they all became incinerators, we would virtually double the amount of burning we are doing in urban environments in the next 10 years. Is that something that you may be concerned about?

Sir James Bevan: It is quite hard to get permission to build an incinerator, because not only do you need the Environment Agency's permit, but, for various activities that incinerators need to undertake, you need planning permission from the local authorities. You may need other permissions, including from BEIS, depending on the issue. It is a robust process. I have confidence that it does what it is supposed to do, which is make sure there is no threat to public health or the environment. Incinerators are better than landfill. Well-run incinerators that are also generating energy from waste are better than sending waste to landfill. There is a trade-off between how many incinerators you want and how much collateral environmental damage you are prepared to take.

Emma Howard Boyd: We need to make sure we are paying due



attention to designing the circular economy from a waste perspective as well. You raise an interesting question about the cumulative number. It could be incinerators; we can see it in other areas like chicken farms. Are we understanding what is happening as a total? Maybe all regulators need to go and have a look at that future scanning.

Equally, we need to make sure that the early development of the circular economy and the work that is set out in the waste and resources plan is driven through as well, because that is where we will see some of the solutions to other waste issues that I know concern us, whether it is illegal waste sites or, indeed, some of the waste that is being exported. James, you have called for it very eloquently in recent speeches. We need to be quite bold in the way we make that transition with urgency, because we have all been talking about it for far too long.

- Q48 **Chair:** If I may, I represent Swansea where the recycling rate is something like 62%. I know in north London it is 30% and they are building a new, state-of-the-art incinerator, burning 700,000 tonnes of waste a year. If they could increase their recycling, almost double it, they could halve the amount that they burnt. Is there a problem, if we have too many incinerators, that it feeds the fire and takes away the incentive for the circular economy?

Emma Howard Boyd: All of this needs to be looked at in the whole. That is where we are really keen to make sure that our regulation is not done in isolation from the other drivers. This is where the 25-year environment plan, moving towards the Environment Act, starts moving in the right direction to join up these systems, because it is a systemic issue that we are dealing with. We need to make sure that by allowing something to happen here we are not becoming the disincentive to the push towards a circular economy.

- Q49 **Chair:** Finally, on air quality monitors, because you mentioned your support for them, would you support more air quality monitors, which are low-cost, digital, continuous monitoring of air quality in urban environments, so that people know the state of the air that their children are breathing outside their schools, to put pressure on politicians and other people to actually speed up the delivery of clean air?

Emma Howard Boyd: The more we shine a spotlight through data and monitoring on environmental issues, and empower citizens and the whole chain, the better it will be. The more we look, the more we are going to find. We have to understand that curve: if we shine a spotlight, we may find that things are getting worse. That does not stop us publishing the data that we have done, for example on water quality. It is our data that is being quoted and quoted again in terms of the state of rivers. Once we have that data, we have to learn from it.

We do not want to find that we are so inundated with data that we cannot use machine learning to tell us what is happening. Then we need to act collectively as a society, as regulators, as Government, on what we are finding and move in the right direction. This is where I really do support



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the whole 25-year environment plan. The OEP, the other day, in its launch report, talked about putting the environment into the heart of all decision-making, not just those with an environmental interest and those Departments that have a specific environmental function. It is important to the health of the economy, citizens' health and the health of the environment.

Sir James Bevan: I totally agree with Emma that sunshine is the best disinfectant. The more light you shine on something, the better the outcome will be. Just to say, a lot of that data is already out there. I mentioned the air quality monitoring networks that the EA oversees for the UK. It is over 400 sites across the United Kingdom. It measures all of the main pollutants, including particulate matter. If you go to the website, UK-AIR, and just type in your postcode, it will give you data about what is happening. The more the better, but there is already a lot out there.

Chair: It is interesting you mention 400 sites, because I know there is a company from Swansea Bay, Vortex, that has actually put 500 monitors in Hammersmith alone. There is a case for a lot of monitors to get micro information, to have a granular management of this and to improve public health.

Q50 **Barry Gardiner:** I was really glad you jumped in and talked about the circular economy, because in a way your permitting of the incinerators could be seen to be setting the standard assets of the future in place. As we move towards the circular economy, more and more of the stream that goes to make up the fuel for those incinerators would be and should be being utilised as a resource at other stages of the cycle.

