HOUSE OF COMMONS

Public Accounts Committee

Oral evidence: Regulation after EU Exit, HC 32

Monday 13 June 2022

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Watch the meeting

Members present: Dame Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Peter Grant; Sarah Olney; Angela Richardson; Nick Smith; James Wild.

Gareth Davies, Comptroller & Auditor General, National Audit Office, Adrian Jenner, Director of Parliamentary Relations, and Marius Gallaher, Alternate Treasury Officer of Accounts, were in attendance.

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Witnesses

I: Michael Grenfell, Executive Board Member, Competition and Markets Authority; Emily Miles, Chief Executive, Food Standards Agency; Sarah Albon, Chief Executive, Health and Safety Executive.

HOUSE OF COMMONS

Report by the Comptroller and Auditor General

Regulating after EU Exit (HC 61)

Examination of witnesses

Witnesses: Michael Grenfell, Emily Miles and Sarah Albon.

Chair: Welcome back to the Public Accounts Committee on Monday 13 June 2022. For our second panel, we are looking at the knotty issue of regulation after Brexit. Since the UK exited the European Union, many of the functions that were previously carried out by the European Union are now the responsibility of UK regulators. They have been given some funding to expand their roles, but we are keen to pursue whether that is enough. Many of them are facing big challenges, including delays to some of the changes that were originally proposed.

We have looked at this a little bit already, and we have looked at individual Departments. We have looked a lot at customs, but we are keen today to talk to the panellists in front of us about how it is working for them. These regulators are just the tip of the iceberg of the regulators in the UK whose responsibilities will increase, but we figure that what you are dealing with is a good litmus test for what other regulators are dealing with, so we are keen to draw wider lessons from the witnesses we have in front of us today.

I would like to welcome Michael Grenfell, who is an executive board member at the Competition and Markets Authority, the CMA; Emily Miles, who is the chief executive of the Food Standards Agency; and Sarah Albon, who is the chief executive of the Health and Safety Executive. Welcome to you all. Before we kick off into the main session, I would like to ask Sir Geoffrey Clifton-Brown to ask a question.

Q1 **Sir Geoffrey Clifton-Brown:** I would like to ask you a question, Dr Grenfell. Good afternoon to all of you. The press reports that Kwasi Kwarteng, Secretary of State for BEIS, has written to you to ask you to do two things, as I understand it. One is to investigate whether the 5p cut in fuel duty has been properly passed on to consumers at the pumps. The second is to have a wider inquiry into competition in the fuel market.

You cannot say anything about that, but, given that this is of critical interest to very large numbers of our constituents, can you tell us roughly how long it is likely to be before you are able to come out with a report?

Michael Grenfell: I can say a little bit more than you think. We have been asked to do an initial quick review by 7 July, and we are working to that. Clearly, the concern is exactly as you say it is. It is suspected that the cut in fuel duty has not been passed on. The question is whether that is a result of some deficiency in the operation of the market, insufficient competition

in the market between the forecourts, or even actual collusion between competitors in the market.

We will look into that. We will engage with interested parties, including motoring organisations and people who are operating in the market. We certainly invite those who have any information or evidence that could be of use to us to contact us so that we are able to respond in the most helpful way. It may well be that, beyond that, we conduct a fuller and deeper look at the market, perhaps by way of what we call a market study.

Q2 **Sir Geoffrey Clifton-Brown:** Let me move to the second part of my question. As I understand it, you have been asked to look at the competition in the market more generally. How well does the refinery sector operate? How well does the wholesale sector operate? How well does the retail sector operate? That presumably will take you a little longer, because that is a much bigger task

Michael Grenfell: Typically, a full market study can take six to 12 months. It might lead to what the law calls a market investigation, which is something that gives us powers to order changes. That can take 12 to 18 months. Yes, a market study or a market investigation is something of some depth, in which evidence is brought forward and analysed in great depth with a view to, in the first instance, an authoritative report and, if it is a market investigation, the power to make orders to change and remedy any defects that were found.

Chair: We will now move into our main discussion today about regulation after EU exit. We envisage that this is going to be the first of a number of discussions that we have as a Committee. Given the length of time that this is likely to take to resolve, many of us will not be around the table when this all finally sorted, such is the long legacy of leaving the EU. I will ask Sir Geoffrey Clifton-Brown to kick off.

Q3 **Sir Geoffrey Clifton-Brown:** I am going to ask each of you in turn the same question. What are the biggest risks each of you are managing as you develop your regulatory regimes post EU exit?

Sarah Albon: For us, we looked at risk with two different lenses. There was clearly the immediate transition risk of making sure that there was a continuity of regulatory approach across the transition. That meant we had to communicate with the various professional companies, bodies and others affected and have processes in place that would enable companies to register their wish to continue to make biocidal, pesticidal and other chemical products and substances available for use in the UK.

In order to do that, we had to make sure we had sufficient IT systems in place that would do that and the right kind of staff, processes, communications and all of that. We got through that fairly effectively. We were able to ensure that continuity of supply across the transition process.

Looking further ahead, the main issue for us is ensuring that we continue to be attractive as an employer and that we can get the right kind of

expertise. The Committee is probably aware of this, but some particular forms of expertise are in incredibly short supply in the UK. It is not particularly something that is unique to the HSE.

Sir Geoffrey Clifton-Brown: My colleague will be coming on to some of the issues around staffing.

Sarah Albon: I will not go into too much of that. There are risks around that. As we project further into the future, it is about ensuring that, where there is diversion between what we do in the UK and what other regimes do, it does not cause unnecessary issues for the users and manufacturers of different products. We are really keen to make sure the burden on companies and others who are having to enter different regulatory regimes is kept to a reasonable minimum.

It is also worth noting, though, that the large manufacturers of chemicals and other products like that did not just have the two regimes of the EU and the rest of the world. They are used to engaging with different developed economies right around the world. We want to make sure that what we have in the UK works primarily for us in terms of the safety and usability of those products and services in the UK, but we also want to make sure it does that in a way, wherever possible, that minimises cost to all involved.

Sir Geoffrey Clifton-Brown: We will be coming on to lots of details on that answer. Thank you for that introduction. I will go to Emily Miles, chief executive of the Food Standards Agency.

Emily Miles: There is a particular short-term risk we are managing and then two or perhaps three longer-term risks. The short-term one is about vet resourcing. We have vets in all of the abattoirs around the UK. We normally need about 260 or so vets. Last year, that dipped down to 210. There was a significant issue with retention and recruitment. We are doing a lot to try to improve that situation, but that has been a challenge.

There are then two long-term ones. These are reflected in the annual report on food standards that the FSA will be laying in Parliament, I hope, at the end of next week. In the long term, we are concerned first about the need to place import controls on high-risk food and feed coming from the EU. At the moment, we do not have those import controls in place. It is not a problem right now, but it could be a problem in the long term. Secondly, we are concerned about the diminishing capacity in local authorities to do inspections, particularly at the moment in the compliance with food labelling and composition standards as opposed to food hygiene.

Those are our two long-term risks. I said there was a third one, which has just come on to my radar, which is about capacity. We were expecting to grow over the next period. The Government are in the middle of thinking through cuts, so we are now trying to wrestle with what that might mean for us in practice.

Q4 **Chair:** Are you modelling the 20%, 30% and 40% cuts?

Emily Miles: Every Department is, yes.

Chair: Is that also in your agencies? All of you are nodding.

Emily Miles: Yes, we have all been asked to do that.

Q5 **Sir Geoffrey Clifton-Brown:** You have an increased workload, but you are being asked to cut the number of staff.

Emily Miles: We have not been formally asked to cut a number of staff yet. We have just been asked to model 20%, 30% and 40% cuts. I am hoping that we will have a very informed conversation with the Treasury about what the implications of that will be.

Chair: That is very delicately put, Ms Miles.

Michael Grenfell: I will briefly say what the implications of leaving the EU were for the Competition and Markets Authority. There was a huge expansion in our functions. There was a direct consequence, which was that, while we were members of the EU, competition scrutiny of the larger cross-border mergers and acquisitions transactions and the larger cross-border cartels and other competitive practices were reserved to the European Commission. That is no longer the case. They have come back to us, so that is a large increase in our functions.

Indirectly, the Government have conferred or proposed to confer on us the function of administering aspects of the UK Internal Market Act and the new Subsidy Control Act. The Government are also proposing, in terms of the digital market regulatory role that the EU is establishing, that there be a UK version of that and that it should be housed within the Competition and Markets Authority.

As for the risks, like my colleagues, one is the recruitment of staff to take on these roles. The Treasury was supportive. We have increased our numbers by 48%, which is a significant amount. We will still need to recruit more people to do the new subsidy control and, if it comes, digital markets functions. Partly, the challenge is whether we can recruit talented people or people with the right skills. So far we have been pretty successful, but there are some risks. Maybe we will talk about those later. There is also, as we have just talked about, the challenge from the Government to see whether we can reduce numbers in line with its proposals for the whole of the civil service.