What worries me is that, when permitting, you should be looking at what the granularity structure of the waste flow is and saying, "Actually, in 10 years' time all of that should not be something that is going to waste, because of the hierarchy". It would be helpful just to get an assurance for the Committee that that foresight is being incorporated into the permitting process now.

Sir James Bevan: The short answer is yes. The slightly longer answer is that the best use of waste, as you say, is as a resource. The worst use of waste is sticking it in a landfill. If you can avoid incinerators, that is good too. We do work with those we regulate, including the incinerator operators, to ensure that they are constantly improving their techniques. "Best available techniques" is our mantra. We do not just regulate them to a standard that was set a few years ago. We continue to insist on higher standards, as those become technically available.

You are right and Emma is right too that, as a regulator, we need to work with policymakers, parliamentarians and others, so that we actually have an integrated approach to managing waste where we do not create perverse incentives.

Q51 **Barry Gardiner:** Then I just want to probe a little bit more, because the



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financial incentives are there in the incineration industry, given the cost of landfill and so on, and local authorities enter into long-term contracts with people in order to dispose of their waste. It seems to me that it would be helpful to have the EA's view and recommendations, which perhaps, Chair, we might be able to incorporate into our recommendations to Government, about the corresponding financial incentivisation that needs to be happening within the rest of the waste hierarchy, so that the current financial reward that can come, the incentive that is there to put stuff into incineration, should at least be counterbalanced and preferably tipped down on the scales.

Emma Howard Boyd: This is where for other issues I have talked about the environmental regulators—it is not just the Environment Agency—working in lockstep with the economic regulators and the financial regulators. We are beginning to see that join-up, but we need more champions of it and more people calling for the join-up of that long-term futures forecasting.

Q52 **Barry Gardiner:** If you were to encapsulate that in a recommendation to the Committee that we could put in our report, what would it be? There should be more co-operation between the economic regulators and the environmental regulators to ensure that the balance of incentives is in the right direction.

Emma Howard Boyd: It should be something like that. You are already seeing, with activities like focus on net zero, different regulators coming together to articulate precisely that. We need to be doing it in the round. It is not just net zero; it is all of these other factors as well.

Q53 **Chair:** Just so we are clear on this, if you are a local government leader—as it happens, I was one—and you face landfill tax on the one hand, would you support the idea that there should be some sort of incineration tax, perhaps to drive people towards recycling, or at least something to incentivise more recycling?

Sir James Bevan: We are agreeing with you, Chair, and you, Mr Gardiner, that any successful resource and waste policy needs to be integrated and joined up. Every lever needs to be pulled to make it work. That means that all the incentives, whether they are financial, fiscal, regulatory, legal, push in the same direction and do not create counterintuitive outcomes.

Q54 **Barry Gardiner:** There should be no perverse incentives to opt for something that is further down the waste hierarchy.

Sir James Bevan: Exactly, yes.

Emma Howard Boyd: There is also a mechanism for regulators to work on pilots and on sorting this out. We are still dealing with issues from the first industrial revolution, where we did not internalise the externalities. We must not allow that to happen in what we are calling the green industrial revolution, so that we do not have a mechanism in these



sandboxes to work out how we do not slow things down so we are not making progress, but equally we know what to do if we find unintended consequences. We can then deal with those at pace.

Q55 **Barry Gardiner:** I was originally and am now going to turn to asking you about plastic waste, and exports and regulation thereof. That was a very helpful interlude, so thank you for that. Between 5% and 10% of exports of plastic waste, it would appear, are being investigated. Is that the figure that you still maintain?

Sir James Bevan: I do not recognise the figure. Part of the challenge with exported waste is that it is quite hard to get a sense of the magnitude of it. How much we are or are not stopping is a difficult number to quantify.

Q56 **Barry Gardiner:** That was from the Environmental Services Association. They said that their internal data showed between 5% and 10% of plastic waste shipments were inspected. I did not give you what the NAO said about the agency's lack of grasp of the situation, but maybe I should therefore turn to that.

Sir James Bevan: We might come to that. The NAO said various things, some of which were more complimentary than others. The basic point you are making, that the EA is having to adopt a very targeted approach to managing the risks of export of illegal waste, is absolutely right. That is a function of resourcing. We do the best we can with the resources we have, but, even if we had an infinite amount of resources, we would still be wanting to have a strategically targeted approach where we are not opening every container.