Another risk posed by these big new competition functions is the fact we are investigating some of the biggest global corporations. They have deep pockets, and if they do not like our decisions, they can appeal against them. That requires us to be lawyered up and to have firepower. That means we take a risk when we take on these cases. That risk has increased in the last week, because of a Supreme Court judgment. Whereas under a previous Court of Appeal judgment we had been protected from paying the

other side's costs if we lose an appeal, it has now been laid down that we would have to pay those costs. Unless legislation comes in to change that, that increases the risk we face if we tackle these giants. I am not saying we will not. We are determined to do that to protect UK consumers and businesses from abuses.

Chair: It is a very big risk.

Michael Grenfell: It adds to the risk, there is no doubt.

Q6 **Sir Geoffrey Clifton-Brown:** You will have to have protocols agreed with the Treasury on that aspect. Either the law changes and you do not pay the cost or, if you do, you will have to have protocols with the Treasury. Otherwise, you will never take on a case at all.

Michael Grenfell: That describes it very well, yes.

Q7 **Sir Geoffrey Clifton-Brown:** I just have a supplementary question on what you have said. Presumably the state aid and markets subsidy regulations will broadly follow the EU, under the trade and co-operation agreement.

Michael Grenfell: "Broadly" is the word, because on the of the UK Government's negotiating objectives in the trade and co-operation agreement was to have a somewhat lighter-touch and more flexible approach to subsidy control, which is the UK term for state aid, than there was when we were members of the EU. The Government largely achieved that objective. Although the principles are broadly similar, it will be a little lighter-touch.

Sir Geoffrey Clifton-Brown: I am trying to keep these answers fairly brief.

Chair: If your colleague has said something that you agree with, you can simply say, "I agree." You do not need to repeat it. Otherwise, we will not get through it.

Q8 **Sir Geoffrey Clifton-Brown:** We have an awful lot of ground to cover. With the transfer of EU regulations into UK law, how effective are the current regulatory regimes? In each of the three cases, are you thoroughly up to speed? Is there more ground to go in implementing a UK regulatory regime that was previously present in the EU regulatory regime?

Michael Grenfell: I will be very quick on that. We already had the skillset for the expansion into the competition scrutiny that was previously reserved to the European Commission. It is on a larger scale, but we are able to do that, and we do it. Subsidy control is new for us, but, again, one of the reasons the Government conferred it on us is because looking at whether something distorts competition in markets is what we do. When it comes to the scrutiny of the internal market, which is about looking at whether regulatory divergence has a distortive effect on trading competition, the position is similar.

It is work in progress. We are about to get the subsidy control function and the digital regulatory function. We do not know when we will get it, but it was promised to us. It is manageable. We are doing it with a professionalism and effectiveness that is winning respect among observers worldwide.

Sir Geoffrey Clifton-Brown: I am grateful for that optimistic answer. I look forward to the first big test case to see how well you do.

Michael Grenfell: I will make one observation; I know one needs to be quick. The type of analysis you do as a competition authority is broadly the same wherever on earth you are. The differences are going to be small. They might depend on differences in the state of competition in the particular market; they might depend on marginal differences in perspective.

There has been one quite significant global merger transaction, which involved companies that sell equipment for container shipping, where it was conditionally cleared by the European Commission, and we took the view that we ought to block it. We did that, and that has been accepted. For the most part, there will be some divergence, but not huge divergence

Emily Miles: There are about 100 regulations that relate to food law. There were 19 one-line statutory instruments that made sure EU law was retained in the UK. It is basically a functioning regime. It is doing fine. There are some little anomalies and trickinesses that we have had to work through in the last 18 months around whether the Secretary of State has delegated powers effectively to the FSA. There have been issues about particular decisions on certain regulated products that you could not move over, because it was done in the transition period. We have mostly worked those through.

If I think of the areas where we have new responsibilities, they are regulated products, where we are authorising new products; imported food; general food law; and the Northern Ireland arrangements. Mostly, it is fine. The food industry is finding our work on regulated products to be slower than they would like. We are following the EU imported system. We are meeting very similar timescales to what happened in the EU, but there is some impatience there.

There are lots of opportunities for improvement and reform, if we were to have primary legislation. I can go into more detail on that, if you would like.

Sarah Albon: I have very similar answers to Emily, so I will be brief. The regulations are effective at ensuring that the chemicals and chemical products used in the UK are safe and so the primary purpose of ensuring the safety of the environment and people in the UK is met.

Wider long-term reform is something that DEFRA colleagues are really interested in pursuing, and we are interested in supporting that. We can

see scope for having fundamentally more efficient systems. None of us would feel that we are short of appropriate levels of protection, but we can understand how we may be able to do that more efficiently in a way that would be beneficial to user, sellers and manufacturers.

To the point Emily made, we have all been asked to model the impact of really significant reductions in headcount. In the case of HSE, our headcount is slightly below the level it was in 2016. We have put significantly more people into both this area of chemicals regulation and some of the other areas where we have had repatriated activity. We have also been asked to take on a really important new role, post the Grenfell disaster, of the Building Safety Regulator.

We have been able so far to grow through efficiencies within our existing space, but at a reduced headcount level we simply would not be resourced to take on these important new functions and maintain our existing ones.

Q9 **Sarah Olney:** I just wanted to follow up on some of what you have been saying. What is coming through from all of you is staff and headcount. It feels as if all of you are dealing with two competing pressures: the need to resource the extra responsibilities while, at the same time, dealing with the modelling you have talked about.

Specifically on the ability to recruit staff with expertise, what are the challenges? You have your operational role, which has not really changed from previous to EU exit. Presumably the new responsibilities include strategic thinking and drawing up new frameworks. What are the risks to that work of not being able to recruit staff with the right expertise?

Emily Miles: In terms of the actual skillsets we are struggling to recruit, it is toxicologists and vets. With toxicologists, we do not need loads of them. We are looking for another 10 at the moment. We get about eight applicants per post for a toxicology post. With vets, we will get perhaps seven applicants per post. If we were recruiting into our National Food Crime Unit, which is investigations, we will get 44 applicants per post. There is a shortage in the country.

We are not struggling to recruit strategists, policy people and so on at the moment. For me, it is more a capacity question than a capability question. There are 100 regulations. In effect, that is 100 Bills or 100 Acts that we might need to think about if we wanted to reform food law. If we want to go through that at a significant pace, I will need significant capability to think in that way and do all that reviewing. We have some capacity to do some at a reasonable pace at the moment. If we need it to go any faster, that would be challenging.

Q10 **Sarah Olney:** Do you have particular ways of addressing that? Thinking ahead to addressing your operational shortage or your capacity shortage, is there anything in particular that you are doing to try to address that?

Emily Miles: We are doing a number of things on vets. Most of our vets are provided through a third-party provider. We have given additional

money to the provider so they can increase the salary of vets. You will perhaps know that more vets are needed for two reasons. The first is more export controls, because of the exports going to the EU. The second is there are a lot more pets being owned in the country because of Covid.

The number of vets required has gone up. The salary will increase. The Royal College of Veterinary Surgeons has agreed to a temporary arrangement where we can transition overseas vets who do not quite have the English language standards needed via a novice vet role for 12 months. That helps.

What we would like to do, if we were not subject to headcount controls in this area, would be to insource 25% of those vets. We think a career in the civil service, with opportunities to move into public health, will be a more attractive career and we will enable us to retain vets. Certainly that was the experience that Food Standards Scotland went through when it insourced its vets. We are interested in doing that.

We have recruited some toxicologists, but we are looking at what we could train in-house. We are looking at how we could we improve the training that we provide to our existing people and at how we could change our requirements for toxicological assessments so they are less stringent and we do not need as many staff. For instance, if you are doing a regulated product application, you need to provide a toxicity assessment. That often involves animal testing. We want to see whether we can change our protocols so there is less animal testing going on and hopefully therefore less toxicological assessment that might be needed.

Q11 **Sarah Olney:** Just thinking about the other challenge, what would be the impact on the FSA if you had to reduce your headcount of vets by 20%?

Emily Miles: It is not so much on the FSA, to be honest; it is really on the meat industry. At the moment, the meat industry needs an official vet to sign off that their meat is safe. The vets also play a significant role in checking animal welfare before the animal is slaughtered. Without that sign-off, they cannot put the product onto the UK market and they also cannot export it abroad. We prioritised our efforts over the last period to make sure we can have vets and indeed meat hygiene inspectors on every shift in every abattoir in the country so they could do that. There would be quite substantial implications if we could not.

The arrangements for meat hygiene controls are quite prescribed in law. They are very input-focused. They say, "A vet must do this. They must be onsite. They must be supervised in this way". If we were able to have some legislative change, the FSA could potentially play more of an assurance role. The private industry could do the checks themselves, and the FSA could be very much auditing and checking. Until the law gets changed, we have to operate the existing system.

Q12 **Sarah Olney:** Dr Grenfell, you were talking about how, in your new role post EU exit, there is much more complexity and you are dealing with larger

cases. There was one to which you just referred. Can you talk about how that is creating a challenge for you in terms of recruiting?

Michael Grenfell: There is a recruitment challenge that is intrinsic to what we do. Although its scale has been increased by leaving the EU, it is not caused by leaving the EU. The challenge is this. We look at these cases of effects on competition in markets. That requires a skillset that is held by competition lawyers and competition economists. To recruit, we are competing against the big international and City law firms and the big economic consultancies, which pay much more.

We are able to recruit people, because the work that we offer is exceptionally interesting. You are doing the biggest cases in the country rather than just some of them, as you do in one of the advisory firms. You are shaping policy rather than having it delivered to you. You are working with people who want to do the right thing; you are working with extremely talented people of integrity.

With that said, the more the differential in pay widens, either because the private sector firms increase the amount they pay or because of pay constraint in the public sector, the more difficult that is. That is an ongoing challenge for us. We have done reasonably well so far, but it is an ongoing concern for us.

Q13 **Sarah Olney:** To what extent is that exacerbated by EU exit? I do not mean so much the availability of staff but the workload and how it has changed. Has that contributed to the difficulty?

Michael Grenfell: For the reasons we discussed earlier, we need more people, and because you need more people, that increases the recruitment challenge. On the other hand, because we are doing those bigger cases, the attraction of doing the more interesting cases is even greater. It balances, but, yes, that is an ongoing challenge.

The Treasury has allowed us, as it has allowed other Departments, a little bit of pay flexibility. That is not more money but some flexibility in how we can allocate pay on a pilot pay project. That does not begin to address the kind of differentials we are talking about. It is an ongoing issue. We are not doing too badly, but it is always a concern.

Q14 **Sarah Olney:** Ms Albon, can I ask a slightly different question? In paragraph 4.11 of the NAO Report, it states that 25% of staff time in the chemicals regulation division of the HSE is spent on training. This is to increase the skills and capacity of your existing staff. First, is that as a response to the EU exit challenges? Secondly, what opportunities exist to recruit those skills outside the organisation?

Sarah Albon: To answer your question in the right order, that would have been mostly as a result of needing to recruit more people into roles in the chemicals regulation team. Although the work that we were doing before exit is mostly fairly similar to the work we do now, prior to exit we were one among all the member states and we took a proportion of the various

dossiers for assessment. Post exit, all things that are going to be made available for sale in products or substances in the UK have to go through the process in the HSE.

In addition to that, the Commission held the function of bringing all of the dossiers together and making overall decisions, whereas now we make those recommendations to Ministers. That very high percentage of training was really about taking in large numbers of new graduates, particularly STEM graduates, and giving them appropriate training to support them in doing that regulatory work. As we get closer to a steady state on staffing, the proportion of time that training takes up will be less.

In that team, we have always recognised that, in amongst some really deep subject matter experts, we have relatively high proportions of jobs that are suitable for science graduates at the start of their career. We recognise and accept that what we are able to do is offer people a good start in the chemicals industry. They come to us for a period of time, learn their trade and make a really good contribution, but many of them will then choose to move out into industry. Quite consciously, we have a fairly high turnover model in response to some of the issues around salary and the more senior and more developed roles.

More broadly, I would echo agreement with some of the points Emily in particular was making. There are areas where we are short of people in the UK. Toxicologists is one area; microbiologists is another. Looking away from some of the EU exit issues and thinking about the transition to net zero and things like that, there is a shortage of hydrogen specialists and some other safety professionals. There are not sufficient of them at the moment. We are thinking about what we can do in terms of an attraction strategy in the short term, but we are also thinking longer term around apprenticeships, whether we can sponsor people through their degree courses and all of those things.

They are potentially good long-term answers, but clearly they cannot meet a short-term lack of specific qualifications out there in the market.

Q15 **Sarah Olney:** There is a common lack of toxicologists, I am picking up. Are you working together to address that?

Sarah Albon: As you have heard, we are both short of them. Clearly, we work really closely together. If there were a particularly urgent requirement where one of us was able to help out the other, we would do that.

Q16 **Sarah Olney:** You are not poaching toxicologists.

Sarah Albon: Rather than get into that price war and poaching, both of us would much rather co-operate and share resource where we can sensibly do that.

Q17 **Chair:** How long does it take to train to be a toxicologist of the level that you both need?

Sarah Albon: You would be looking at a postgraduate with quite a few years of operational experience.

Emily Miles: The ones who have joined the FSA in the last few years—I have met five or six of them—mostly have PhDs in some kind of science. It is related to chemistry, not necessarily toxicology. They are being trained with us to do that kind of risk assessment.

Chair: The simple answer is that there is no quick fix. You either have them ready-made or they come in from overseas. You could start, but it will take a long while.

Q18 **Sir Geoffrey Clifton-Brown:** Sticking with you, Ms Albon, the Report tells us at paragraph 4.18 that you are about to publish a new 10-year strategy. How is that going? When is it likely to be published?

Sarah Albon: We published it. I am very happy to make copies of that available afterwards through the Clerk. That was not specifically on chemicals; it was for the entirety of the activity of the Health and Safety Executive. We outlined in that strategy where we want to put our efforts over the next 10 years. Our headline, as I have already mentioned, is around protecting people and places.

We recognise some of the new challenges coming in, some of which I have already mentioned this evening. Clearly, our work on the new Building Safety Regulator is of immense public importance. We are putting a huge amount of effort into having a really high-quality new regulatory regime for buildings. Chemicals regulation was another big thing in the post-EU transition. There is also the safe transition to net zero, where we think about both new and emerging potential risks around hydrogen and things like that. We are trying to be a really enabling regulator that allows industry to innovate but ensures they do so safely.

We are also not taking our eye off the pressure on some of the ageing forms of energy and what that might mean. Investment inevitably gets tighter in a declining business. If some of the oil or chemicals industries are in decline, it is really important that safety is not put on the back burner. That is really important when people think about end of life for a big refinery, an oil platform or those kinds of things.

Q19 **Sir Geoffrey Clifton-Brown:** On that very subject, how do you separate within your regulatory agency the day job, the factory stuff or the normal stuff you have been doing for years and years, from all of this stuff that you have been given from the EU, REACH, biocides and all the rest of it? Are the two separate within your organisation?

Sarah Albon: At the operational working level, we have separate teams. The chemicals regulation division, as it was pre-exit as part of the EU, is dealing with biocides, pesticides, UK REACH and those kinds of things.

When we think about health and safety risks, we tend to split the operational teams between what we call conventional health and safety

and the higher hazard regimes, so energy, chemicals and those kinds of things. We have a much more hands-on relationship with the big companies and others that are controlling those hazards compared to the small factories that control conventional health and safety risks.

We are setting up an entirely new division to deal with building safety regulation, but one of the benefits of these different regimes coming together in an organisation like HSE is that we have a science team that is able to support in scientific specialisms right across those different functional areas, including research scientists on our site in Buxton and across the country. When it comes to things like policy, strategy and the forward thinking, we have a flexible team that can use policy skills while deploying the deep expertise of some of our scientists and safety professionals.

Q20 **Sir Geoffrey Clifton-Brown:** Coming to you, Ms Miles, and the Food Safety Agency, I have one or two specific questions. On the National Food Crime Unit, there is some talk in the Report that you need extra powers. At the moment, you are relying on the police to carry out a certain amount of enforcement. Does that require a change of legislation or does it require a statutory instrument?

Emily Miles: It now requires a statutory instrument. It did require a change of legislation, but there was a clause passed in the police and crime Bill that just went through. We need PACE powers to serve search warrants, seize evidence and interview suspects. At the moment, we rely on police officers who have those powers to come with us, if we are going to search premises or if we are going to interview a suspect. In fact, they are also the ones who have to apply to the court to ask a judge to issue a warrant, which is not a great use of their time. We are finding that it is slowing us down and we are not really getting through the work as quickly as we would like.

There is a primary provision that has just gone through, which enables an order-making power to give us those powers. We have just launched a consultation last week on it. I would hope that we will be able to move forward with that quite quickly.

Q21 **Sir Geoffrey Clifton-Brown:** On what I call new foods—I should probably declare my interest as a farmer—which are things like GMOs and gene-tracing new technologies, you are assessing each food individually. If I make an application for a new type of food to be approved by your agency, how long is it taking?

Emily Miles: It is set out in legislation. There are time limits for each stage. If you have followed all of those accurately, it would take about 12 months. There are also points where you have to stop the clock, if you do not have the right information and we are waiting for more. I would say it actually tends to take more like 18 to 24 months for a product to be approved.

We are only 18 months into the regime. We have also had a high volume of applications on CBD products—cannabidiol products—that are of a lower quality than we are used to, partly because it is an innovative part of the food industry and they are not used to working with a regulator in the way that some other businesses are. It has taken us longer to validate those applications than we expected. That category of product will take longer.