Q57 **Barry Gardiner:** Let me take that point and run with that. You are right; you can only do what you are paid to do. The grant in aid between 2010 and now has dropped from £120 million to £50 million. That is specifically for enforcement, monitoring and incident response. Let me put it this way. Let us forget about inflationary rises and so on. Even if you had that extra £70 million extra that you once had, what more could you be doing? I accept entirely that you want to have a risk-based assessment method. That is totally practical, totally sensible. More do you think you could be doing? What percentage of the inspections would then result in prosecutions as compared to the current level?

Sir James Bevan: First, I will say a word about what we are now doing and what more we could do. Just to give you some numbers, in 2020-21, that financial year, we inspected 869 containers of waste, of which 176 we returned to their loading sites because there was something amiss with what we found. That, combined with the various interventions that we have made at waste sites themselves, rather than the ports, prevented the illegal export of over 11,000 tonnes of waste. Now, that is probably a small percentage of the total amount of waste that is going out illegally, but it is still an important interdiction.



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We also prosecute. Biffa, a household name, we have prosecuted twice in the last few years for illegally exporting waste, most recently last year, when we secured a £1.5 million fine for sending vast amounts of illegal waste to India and Indonesia. We are tackling the issue as best we can, using a proportionate, risk-based and targeted approach.

What would we do if we had more resource? We would further develop the policy that we are now trying to give effect to, which is to work further upstream to prevent the crime before it actually happens, so to work with other partners across law enforcement, with revenue and customs, and with others who have insight into what is happening. We would have a far more intelligence-led approach that focuses on the criminals—there are a lot of very nasty criminals involved in waste crime—rather than individual crimes, and that focuses on the biggest environmental harms. Finally, it would be a much more high-tech approach.

We are already investing in things like drones for surveillance and heat sensitive cameras, so you can see through a container at a port now and see what is in it without having to open it up. That would be my answer. If we had more resources, we would work even further upstream, we would develop even stronger collaboration with the other agencies and we would invest in more high-tech kit that would help us tackle the problem.

Emma Howard Boyd: May I add to that? While it is fantastic that we were successful with a prosecution, or indeed a couple of prosecutions, the amount we are talking about is pretty minimal, in fact, if you look at it and compare it to exec pay, which I did. It is not sending the sort of signal that I believe something that ends up on the front page of the news in terms of illegal export of waste deserves.

We also know, working with the ESA, which has done a lot of analysis in terms of loss, where the responsible waste loses out to criminal activity. They would probably want to pay more to fund us, but that is where we need to have the right ways of working and have that approved by other parts of Government, I understand. There is something about the significance of what is happening.

Again, the court of public opinion has massively changed in recent years. We need to make sure that, if a company is acting illegally, hopefully it does not fight us all the way to the High Court, but that the fines are of an adequate level to make that organisation realise what is happening and that it is not a risk worth taking. Those are the sorts of signals, as a whole, that would really make a difference, as well as having an industry that wants to behave responsibly supporting the way we are funded, so that we can carry out targeted enforcement that will make a real difference to what is happening.

Q58 **Barry Gardiner:** Let us pursue that, because that is absolutely right, and £1.5 million sounds a lot, until you understand that the figure for the



value of illegal waste just into Europe was £1.5 billion. That is not talking about to India, to Africa or to anywhere else. You are right: it does have to be proportionate. Let me follow what you were saying about tracking back further up the line. Is there not also a problem in that we do not have currently the recycling facilities domestically that can do this adequately? A lot of the stuff that we export comes from a market failure domestically. How do you think that should be being tackled?

Sir James Bevan: There is a big policy question, is there not, about whether any waste exports should be allowed.

Q59 **Barry Gardiner:** Indeed, you are on record as saying that we should stop all exports and I totally agree with you. I am trying to give you as free a rein as possible.

Sir James Bevan: Just to be clear, when I said that, I was expressing a personal view. I might well be wrong, but we should have the debate. Why should we have a debate? The Government have already said, rightly, that our aim should be to process more of our waste at home and eliminate waste crime. It seems to me that actually, if we were to decide that we would bring an end to all waste exports from this country, there would be a series of benefits. It would be a lot harder for criminals whose modus operandi is to hide crimes in legitimate waste export processes. It would probably incentivise British companies, which are right at the forefront.