For instance, we have assessed nine GM feed and food products. We did the statutory instrument for those a few weeks ago. They have pretty much gone through the House now. We are making progress on them.

Q22 **Sir Geoffrey Clifton-Brown:** Given that they are so controversial, are you expecting the first few of them to be test cases in the courts?

Emily Miles: It is interesting. Part of the process is that we do a public consultation on each one. We did a public consultation on the GM feed ones, and we did not get a huge amount of feedback on it. It was not as controversial as I expected. For GM feed, we have GM feed in this country anyway. It is part of the regime.

Q23 **Sir Geoffrey Clifton-Brown:** Most animal feed contains GM soya.

Emily Miles: Yes.

Q24 **Sir Geoffrey Clifton-Brown:** Dr Grenfell, I understand that you have started recruiting new staff for the Subsidy Advice Unit and the Office for the Internal Market. What is happening to policy in your agency until those various organisations get set up?

Michael Grenfell: The Office for the Internal Market is already set up. It is up and running. Although we have not yet had a particular matter referred to us, we are ready. The Subsidy Advice Unit is in the process of being set up. The legislation will prescribe a date when we acquire our functions. It is thought to be in the autumn of this year.

Nick Smith: I am looking out of the window and thinking, "What a lovely day it is".

Sir Geoffrey Clifton-Brown: You would rather be outside.

Q25 **Nick Smith:** I am looking forward to a picnic and a summer barbeque. Then I heard Ms Miles say that there is an issue with the meat industry, abattoirs and vets. I am thinking, "Blimey, no barbeque meat or hamburgers. What is going on here?" Ms Miles, put everybody's concerns to rest. What is your assessment? Is the lack of vets going to be an issue for the meat industry this summer or is it all okay really?

Emily Miles: We got close last autumn to a situation where I was concerned that we would not be able to cover every abattoir in every shift. In fact, we had to tell the meat industry that in about November, partly because of Covid and because our service delivery partner was struggling to recruit vets at the pace we needed. At that point, I thought we were not going to be covering all shifts.

The situation has repaired since then. We have gone from 210 official vets to 260. That is enough for us to cover what we need. The busy times of year tend to be in the run-up to Christmas. It is less busy over the summer. We are fine at the moment.

Q26 **Chair:** You can get the beefburger for your barbeque but not the turkey for Christmas.

Emily Miles: Yes, exactly. There is a systemic issue we need to solve. I am incredibly proud of the staff at the FSA. With that shortage of vets, we had all sorts of people pitching in. The people who normally do audits, who used to work on the line, went back to working on the line. We had people who moved into policy who we asked to go and do their vet duties again. This was caused partly by Covid.

There was a huge joint effort to make sure every shift in every abattoir was covered as best we could. I do not want to be in that hand-to-mouth situation again. I would like to have a much more solid resource. That is why we have been taking the measures we have described.

Q27 **Nick Smith:** That takes me on to my next point. What are you doing and what are the vet schools doing about increasing the supply of vets for the future? Do you have a short-term plan and a long-term plan to help here?

Emily Miles: At the moment, the pay for vets in this function, particularly with our service delivery partner, is at the lower end of what vets can earn in the UK. There is a pay issue first. We have given some additional money to the service delivery partner for that, and we are also considering whether we need to increase pay for vets who are employed directly by us.

Some 95% of the vets from the service delivery partner are from overseas. If you look at the number of vets registering with the Royal College of Veterinary Surgeons over the last period—

Q28 **Nick Smith:** What was the figure? Did you say 95% are from overseas?

Emily Miles: Yes, 95% of the vets from our service delivery provider, which provides the official vets, are from abroad.

Q29 **Nick Smith:** Where do they come from?

Emily Miles: A significant number used to come from the EU. There are many Spanish vets who work, ultimately, for the FSA. Increasingly, they are coming from eastern Europe and more recently, in the last year, Nigeria. They are coming from a broad range of places. All of them have vet qualifications that the Royal College recognises, but some of them need to improve their language skills.

We would like to have them retained with us so they can get those language skills and they are working in the role for longer or we would like to be home-growing vets so they have the language skills that we need. We are doing a number of things. We have started talking to vet schools

to try to sell the benefits of doing a public health veterinary career. There are lots of conversations going on with different schools.

We are also looking at the career path and whether we can tailor the role to make it more appealing. There was a bit of research that looked at vets and whether they wanted to work in an abattoir five days a week. Some of them would be up for it if it were two days a week, if they could work term time or if they could have a private practice on the side. We are looking at whether we can structure the role in a more appealing way.

Q30 **Nick Smith:** More power to your elbow with getting more people in. I was, however, troubled by your reference to changing regulations and practice. It felt like more responsibilities going to the producers' abattoir managers. I would be concerned about sufficient oversight by vets. Does the Health and Safety Executive agree with your suggestions? Is there a consensus that it is the right way to go? I did find that a bit troubling.

Emily Miles: I am glad you have raised that. Having had the question from Ms Olney, I was thinking that there were a couple of things that I wanted to add. If there were to be a change to the regulatory regime, that would have consequences for exporters to the EU. It is not yet clear to me that the meat industry would like that sort of change.

Our current approach is official vet-led; it is based on EU rules. There is a single regime. Your product can be consumed in Great Britain or it can go to the EU market. You do not need to have two arrangements. If we were to change the arrangements, it is quite likely that that product would not be able to be exported to the EU; it would need to meet a different standard. That is the primary thing that needs to be considered first.

If we were going to change it—this would be the subject of consultation and consideration—we would not want to lower standards at all. We would need to have exactly the same outcomes. The question would be, "Where does the effort fall to achieve that?" You would only have the meat business doing more of the checks themselves, with us doing the assuring, if they could prove themselves to be compliant and if they had a good history. You would not be doing that across the board. It would basically be a more risk-based approach than what is there at the moment.

Q31 **Nick Smith:** I get that. Would that not be undermined if there were not enough vets for the industry? If you watered down the regulations, what would happen if there were a shortage of vets on the ground in the abattoirs?

Emily Miles: I am saying that there is a shortage of vets because of the pay. If you have a good enough package and offer, there would be sufficient vets.

There was something else I realised that I perhaps should have mentioned. Along with the dual regime issue, I want to emphasise that we charge for about 60% of the current regulatory regime and we pay for about 40% of it ourselves. You could move to a situation where it was completely charged

out and then you would have more flexibility about the pay. You could outsource it all and have a very different arrangement. Those are theoretical rather than real prospects.

Q32 **Chair:** Have you been lobbying other parts of Whitehall, like the DfE, to increase the number of veterinary school places?

Emily Miles: No, we have not. The issue is not so much the places; it is about making the career an attractive one, which is why we are interested in how to frame the role.

Q33 **Chair:** There are enough vets; they just do not want to work for you. In simple terms, is that right?

Emily Miles: One would hope, if there were more being trained—

Q34 **Chair:** Do you know whether there are enough vets?

Emily Miles: Yes, I have not looked into that in detail.

Q35 **Chair:** If you are not asking the question of the Department, it will not necessarily have a sense.

Emily Miles: It is more the Royal College of Veterinary Surgeons that we go through directly. They are seeing a decline in the number of vets registering each year. We need to be increasing that.

Q36 **Chair:** That is something worth thinking about, then. I just wanted to move on to what you have had to take on. You have had to bring on board very quickly those EU regulations. You are also facing pressure for change in some areas. Can you give us an idea of the timescale? Perhaps just quickly to each of you, how long will it take to bed in all of the things that you are taking in from the EU? You have had the transition; you are now bringing in things from the EU; and then you are facing further change. First of all, it is about the deadline or rough timescale—there is a range, I guess—for when you have dealt with all the things that you have to, and then the things that are on your horizon to change, some of which will be legislated for and some of which may just be practical issues. Perhaps I will start with Dr Grenfell.

Dr Grenfell: It is a bit different because the biggest thing, the merger transaction, has already happened. The subsidy control will have happened by the autumn. The internal market has already happened, although we have not had any projects yet. The one unknown is the digital markets regulatory regime, on which the Government have indicated they will bring forward a draft Bill in this session, but the legislation will be brought before Parliament in a future session.

There are a number of things in the system that slow us down. I talked about the cost exposure, but there are all sorts of other things that slow us down. The Government have proposed and consulted on, and now given final proposals for, a set of reforms that would strengthen our consumer protection powers and streamline and, to some extent, strengthen our

competition powers.

They would make this process much better and more effective. We very much welcome the proposals, but, again, they are likely to be announced as part of a draft Bill in this session, and the legislation in a future session.

Q37 **Chair:** That is a future session, and so probably Ministers at this point do not even know when that would be. That is the new stuff coming down the line, so it is some way off before you can implement it. Let us go to Sarah Albon next.

Sarah Albon: It really depends, to some extent, on the lens through which you look at it. I guess we have, to some extent, got over that main hump of first implementation. Over the next couple of years, we would hope to have in place the more sophisticated IT and other support functions that make dealing with us more straightforward, frankly, for the users of the system, so that it just becomes as painless as possible to interact with us as a regulator, to provide us information or to upload documents and all of that thing. That probably is a couple of years' horizon.

Then there is the work looking at the individual products and chemicals themselves. Typically, people who have wanted to continue to make their chemicals or their products available in the UK have had to register with us that they are wanting to exercise their grandfather rights as they have come in from the EU. When an item gets permission under the old system, they would have been put on a renewal cycle of somewhere between probably five and 10 years, typically, depending on the inherent risk and hazard present.

Q38 **Chair:** Do you stagger that between five and 10 years?

Sarah Albon: We have inherited things with a backlog of where it is, but we have been doing some work to try to make sure that, looking forward, we try to smooth that, so that we do not see everything coming up for review. Things will have come in with their own individual review date, so, hopefully, it is already inherently staggered. We know that it is not completely, and so there is some more work to do to smooth that across the timeframe.

Q39 **Chair:** That is interesting. Will you need any legislative change to extend any licences?

Sarah Albon: There may be some extensions of renewal dates and things like that, but we are not looking at major legislation there. The unknown is the appetite for more fundamental reform of the regimes. For example, we have a regime for biocides and a separate regime for pesticides. By definition, a pesticidal product is also a biocide, so there are some really quite big questions that Government, if they had the appetite to, could really think quite fundamentally about what the regulatory regime looks like and what it should look like in the future.

At this stage, DEFRA officials are interested in that, as are Ministers, potentially, but so much is going to depend at the moment on wider

resourcing issues, not just in us as a regulator but in the wider civil service in terms of the appetite to really reform and have a truly better UK system.

Q40 **Chair:** It is interesting which Minister is proposing the headcount. We cannot make political policy points in this Committee; that is not what we do. Emily Miles, what about you at the FSA?

Emily Miles: We are largely embedded. We have an expanded National Food Crime Unit. We have gone from 20 to 80 people. We have a regulated product service up and running, and we have doubled our scientific risk assessors. We have the frameworks in place so that we can work across the four nations and so on, so most of it is done.

There are two bits that are not yet complete. One is on imported food, high-risk food and feed coming from the EU, because the import checks have been delayed to the end of next year. The second is that we do not yet know what will happen on the Northern Ireland protocol and the embedding there. Those feel like the bits that need to be completed.

In terms of reform, we can go slow or fast. On regulated products, there would be opportunities to change it, so that we could do it more swiftly and be more proportionate rather than doing a one size fits all for different types of food risk. To do that sort of thing, you are talking about a year for policy development, six months for consultation, maybe a year or two for the regulatory—

Q41 **Chair:** That is after the decision is made to do it, which relies partly on resources.

Emily Miles: Yes.

Q42 **Chair:** One of the things is that you have been given this extra money, as the NAO outlined, to do some of the transition work, but, as Ms Olney was teasing out, you have this tension. You have more to do and a potential headcount reduction. You have this bit more money, but is the money that you have been given enough, given inflation particularly?

Sarah Albon: If we looked at our spending review settlement, which was prior to considerations of further headcount reduction, I would have simply said, "Yes", but it needs to be considered in the light of current uncertainty.

Q43 **Chair:** Is inflation hitting you?

Sarah Albon: Inflation is an issue for us as it is for all organisations. The particular concerns to us are that we have a couple of particularly expensive legacy PFI buildings, where there are inflationary increases built into those contracts, so there will be pressure on us to do that.

Chair: They must be coming to an end soon.

Sarah Albon: Not soon, unfortunately, but they will come to an end eventually. We have been talking to our different funding Departments as well, but like some of the co-regulators, a significant proportion of our funding comes from fees. To some extent, if there are inflationary

pressures, we are able to think about how that reflects in our fees, and we have genuinely made some significant efficiencies and would look to continue to do that. For us, the big concern would be if we have to have many fewer people doing the work.

Emily Miles: Our SR21 settlement gave us enough to do most of what we want to do. That was £122 million a year for our Westminster budget. The inflationary pressure is kept down a little on pay, which is our biggest cost, because of the Government pay controls. I do not know what the settlement will be next year as opposed to this year, but there is more pressure on the meat hygiene operation, which we have already talked about.

Dr Grenfell: I would give very similar replies. The spending review settlement was manageable and we were able to do the jobs. The implications of the current review into civil service numbers may well—

Q44 **Chair:** We are hearing loud and clear that 20%, 30% and 40% are all quite big figures for the work that you are doing with such specialists as well. Of course, you do not, at this point, know whether that will fall evenly, not even with you and other bodies, but you would presumably hope to have some freedom about whether it was vets, toxicologists or whatever.

Emily Miles: In the SR, we also talked about headcount and were asked to stick to our 2019 headcount levels, but we had exceptions for our EU exit work and for the plan that we had for insourcing vets. I thought that that was quite a reasonable situation. We are just at the beginning of our conversation with the Treasury. You can hear us throat-clearing as we are discussing—

Q45 **Chair:** Yes, absolutely, and we are having interesting conversations with other Departments about how they are trying to model it and manage the wage budget versus the headcount and so on. You mentioned fees, Ms Albon, and your money comes not just from Government but from the people you regulate. You mentioned that you were making some efficiency savings to try to mitigate and not put up fees. Are fees going to go up, in simple terms?

Sarah Albon: In some areas, yes.

Q46 **Chair:** Which areas particularly?

Sarah Albon: There are fee changes that we are looking at in various of the regimes very shortly.

Q47 **Chair:** Is "very shortly" before the summer?

Sarah Albon: No. We have been looking at common commencement dates, so either October or April for increases. Our fee regimes are incredibly complex. I was talking briefly to Sir Geoffrey about the organisation of HSE and its different component parts. Some of our fees are charged only when we find errors or breaches of the law. Some of our fees are charged on an hourly rate when we are dealing with some of our

biggest companies, where we intervene on a regular basis. Some fees of the regimes that we are talking about today in chemicals regulation are charged on an application basis, when people come to us. It is probably more straightforward if I write to the Committee with the detail of the different regimes and where increases are expected.

Q48 **Chair:** It is also quite complex for you to try to use fees to balance any problems with your budget.

Sarah Albon: Absolutely, it is. At the moment, budgeting really is not the issue for us. As Emily said, nobody has been asked to make any cuts at the moment. We have been asked to describe what the implication would be of headcount cuts. Our understanding is that this is not about finances, so the issue there would be people, irrespective of cost and efficiency.

We were all expecting to grow our headcount post-EU exit—in the case of HSE, taking on the building safety regulator. We were talking about expected increases to our overall headcount. Our current headcount is somewhere around 2,500 and we were expecting to grow to somewhere between 3,000 and 3,500 over the spending review period. If the baseline cuts that we are talking about are to go back to the March headcount and then make savings, that would have been all of the growth plus the 20%, 30% or 40%.

Q49 **Chair:** That is quite stark. Have you had any pressure from anywhere about raising fees? All of you are dealing with different businesses. There is a lot of pressure because of the cost of living and costs to businesses and others. Have you had any pressure not to put up fees in any areas?

Sarah Albon: No business, at any time, will ever say, "Hooray, increase your fees".

Q50 **Chair:** There has not been any pressure from Ministers or other bits of the Whitehall system.

Sarah Albon: No. I do not know if others are in the same position, but, in general, compared with the cost of doing business, the fees that we charge in any particular sector will be a very small proportion of their overall cost of doing business.

Emily Miles: We do an annual fee conversation. At the moment, we are being judicially reviewed for our fees, so I cannot go into too much detail, but our sense is that, for the bigger abattoirs and meat businesses, it tends to be more bearable. For the smaller businesses, it feels like a bigger proportion of their costs. We give more of a discount to smaller businesses than we do to big businesses.

We have not had any lobbying from Ministers on reducing the fees, but the cost of the service is going up, so there is a consequence. We recover some of the costs and we follow the Treasury rules pretty carefully on that.

Q51 **Chair:** The inflationary cycle rumbles on through everything. Dr Grenfell, it is probably not so much for you, is it?

Dr Grenfell: It is not really an issue. There are fees for merger notifications that parties to merger transactions pay to us. They do not cover all the costs by any means, and for the parties themselves it is not a massive part of the cost of the transaction.

Q52 **Chair:** That is not a big worry. I know that there may be a limit to what you can say on this, but when you are negotiating with the EU about how your regimes will interact with theirs, are there any big blockers that make life more costly or more difficult for you?

Sarah Albon: No, not really, because at the moment things are still settling down for overall trade policy as a whole. There is still relatively tight control in the centre of Government about when and how and to whom we should talk to co-regulators. In due course, when that settles down to a relationship of scientific professionals sharing information, that will be more straightforward, but there are no particularly big barriers that I would want to highlight at the moment.