Q60 **Barry Gardiner:** Just because I am conscious that these proceedings are televised, do you want to explain how they hide crimes in those legitimate exports? What is the nature of that? I do not think people understand the quality of waste and so on.

Sir James Bevan: The rules on waste exports allow you to export certain kinds of harmless waste under certain conditions. They do not allow you to export any effectively hazardous waste. One of the most common criminal methods of operating is to disguise hazardous illegal waste inside what appears to be a legitimate shipment, which does not, under the current rules, even need to be notified to the Environment Agency. It is quite an easy route in for bad people.

I say for debate that, if we were to end waste exports, it would make it harder for the waste criminals, which I am keen to do. We know that we have a very high-tech waste industry that I am sure would adapt very quickly to be able to process our own waste at home. That would have its own innovation and economic benefits. By the way, exporting waste is not a long-term sustainable thing anyway. If I were a businessperson, I would get out of it. It also would be good for the country's reputation, because we are hurting ourselves internationally by being seen as a country that is essentially dumping our waste on other countries.

Emma Howard Boyd: It goes back to what I was saying earlier about incentivising and moving as quickly as we can towards a circular economy. I know there is a lot in the world of business that would like to



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make sure that starts happening. Equally, we need to design out a lot of waste that is only existing for single use purposes.

Q61 **Barry Gardiner:** Why is it that companies that have been found guilty of illegal activity in this area in their exports, like Biffa was, do not have their licence immediately suspended so that they are not allowed to export?

Sir James Bevan: For certain exports, companies do need permission from the Environment Agency. If we had a company that was repeatedly and significantly violating the regulations, of course we would look at not granting those permissions. We have had two examples from Biffa. We are confidently expecting that will be the last, because we have been very clear with them what we think about that. I do not exclude us taking action against any company that consistently violates the rules.

Q62 **Barry Gardiner:** It would rather put a stop to it, though, if its licence were revoked.

Sir James Bevan: The whole regulatory system is designed to be a balance, as you know. There are the interests of legitimate business, which we do not want to choke off. Biffa is an example of a big company that creates a lot of jobs and does a lot of important work in terms of managing waste. We want to allow those legitimate businesses to go forward. At the same time, we want to take proportionate and effective action against companies that are consistently failing to give effect to the rules. It is a judgment call based on what we know about each company.

Biffa is, by and large, a well-run company that we have reasonably good relationships with and where we have reasonably high confidence that we do not think this episode is going to be repeated. If it were, that might change.

Barry Gardiner: "These episodes".

Sir James Bevan: There were two episodes that we found. We will take a call if that is not true.

Q63 **Barry Gardiner:** Should the fines that are imposed be hypothecated back into the inspection process?

Emma Howard Boyd: One of the areas where we put attention before we get to prosecutions is enforcement undertaken. It is precisely because, if what has happened is not too serious, the money goes back into repairing the environment. That ultimately is what we want to see: things made good again. Hypothecation is always an interesting concept. No one has got very far with that idea, but it is really important to make sure that money is being put back into the environment.

Sir James Bevan: There is one example of where we have successfully done that. As Emma says, hypothecation is a challenge, but the Proceeds of Crime Act allows us to confiscate ill-gotten gains and we do. We get a



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proportion back from waste criminals, which we do put into the fight against other waste criminals.

Q64 Chair: On this point, in general, does the Environment Agency have sufficient funding to conduct the enforcement work you do effectively? How much more money do you need in the round? How much of that could perhaps just be made from fines against people who you are able to fine?

Emma Howard Boyd: We would actively like to explore how we get more money from the private sector. To support this, alongside the additional money that we have recently received from Government. Where we are focusing our attention on joint working has been very promising. This is with other regulators, other crime enforcers from different sectors, where we see, if you are involved in waste, you are likely to be involved in other unsavoury criminal work. Again, putting attention into how we work jointly and combine resources to tackle some of these crimes is certainly where I would continue to focus.

Q65 Chair: The Secretary of State has suggested that the agency should devote more of its resources towards enforcement. Why are you not? Would it help if you got a proportion of that back to encourage you to do even more?