Emily Miles: The big shift for us has been losing access to the EU's rapid alert system on food and feed. Just to illustrate what that gave us, we had member state access to that before, so that gave us all food and feed safety alerts from member states, historic and current, in real time, and trend information and summary reporting on that. The EU commission would do all the engagement with competent authorities, so it would go and negotiate with whoever had feed incidents that we needed to deal with.

Now that we have non-member state access, we get the information only on UK-relevant alerts. It comes through on an email rather than via a digital platform, and we have to do the engagement with competent authorities ourselves, so it is harder work. We have established a lot of things to compensate for that. We have what we call our signal prioritisation dashboard, which is a data horizon-scanning application that compensates for some of it, but it is more work to engage with than before.

Dr Grenfell: In a way, this has been the biggest difficulty that has arisen for us, which is that, when member states in the European Union are investigating cartels or mergers, they can share between them even information that is confidential to the parties. As a result of leaving the EU, it is not possible to do that, and so we cannot share confidential case information with the European Commission or with the national authorities of the member states.

In the EU-UK trade and co-operation agreement, provision was made for a future competition co-operation agreement that would allow for such sharing of confidential information, but that has not yet been agreed. I understand that, on both sides, there have been lots of other things to keep them busy, but that would remove that rather significant barrier to effective enforcement.

Chair: So quite significant changes.

Q53 **Sir Geoffrey Clifton-Brown:** I am going to ask the three of you some

questions about this loss of this EU data. Just before I do that, Ms Miles, can I just go back on vets? It is my understanding that there is a shortage overall of vets in most disciplines, so you are not alone. I am wondering whether it is possible for some of the functions that vets currently do in slaughterhouses in pre-slaughter to be done by food hygiene inspectors rather than a fully qualified vet. These are sometimes relatively menial tasks.

Emily Miles: We do think that there could be some shifting between what the official vet does and what the meat hygiene inspector does. That would be part of the regulatory reform, if we brought it forward, but, as I said, that would result in this two-tier system where you would have a system for GB products as opposed to a system going to the EU.

Q54 **Sir Geoffrey Clifton-Brown:** Sticking with you, you have lost your access to TRACES, the Trade Control and Expert System, which provides information on imports, and parts of the rapid alert system for food and feed. What are you doing to replace that regime? How are you getting this information?

Emily Miles: As you will know probably talking to DEFRA, TRACES has been replaced by an IT system called IPAFFS, which enables pre-notification of high-risk food and feed from across the world, but also now from the EU since the beginning of January this year, so we do have access to that information. It is better for the rest of the world than it is for EU food and feed, because we also get access to the certificates and the other information that is given to us, but it is insufficient, because of the loss of access to RASFF.

What we have done is set up this signal prioritisation dashboard, which is a horizon-scanning application that we wrote ourselves. It collects signals on food and feed safety and food contact materials information from across the world. It goes out to 50 open-source bits of data every day. It automatically extracts those, brings them together and translates them if they are in a foreign language. It cleans and standardises the data, and then classifies the hazard based on risk and automatically spots unusual trends. That gets turned into a signal that is taken in by our incidents and import controls teams.

We assessed 12,000 signals like that last year. It was very useful. We found some useful needles in the haystack. That turned into 27 incidents. We spotted nine emerging risks. For example, we spotted that there was listeria in mushrooms coming from Asia. We asked port health authorities to do extra checks on mushrooms coming from Asia. We found that 95% were non-compliant, so it helped us focus on where the risk was. We also did nearly 100 referrals to local authorities.

It is helping us, but what it is not giving us is the normal import control information on high-risk EU food and feed. Normally, for the rest of the world, we have mandatory documentation checks. There are identity checks that happen, there are physical checks of the consignments, where

you go and look to see if it is what it says it is, and then the sampling. We do not do that on the high-risk EU food and feed at the moment. We just have the pre-notification, so we just have information about what consignments are coming.

Q55 **Sir Geoffrey Clifton-Brown:** I suppose the bottom line to that question is whether the consumer can be absolutely certain that, if there is an emerging food risk in Europe, you will know about it.

Emily Miles: I want to answer yes or no to that, but I am not sure that I completely can. We think that there is a low risk at the moment of there being an incident from the EU that we have not spotted, but we also know that EU states are not immune and that there may be incidents that they are handling internally, that are not on their public databases and that we do not necessarily get to hear about.

Our automated system is checking Germany, the Netherlands and Denmark for all of the equivalent of the Food Standard Agency's alerts and notifications, and collecting all that in, so I hope we would hear about it, but if it is an internal thing whereby they are just dealing directly with a company, we would not necessarily hear about it, but it is better than not having it at all.

Q56 **Sir Geoffrey Clifton-Brown:** Dr Grenfell, following on from what you are saying, you no longer have access to EU data-sharing and co-operation networks. The CMA is no longer part of the European Competition Network, so you no longer have a legal gateway to share confidential data on consumer protection cases. How do you replace that information?

Dr Grenfell: You do without it. You investigate yourself. You glean as much information as you can get yourself. In competition cases, we have powers to order parties to provide us with information. In consumer protection cases, we glean as much as we can. It is not fatal and does not mean that we cannot enforce, but it was helpful that we were able to exchange data. As I said a moment ago, it is envisaged in the trade and co-operation agreement that, at least for competition cases, there would be a competition co-operation agreement, and it will be very welcome if it comes, but it has not come yet.

Q57 **Sir Geoffrey Clifton-Brown:** Ms Albon, HSE no longer has access to the chemical safety data underpinning EU REACH. EU REACH is not necessarily able to access data used for EU REACH to support their UK REACH registrations. The cost of replicating this data has been estimated at £800 million by the industry. This is a bit rolling over the EU registrations that we were talking about earlier, but what can be done, first, to ensure that the consumer is fully protected from chemical problems, and, secondly, to make it easier for the industry to navigate these regulations?

Sarah Albon: This is an area that we have been working very closely on with colleagues in DEFRA, who lead in the underpinning requirements of what needs to be replicated in the UK REACH system. As you said, the historic safety data that was collected as part of the EU chemicals regime

was kept in the REACH database, and the UK lost access to that on exiting the EU. Most of the key data that underpins an understanding about safety—

Q58 **Sir Geoffrey Clifton-Brown:** Can I just stop you? I am really sorry to stop you in mid-sentence, but when I was reading up for this hearing, I could not quite understand why you could not just go to the individual company and ask it for that data. If the EU is not prepared to give it to you, why could you not ask the individual company for it?

Sarah Albon: Where you are talking about the company that did the original testing on a product and have that data, we could and would go to it and say, "What information do you hold?" The issue is rather when a new product is coming to market and the company that wants to bring the product to market may not hold the testing data, because it is buying the chemical substances in from a different supplier. Essentially, whether the company selling the product to it is prepared to or even holds the original data is down to individual commercial issues. Some companies will find it relatively straightforward to get hold of that historic data, and others will not.

The key impact for us is around that need to replicate testing and potentially, therefore, the speed at which we can consider new products without easy access to historic data. I have spoken at length with many of our expert scientists and they are pretty convinced that the core safety data is available, on the whole, from public sources and, indeed, from other regulators around the world, as well as from data that we already hold. The issue really is about finding a way that enables us to have a regime that is efficient and relatively quick when we come to looking at new resource, without imposing additional burdens, particularly on companies who have historic approvals that they may no longer hold that original data for.

I am relatively hopeful that it is the Department that holds the lead in this, it is really engaged and I am relatively hopeful that we will be able to find a solution that has significantly less cost than the £800 million that would be predicated on requiring companies to repeat tests and to provide all of the data that was historically held.

Q59 **Sir Geoffrey Clifton-Brown:** I just want to ask a question about pesticides and biocides. You mentioned monitoring food and food products that come into this country. How do you undertake that when a certain chemical or ag-chem is banned in this country—take neonicotinoids—but is being used on oilseed rape from somewhere else that is being imported into this country? Do you have any remit there?

Sarah Albon: There would be remits around maximum residue levels and things like that, but it can certainly be the case that it is possible for products to be imported into this country that may have used a pesticide that we would not allow the use of within the UK, provided there is nothing

then in the residual items that are being imported that could impact health or safety in this country.

Q60 **Sarah Olney:** We have talked a lot about regulatory divergence. What I mean to say is that you have all talked a lot about how you are importing it in existing regimes and dealing with that, but there is always the prospect of regulatory divergence, both within the UK, inasmuch as England could have a separate regime from Scotland, Wales or Northern Ireland, but also between the UK and the EU. I just wondered if you could tell me what the implications in your particular agency might be for regulatory divergence and how you would address those.

Dr Grenfell: Let me take them in turn. Within the UK, there is not really scope in the areas of competition law and consumer protection law. Those are both reserved matters. They are not devolved matters, so it is a unitary system. Parenthetically, I would say that our function on the UK Internal Market Act is precisely about monitoring the effects of other kinds of regulatory divergence within the UK on trade in the UK.

As between the UK and the EU, although the laws are basically the same, for looking at mergers and acquisitions, we are free to diverge. I gave you the example of one rather big case where we did diverge, but it is going to be rare. For looking at cartels and anti-competitive practices, there was a UK statutory provision while we were in the EU that very much limited the scope for divergence. That has been relaxed a bit, so there is more scope for divergence in certain specified circumstances. That reflects a policy balance, which everyone in the debate has understood, that there is some benefit, particularly for business certainty, in there being consistency as between the UK and the EU.

On the other hand, it would be somewhat perverse if a UK agency or court thought that a particular EU precedent were wrong and felt bound to comply with what is now a foreign jurisdiction. Most people would say that quite a judicious balance has been achieved in a new statutory provision.

There will be some divergence. I have referred to one merger case. There are provisions called block exemptions, both in EU and UK law, by which certain categories of benign agreement are legislatively exempted from the prohibitions on anti-competitive agreements. We have just had the first post-Brexit one of those in the UK, and it is broadly in line with what the EU has done, but in a couple of respects we have diverged because the view was that that is the better view.

Emily Miles: Unlike in your situation, we are highly devolved in food. Of course, the FSA works in Wales and for Northern Irish Ministers as well as for Westminster Ministers, and Food Standards Scotland works for Scotland, so there is some divergence already happening and you can see that it could potentially happen more.

The one that is most obvious at present is titanium dioxide, which is a whitener in food that the EU has banned because it considers it to be risky; it has asked people to take it out of products by the end of July this year.

Our own committee on toxicity has reviewed the evidence on that and is not convinced that that is necessary or that it is dangerous in the way described. It disagrees with the European Food Safety Authority assessment on that, so we are doing our own risk assessment, which we will take longer over, but that is a very obvious place where, from the end of July, Northern Ireland will not be able to have titanium dioxide in its products, but we would in GB.

Another example is the precision breeding Bill that is in front of the House at the moment, which is England only, and it is not yet clear where Wales and Scotland will come out on that, so that might raise those single market issues that you are describing.

Then there are changes that the EU is proposing just to a different timescale. It is thinking about front-of-pack labelling for health and nutrition, so it could be that that, in Northern Ireland, there are different arrangements on that. That could happen. Even today, I was reading the food strategy White Paper from DEFRA, which talks about sustainability labelling, so that is another example.

Through the regulated products work, of which we have several hundred a year, we are doing that on a four-nation basis and through the framework approach that was agreed particularly with Scotland and Wales. We have a committee of officials that meets regularly. We are in step every step of the way. We are putting advice to Ministers at the same time across the four nations, usually just for information to Northern Ireland but for decision to Scotland and Wales, about whether to approve these products. In some cases, we are trying to align the statutory timetables as well. For import controls in relation to Fukushima products, all Ministers have just agreed to lift those controls and we should have all that legislation in place by 29 June this year.

In the main, we are trying to operate on a GB-wide basis and involve Northern Ireland on the way. There are some areas where divergence will happen over time.

Sarah Albon: The way that we are working with the devolved nations is very similar to the way that Emily just described, so I will not repeat all of that. We have also seen some divergence already, and the point that I would want to make is that there are different reasons for where there may be a divergence of approach.

One would be similar to the way Emily was just describing, where we just reach a different conclusion or we may reach it at a different speed. We have seen a little bit of that so far.

Q61 **Sarah Olney:** Could you give an example?

Sarah Albon: I am afraid I will get the name of the chemical wrong, so I will have to write to you on that. I cannot tell you the precise product, simply for commercial reasons, but there will very shortly be a new product enabled for sale and use in GB ahead of it being released into the EU. That

is not because we are in a position to reach different conclusions, but because we have taken a different approach. We have looked simultaneously at the active substance and the product, whereas the EU always looks sequentially, so it considered the active substance first and then turned to the product. That will have shaved some 18 months or so off the approval process compared with the way that that has worked in the EU. There can be different reasons for divergence.

The other thing that will inevitably happen is that, from time to time, we and any of the other developed regulatory regimes around the world may well reach similar conclusions but at slightly different paces from each other.

Q62 **Chair:** Is that about your risk appetite compared with the EU, or just literally a different process?

Sarah Albon: It is literally a different process.

Chair: So it is not that one is riskier.

Sarah Albon: In the 18-month one, no. Rather than looking first, conceptually, at the substance and then at how it is going to be used, we have looked at both at the same time.

Q63 **Chair:** It is not that one is riskier than the other.

Sarah Albon: No, absolutely not. One is more efficient than the other. Different regimes will always be in a position where, at some point, some will have reached a review process and it will not quite be due in another. That would be a third reason why we will see divergence. As we all set deadlines for substances to be reconsidered and re-reviewed, they will slightly diverge from each other, and so you may find that something has come up for review and been refused a renewal in one regime, whereas another regime will reach the same conclusion but not until the renewal is considered, say, 12 months further on. Over time, those divergences are just inevitable in operating different regulatory regimes.

Q64 **Sarah Olney:** Just coming back to Northern Ireland, it has its own specific requirements, and the Northern Ireland protocol is being hotly debated at this very moment outside this room. I just wanted to know what changes you might be anticipating, away from all the politics and the discussion, to the way that the protocol is operated. Are you prepared for any potential changes? I believe that I am right in probably just addressing Ms Miles and Ms Albon, but do let me know, Dr Grenfell, if that is an impact for you too.

Emily Miles: You will know that, at the moment, there are grace periods or standstill arrangements in place, so that product from GB can go to Northern Ireland on a permissive basis. I have not caught up with what is in the Bill.

Sarah Olney: It has been published while we have been in here.

Emily Miles: There we go. I had heard that it was coming out. The question for me will be whether more checks are required on food going from GB to Northern Ireland. If not and there is a dual regime, where you have both GB and EU rules in place in Northern Ireland, how will that be enforced? That is what we will be looking at.

From a food safety point of view, we are confident that there is no increased risk by having fewer or more checks. We are confident that Northern Irish consumers have the same level of safety as they had before. It is just a question of trying to operate whatever law the Government decide to put in place.

Sarah Albon: Very similarly, we are not the enforcing body in Northern Ireland. HSENI is a separate agency looking after enforcement issues in Northern Ireland. We provide technical advice and would do the technical approvals end. As Emily describes, we are confident that we would be able to operate on a practical level under whichever of the various types of regime that have been discussed. There could be marginal changes to cost, I suppose, around thinking about testing for residue levels and things like that, if there are dual regimes, but in in the highly complex and controversial space that is the Northern Ireland protocol, we really are a small player and would be able to work effectively with whatever regime Parliament ultimately decides to go with.

Q65 **Sarah Olney:** We have been talking about how you have stepped away from EU bodies that are the common regulators across the EU, but can you just talk briefly about what you have been doing to build links more broadly internationally with other bodies?

Dr Grenfell: We have made a real effort to strengthen links internationally. We remain members of the International Competition Network and the International Consumer Protection and Enforcement Network—ICPEN. We signed, with the antitrust agents and competition authorities of the United States, Canada, New Zealand and Australia, a mutual assistance and co-operation framework, and we have worked with those agencies on concerns about any cartel behaviour that might be affecting supply chains.

Jointly with the German national authority and the Australian competition authority, we announced a common approach to mergers, particularly in the tech sector. Contrary to all the headlines, we have good working relations with our counterparts in the European Commission and, indeed, we have launched three investigations in synchronicity with it and are co-operating with it. We are putting an awful lot of effort into that.

Even without the effort, it is worth saying that, by virtue of our now doing the bigger, more complex global cases that previously were reserved to the European Commission, more international attention is paid to our decisions than would otherwise have been the case.

Emily Miles: We still have informal contact with the EU, the European Food Safety Authority and the European Centre for Disease Prevention and

Control, but it is not as substantial as before. We have put a lot of effort into our Codex engagement, which is the international standard-setting body for food and feed. In fact, the former global affairs director for the FSA is now the chair of Codex internationally. He was elected last November and started his role in January, so we feel like we have quite an in there.

We have also decided to put a lot of work into what is called INFOSAN, which is the international equivalent of RASFF. It is where all the international food safety authorities come together and share information on incidents. There are 180 countries and territories that are part of that. We have organised a secondee to go there. We have put a lot of energy into thinking how to exchange information more effectively through that. There is still a way to go, but that is making a difference.

I have also just started putting time into the International Heads of Food Agencies Forum, which is a smaller body but includes Australia, New Zealand, Singapore and a couple of others. It is a hugely useful place for us to come together and look at our common interests and challenges.

Sarah Albon: Very similarly, we have really tried to step up what we are doing internationally. We represent the UK at the UN globally harmonised system on chemicals classification and labelling. We participate actively and chair some of the subgroups there. Similarly, we are working very closely with the OECD at working group level and chairing one of its subgroups.

Bilaterally, we have mutual recognition agreements on conformity assessment in place with the USA, Australia and New Zealand to really make sure that, in those other developed economies, we are staying very close to what they are doing in similar regimes and making sure that appropriate scientific evidence and knowledge is shared, so that we can make sure that we remain a globally leading and safe place to do business.