Emma Howard Boyd: This is a really interesting point, because the money that we get allocated is often ring-fenced for very specific areas. I know this is something that James feels quite strongly about as accounting officer, that the money is allocated to the right areas of work. I know you have looked at the detail of this, James.

Sir James Bevan: I saw what the Secretary of State said to you in February. He was right that the Environment Agency is relatively large. We have about 10,500 people. He was right that we have a relatively big budget, upwards of 1£.5 billion a year. That said, we have to do a very large amount of things with those people and with that budget. Roughly half of the people and almost all the money are used for flood defence, which we have been talking about earlier this afternoon. The rest of it is going on all of our environment work, which is a very broad spectrum.

Almost all the money that we get is specifically ring-fenced for a particular purpose. As Emma said, as the accounting officer, it is my duty to make sure that the money that we receive is spent for the purposes that you, Parliament, have allocated it. I take that responsibility seriously. Almost none of the money that we get funds enforcement. That enforcement has to be funded according to the Treasury rules, which I am here to uphold, from Government grant, not from our other main source of income, which is charging of those that we regulate or customers for whom we provide services.

The grant that we do get from the Government, as Mr Gardiner was saying earlier, which does fund enforcement as well as other things like



responding to environmental incidents, has dropped very substantially over the last decade. You quoted the figures, Mr Gardiner, of £120 million in 2010. It was around £50 million last year. That has obviously put pressure on our ability to take enforcement action. That is why we are deliberately being very strategic and targeted in the enforcement action and prosecutions we take. That is also why, as Emma has said, we have actively and, I think, reasonably successfully explored other ways to resource what we do and achieve the same outcomes.

Take enforcement undertakings where, for example, a water company pollutes a river, it is not very serious and, in exchange for a commitment from us not to prosecute them, they will pay the cost of remediating that damage. That is a good outcome for the country and the environment. The Proceeds of Crime Act I have already mentioned. That is a way in which we can leverage money in from the wrongdoers rather than the taxpayers and, as Emma was saying, from the legitimate waste industry and other industries that have an interest in supporting our enforcement. Our enforcement is under pressure, but it is effective and targeted, and we will always do the best we can with the resources that we have.

Q66 Chair: Would it be helpful to have more flexibility in the organisation and less mandatory expenditure streams—"You have to do this with this money," et cetera—in order to achieve better outcomes with the same resources?

Sir James Bevan: Yes, we do try. Again, while always trying to stay the right side of the accounting officer rules, we do try to flex our effort according to the needs of the country. As an example, during Covid we said, "This is a national emergency. We need to put a lot of our resource into helping the country tackle it". We did various things like storing PPE in our depots and analysing wastewater to see whether Covid was in a particular population. We did a whole bunch of stuff that, in normal times, we would not be doing and probably should not be doing. We do flex when it is necessary. I would like to have more flexibility in terms of how I can spend my money, but I have to abide by the Government rules.

Emma Howard Boyd: That focus on what flexibility can be given to us to allow us to go towards where the issues are is something that we would like to explore further.

Barry Gardiner: The answer was really in the Secretary of State's own hands, when he said that you had the ability because you had this big budget. He could increase the grant in aid element or he could give you that increased flexibility. Perhaps, if we were to make recommendations, we might suggest those as feasible options.

Q67 Chair: I do not know whether you want to drop us a line about the sort of flexibilities you may want or whether it is just to enable plus or minus 5%, rather than plus or minus 0.5%. Can I just ask about routine investigation of relatively low-impact pollution incidents? Again, in terms



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of the deployment of resources effectively, I know the Environment Agency is still investigating relatively low-impact pollution incidents. Do you think that is proportionate and sensible, given the resources you have?

Emma Howard Boyd: This is where we have had to get incredibly targeted in terms of the incidents that we respond to. I said right at the start of this session that last year we saw 76,000 incidents reported to us. That is one every seven minutes, 24 hours a day. We are talking of the whole country. We have had to be very, very targeted with our follow-up and triaging around incidents. I know that none of us likes to have to make those choices but, realistically, given the resources, those are choices that we have had to make, making sure that we are targeting the more significant and serious incidents.

Q68 **Chair:** You do not know some of the incidents are low impact until you have actually investigated them, do you, in certain cases?