Q66 **Peter Grant:** Ms Miles, you mentioned earlier discussions about genetically modified or gene-edited foodstuffs. The Government are bringing legislation in that subject to the House later this week, which will represent potentially quite a significant divergence from EU standards. Do you envisage a time where the Government will legislate for different food standards in the UK to such an extent that certain UK-produced foods are no longer allowed to be sold in the European Union?

Emily Miles: Could you just give me an example? Do you mean gene-edited or precision-bred food?

Peter Grant: For example, the Government allow gene-edited crops to be grown. Is there a danger that crops that are grown next to them that are not gene-edited will be regarded with suspicion as being contaminated and, therefore, the EU will say, "We cannot be sure that those crops meet our standards. We are not letting them in"?

Emily Miles: Theoretically, it is a possibility, but, on the gene-editing front, the EU is doing its own assessment of gene-edited potential at the moment. People are expecting it to come out in a more similar place to where the English Government are on the that at the moment.

Another example might be CBD or cannabidiol products, where we have a lot of applications in with us at the moment; I think it is around 200. We are considering whether to authorise those products for sale in this country and to bring that whole market into line with the law. The EU has just paused its consideration of those applications because it has been doing its own toxicity assessments. It is possible that a UK producer of a CBD product would not be able to sell it in the EU. I would have to think about the contamination issue that you are describing.

Q67 **Peter Grant:** I suppose another way of asking the question would be to ask, if we never expect to do anything that is incompatible with EU regulations, what this is all about. Are we simply arriving at pretty much the same regulations by a completely different and more bureaucratic method just to prove that we can?

Emily Miles: I do not feel that I can comment on that, but the implications of us being in charge of food and feed law is that the UK—or at least Great Britain—decides its own arrangements on food and feed. There will, of course, sometimes be divergence. When we do our consideration on the regulated products questions, we are looking at the Great British consumption habits. For example, orange squash is consumed probably more by children in Britain than it is in some other EU countries, and so, on the question about additives and sugar and so on, we need to do a specific assessment in relation to that part of the population. That would be true of some other foodstuffs as well.

We may come to a more cautious view on the use of particular additives in relation to squash than the EU might, so there is reason to come to different arrangements sometimes, but the way that we are trying to mitigate against unnecessary divergence is, in a way, to use this framework approach. Because we are working across the three nations of the UK, with Northern Ireland in the room, if we are going to go out of step, we do it very deliberately and consciously, for the right risk reasons, as opposed to accidentally.

Q68 **Peter Grant:** Dr Grenfell, England, Scotland, Wales and Northern Ireland have been part of the United Kingdom internal market since 1801. What has happened recently that we suddenly need a £7 million budget organisation to make that internal market work?

Dr Grenfell: Let me answer that in two ways. That is a question more for the Government and Parliament than it is for the CMA, because the CMA neither proposed nor enacted the legislation. That is the first answer.

The second, maybe slightly more helpful answer would be that my understanding of the thinking behind it is that, if you are a member of the

EU, the single market legislation and principles acted as a check on regulatory divergences between territories in the EU that would have distorted trade. Once we leave the EU, there is not that check. The Government's intention was that, in order to replicate that for the UK internal market, given that the EU single market check had gone, you needed this legislation.

Q69 **Peter Grant:** We are told that your role in regard to the UK internal market is to provide independent advisory, monitoring and reporting functions. Will the independent advice that you provide always be published? Were there circumstances where you provide advice to the Government that was not made public?

Dr Grenfell: Let me answer first that you are absolutely right that we are a non-ministerial Department. In everything we do, we pride ourselves on making judgments that are based on the evidence and that are politically neutral and impartial. We understand that there are suspicions of the role in parts of the country, including some of the devolved Governments, and we are working very hard with the devolved Governments, as well as with the UK Government, to ensure that relations are business-like and sensible, and that there can be confidence that our judgments and assessments will be purely evidence-based and impartial. That remains our goal.

As for publication of the advice we give, my belief is that, yes, it will all be published, but if, on checking, I find that that is not wholly true, I will contact the Committee to correct that.

Q70 **Peter Grant:** There will be some areas where one or more of the devolved Governments is completely at odds with the other three, where agreement is impossible, possibly in relation to GM products and, through time, almost certainly in regard to public procurement, which, at the moment, is devolved to the Scottish Parliament. As things stand just now, what does the law say is the way of solving an impasse where the four devolved nations cannot agree?

Dr Grenfell: Just to be very clear, the Office for the Internal Market, which lies under the umbrella of the CMA, does not have the remit to order or to ban something. What it does is advise the Governments and the Parliaments of the UK on the implications for trade within the UK of a particular regulatory divergence. What happens after that is a matter for elected politicians, not for us.

Q71 **Peter Grant:** Finally, I want to come back to the questions that Sarah Olney was asking about the Government's attitude to the Northern Island protocol. In terms of the legal background to the Bill, which has been published while we were speaking, the Government have said, "The Government have, reluctantly, decided to introduce legislative measures which, on entry into force, envisage the non-performance of certain obligations" under the Northern Ireland protocol. In other words, the Government will be asking Parliament to legislate in a way that allows the

Government unilaterally to break a bilateral agreement.

How is that going to make it easier for you to get agreement with European Union and European member states on other things that you need agreement on, such as the sharing of information about competition? Why should they go into an agreement with the UK Government on that when the UK Government have shown that they are quite happy to tear up bilateral agreements if it does not suit them?

Dr Grenfell: Given that these are decisions for the UK Government rather than for the Competition and Markets Authority, it would not be possible, let alone appropriate, for me to answer.

Q72 **Peter Grant:** In the discussions that you have had with counterparts in Europe, have any of them raised concerns about the United Kingdom's reputation for not sticking to international treaties?

Dr Grenfell: That is not the nature of the conversations we have. We have technical conversations about competition assessments.

Chair: Mr Grant, while they are very valid questions, they are perhaps not so much for these witnesses, who are slightly constrained in what they can say.

Sir Geoffrey Clifton-Brown: You have just constrained my question, Chair. Let us just try it and see where we get to.

Chair: Mr Grant asked his, so you can ask yours.

Q73 **Sir Geoffrey Clifton-Brown:** I might not get an answer, but I will ask it. Given that all three of you are admirably participating in international fora and you have various chairs from your organisations or people who have been in your organisations, before we were members of the EU, the UK's regulatory regime was always regarded as one of the best in the world. By the fact that you have had these various chairs and one thing and another, it looks to me as though UK regulation is again regarded as some of the best in the world.

Do you think that, when all this politics has settled down, it might encourage the European Union to at least start sharing some of the data? Ms Miles, particularly not sharing food safety data seems to me absolutely daft. Can you see any chink of light at the end of the tunnel in that area?

Emily Miles: I feel less optimistic about that technical relationship with the EU, partly because, until a few months ago, I sat on something called the heads of agencies for the EU, which was an informal network of food standards agency heads. Through the transition period and through the first year after Brexit, I had continued going to it, but they had got more and more uncomfortable, as things had played out in the negotiation more broadly, about the UK being so closely involved.

In the end, we were asked to step back and, from February this year, we have relinquished the chair of the food fraud committee that we had been running and a couple of other things, so it has felt more difficult in that

space. The EU has been very clear in its negotiations that, if you are outside the EU, you do not get the benefit of membership. That is the consequence of the food safety arrangements.

There is an example in the European Centre for Disease Prevention and Control, though, where more information is being shared to our colleagues in the UK Health and Security Agency, so there is potential there. There is a step-by-step piece to go with it, but we are certainly not there now. We do get access, because of our Northern Ireland arrangements, to some RASFF information that we do not have for GB, and we have to be quite careful about how we manage that, but I would like more if we could.

Q74 **Chair:** There is this body called the EU-UK committee on regulatory co-operation, which, Ms Albon, your organisation has been involved with. It met only once, in October 2021, and it agreed to meet annually in future. Is that a useful body?

Emily Miles: I confess that, until I had read about it in your Report, I had not heard of it.

Chair: There you go; the NAO goes places that even the regulators do not.

Emily Miles: It may just be that I am terribly misinformed about what my teams do.

Chair: So it does not feature big.

Sarah Albon: I would be in the same position as Emily, I am afraid. It may be that more is being got out—

Chair: Everybody wants to see better co-operation, whether it is you as regulators, businesses or citizens. There is this rather weak body that no one seems to know what it does. We are getting the message that we are very frustrated.

Can I thank you very much indeed for your time? It is good to have regulators in front of us. We would have loved to have gone into questions about what you are learning from each other in this respect, but we got a bit of that in the discussion. As I say, this is an area that the Committee is likely to come back to repeatedly over several years, but we may not all be here in our roles over the next Parliament as well.

The transcript of this session will be up on the website uncorrected over the next couple of days. We will be publishing a report, we hope, before the summer recess, but we have quite a backlog and can only work so fast, so it might be September. We will let you know.