Sir James Bevan: We do need to triage them. You are right, Chair. As Emma said, we can get anything up to 100,000 reports a year of environmental incidents. What we do is operate a 24/7, 365-day-a-year incident management service, through which people can report incidents to us and we can triage our response to them. A serious incident, such as a serious pollution incident or a major flood, will always get boots on the ground from the Environment Agency because we will always prioritise the protection of lives and property. Where we do deploy, we do a lot. We do not just seek to find out what has happened. We seek to stop the harm, remediate the damage and, if appropriate, pursue the culprits, up to and including prosecution.

Of the up to 100,000 incidents that we do get every year, most are in the category of minor incidents. Of that number, roughly up to 100,000 a year, between 400 and 600 tend to be serious pollution incidents, just to give you a sense of proportionality. As I say, those will always get a direct response. At the lower end of the incident severity, we will still respond, even if we do not deploy. For example, if we get a report of a leaking sewer, we will call the water company and say, "This is your sewer. Go and check that it is leaking, then come back and tell us when it is done". There are ways to do what we need to do without actually expending our resources.

Q69 **Chair:** Our figures say that you only attend 7% of the reported incidents. In 2021, there were 116,000, which is in the 100,000 ballpark you said. Is 7% enough to attend?

Sir James Bevan: Well, 7% is what we can afford to attend. That 7% will be based on our professional judgment of the most serious incidents where we can make the biggest difference. For every incident that gets reported to us, every one of those 100,000, there is a consequence. Even if we do not deploy or ask somebody else to deploy, we will log it and we will use the intelligence that we have derived from it to target our



regulatory activity in future to reduce the risk of further incidents. The point I am making is that every report we get has some consequence. There is a small percentage of those where we actually deploy. We will always deploy where there is a serious threat to lives or property.

Q70 Chair: Just so we are clear, if someone reports an incident that you just regard as not worthy of attending, assuming it is a legitimate and real problem, how will you act to stop those problems, did you say?

Sir James Bevan: If it is in the category of an incident where we are not the lead actor, but where somebody else is, we will normally get in touch with that actor, whether it is the local authority or the water company, and invite them to take action. If it is an orphan incident where there is no one who is responsible, or no one we can clearly identify, or very little environmental or other harm, we will still log it and, as part of our analysis that we do each year in terms of how we target our regulatory activity, we will have regard to that evidence to make sure that we are focusing our regulatory activity on where we are seeing the largest number of incidents.

Q71 Dr Hudson: You likely will have heard that we are running a concurrent inquiry on rural mental health. Many of our rural communities suffer significant issues exacerbated by rural isolation, connectivity issues, but then also events. We have touched on some of them in various of our sessions with you: acute flooding events, extreme weather. That involves the anxiety of waiting to be flooded and then the trauma of the flooding episode.

In rural communities, there are pressures on farm businesses: animal disease outbreaks, waiting for TB tests as well. We have heard in our evidence that a stressor for many farmers is that regulation, compliance and inspection is a significant cause of stress for the farming community. I ask you: what is the Environment Agency doing? Are they aware of that? If so, what are they doing to help the farming community manage these significant issues?

Emma Howard Boyd: A lot of what we were saying earlier in terms of farming rules for water shows the approach that we are taking. Ultimately, over time we have to balance the environmental aspects of what we are dealing with. The time involved in getting advice rather than going to the harsh stick of regulation is something that we are thinking about, but we also have to balance the impacts on mental health to those in parts of society or communities that are ultimately suffering if our regulation is not strong enough.

We see this in the work we are doing from a flood perspective. Indeed, our flood strategy has focused on mental health, because we know the difficulties, whether in an urban environment or in a rural environment, from flood stresses. This is something that we are just mindful of getting right, but also know that ultimately we have to regulate and enforce when we have the resources to do so.



Q72 Dr Hudson: So you would look at this in the round. You are aware and it sounds like, as an agency, you are cognisant of the mental health pressures, not least for those being inspected but also for the local communities in terms of pollution and whatever might be going on. Do you have, if anything, a dedicated resource to work on the mental health impact of your inspection activity, but also mental health issues related to other aspects of your activity? It sounds like you are aware of the issue. We are very aware of it on this committee. What is the Environment Agency doing in that regard?

Emma Howard Boyd: Very specifically, looking at the mental impacts on our staff as well, colleagues who are out there are sometimes getting the butt of the anger, whether it is from the criminals involved in waste—we have had to give them cameras so that they are safe, or they have gone out in groups rather than individuals—or, similarly, from a flood perspective. We have put our resources into looking after mental health from an organisational perspective, because we also understand this in the round. I am more aware of the work that we have done through our flood programme and mental health of the communities, from a regulatory perspective, beyond the work we are doing with farmers.

Sir James Bevan: Yes, we do train our people who go out, both to have regard to and protect their own mental health, and to look out for people they might meet, either members of the public or the people they are regulating, who are experiencing their own mental health issues. We do meet quite a lot of people who are on the edge, and not just farmers. As another example, we run the navigation on the River Thames and our lockkeepers meet a lot of would-be suicides. We are now training them in how you manage people who are about to jump off a lock.

Q73 Dr Hudson: On that point, do you have a significant number of your staff trained up to be mental health first aiders?

Sir James Bevan: Yes, we do. We have done a lot on the last five years to invest in our own mental health, because obviously the job itself has some of its own stresses. As I was saying, also we have trained those who go out frequently to recognise the signs of distress and know what to do. We are aware of it and we do support our people to deal with it.

On regulation, as we were saying in relation to farmers earlier, our default is to assume good intent on the part of those we regulate, because most farmers and most people we regulate do have good intent. Our default is to start with advice and guidance rather than the stick of enforcement or prosecution. That is part of the answer to how you deal with people who are fragile.

We can and do pause or change our regulatory stance if we meet an individual who we think is in a vulnerable position and is not ready to deal with this. For example, I cannot go into detail, but it concerns a farmer where we were recently in the process of leading up to what was likely to be enforcement action, but it became clear that this particular



farmer was struggling. We put all of that on pause. We got him help with the relevant organisations to maintain his wellbeing. We have subsequently worked with the farmer to manage the issues on the farm without having to go into enforcement action.

Q74 Dr Hudson: Obviously you cannot go into the details, but you have people working within your teams who are able to signpost that particular person and then work with them. That has worked in terms of that and that has been taken up. That is something that we are trying to shine a light on with this parallel inquiry, to see whether we can get support mechanisms in place because of these acute stressors that people in our rural communities, but also in our urban communities, are facing with flooding or anything like that, as well as a cost of living crisis. I am reassured that you are sensitive to that in your organisation.

Sir James Bevan: Just on the flood point, as you said and as Emma said, we know that being flooded or fearing a flood can have major effects on your physical and mental health for a long time. That is one of the reasons why one of our most important interventions when flooding threatens or happens is that we send what we call flood liaison officers into communities. They just knock on the door and say, "We are here to talk about how things going for you. Do you need any advice about how to claim on your insurance or how to check your flood risk in future?" It is basically just someone for people to talk to and unload on. That is a major part of what we do when communities are threatened.

Dr Hudson: That is very helpful. Thank you very much.

Q75 Chair: We are drawing to a close now. Thank you so much for giving excellent evidence. Can I give a special thanks to you, Emma? I know you have been on the board since 2009 and you have been chair since 2016. You are due to pull back this September. You have been a fantastic asset for the Environment Agency, of course, and for the country. I was wondering whether there are any final quick remarks you wanted to make about the future of the Environment Agency as we move forward in light of what we have been talking about.

Emma Howard Boyd: It has been a huge privilege for me to chair the Environment Agency. It is really important to recognise the brilliant colleagues that we have working for the Environment Agency up and down the country. Whether it is that most recent discussion around mental health or the cost of living crisis, we know that our colleagues are going through certain aspects of that themselves. They have been brilliant.

Dr Hudson, you talked about the work of some of our colleagues in your constituency. It is something that James and I feel very strongly about: giving the right recognition to our people who are literally out there at certain times of the year, round the clock. That is something that we should be holding dear.



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I am really pleased with the progress that we have made in being able to talk about the climate and the natural environment emergency. I am also really clear that we need in our work to be moving way beyond the boundaries of the environment. That is something that I have thought about a lot in my work in finance, green finance, and the work I will continue to do in the future. We have often seen the environment and the work of organisations like the Environment Agency as very niche, but this is a whole-economy, whole-country project. We need to be working in support of each other to deliver change at pace. That is where I am hoping the organisation will focus in the future.

Chair: Thank you for championing our environment in a wider sense. Thank you for your evidence. I will close the session now.