

Public Accounts Committee

Oral evidence: Government's actions to combat waste crime, HC 33

Wednesday 15 June 2022

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Members present: Dame Meg Hillier (Chair); Shaun Bailey; Sir Geoffrey Clifton-Brown; Angela Richardson.

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.

Report by the Comptroller and Auditor General

Investigation into government's actions to combat waste crime in England (HC 1149)

Questions 1 - 92

Witnesses

I: Sir James Bevan, Chief Executive, Environment Agency; Tamara Finkelstein, Permanent Secretary, Department for Environment, Food and Rural Affairs; and Richard Las, Head of Operations, Fraud Investigation Service, HMRC.



Examination of witnesses

Witnesses: Sir James Bevan, Tamara Finkelstein and Richard Las.

Chair: Welcome to the Public Accounts Committee on Wednesday 15 June 2022. Today we are considering an investigation into waste crime carried out by the National Audit Office. I want to put on the record my thanks for the dogged determination of Kevan Jones MP and David Davis MP, who uncovered some of these issues, which led to the National Audit Office carrying out the investigation. Waste crime is a significant issue, both in terms of antisocial behaviour and in terms of the cost of clear-up, and we are keen to look into what is happening, what is working and what is not, and whether the law is keeping up with the requirements of local communities that suffer from waste crime. There is also now quite a lot of organised crime in waste crime, which is becoming a significant issue.

I would like to welcome our witnesses. From my left to right, we have Sir James Bevan, the chief executive of the Environment Agency—welcome to you, Sir James—Tamara Finkelstein, the permanent secretary at the Department for Environment, Food and Rural Affairs—welcome back to you, Ms Finkelstein—and Richard Las, the head of operations for fraud at HMRC. Quite a lot of this is about what money is not being paid in taxes, so it is great to have HMRC represented here today as well.

Before we go into the main session, Sir Geoffrey Clifton-Brown, our deputy Chair, has a quick question for the Environment Agency.

Q1 **Sir Geoffrey Clifton-Brown:** Good afternoon, Sir James and all our other witnesses. Sir James, this afternoon's question from me is predictable but not critical. It is obviously to do with discharges by the water companies into limestone rivers, in my case, but equally chalk rivers. The Environment Act had some groundbreaking new provisions in it. My constituents are very keen that we should accelerate as soon as possible those provisions—namely, getting meters above and below discharges, forcing the water companies to produce plans for how they are going to deal with discharges and improve the situation, and then getting them to you, and eventually the Government getting them to Ofwat, so that Ofwat can specify increased investment to enlarge the sewage farms to stop these discharges. There is talk that this whole process could take 20 years or more, which frustrates my constituents no end. Have you been doing any work in your agency on how this whole process could be speeded up? Perhaps Ms Finkelstein would like to comment on that too.

Sir James Bevan: Thank you, Sir Geoffrey. The short answer is yes. We are pursuing a twin-track approach to what I think we can agree is a scandal in terms of the amount of not fully treated sewage now going into rivers. Track 1 is a criminal investigation, which is a matter of public record and about which I cannot say too much, but which is proceeding. We are putting a lot of resources into that and it is showing that there clearly have been some quite significant failures on the part of water



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companies to abide by the regulations that are designed to protect our water. That is track 1, and that is going ahead with dispatch.

Track 2 is fixing the problem now—the point that you rightly make. We are indeed working actively with the water companies to make sure that we get those meters all installed. We already have meters on most of the discharge points around the country, as a result of an initiative that we took a few years ago. What we want now is meters on all of the sewage treatment plants so we can see exactly what is happening there. We are working with the water companies to take that forward. We are also saying to them, “Don’t wait for the investigation; just get on. You know where some of your sewage treatment works are not producing the right outcome. Please work with us to fix that with dispatch.” We will take that forward as quickly as we can.

Sir Geoffrey Clifton-Brown: Thank you. Ms Finkelstein, do you want to comment on that?

Tamara Finkelstein: I suppose the thing to add to that is that it will form an important part of the 2024 price review and looking at the investment plans of the water companies as part of that.

Sir Geoffrey Clifton-Brown: That is part of the mechanism introduced by the Environment Act.

Tamara Finkelstein: Yes.

Sir Geoffrey Clifton-Brown: I urge you to be vigorous on that. Take whatever information the Environment Agency has and rigorously apply it so that we can get this investment in there to stop some of this sooner rather than later.

Chair: Thank you, Sir Geoffrey. Before we kick off, I want to put on the record our thanks to those who have provided really useful evidence to this hearing. The National Audit Office will be doing further work on wider issues around waste, and waste management and the strategy—but not so much on waste crime—in the future, so we will continue to keep an eye on this. I will ask Angela Richardson MP to kick off—over to you, Ms Richardson.

Q2 **Angela Richardson:** Thank you, Chair. Good afternoon. Can I start with you, please, Ms Finkelstein? We know that there are inconsistencies in how local authorities report fly-tipping in particular. How are you able to effectively prioritise activity to combat waste crime without good quality data on the scale of the problem?

Tamara Finkelstein: I will start on fly-tipping and the data around it. Compared with some other areas—I will come to that—we have reasonably strong data from local authorities, particularly on fly-tipping on local authority land. We did some research recently, and we do think they are reporting on the information that they have around fly-tipping and the way they are tackling it.



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There is an issue of not having good enough coverage on fly-tipping on private sector land. We are working, in particular with the National Fly-Tipping Prevention Group, which includes organisations such as the National Farmers Union, on ways in which we can improve that. We invested in some development of apps that will allow people to provide that information so that can be part of the local authority return. So there is some work on how we can improve the data on fly-tipping.

There is obviously, as you say, the question of data on waste crime more broadly. There is quite a lot more that we want to do to improve that data. One part of that is the Environment Agency looking at its corporate scorecard and the data that it uses there—the illegal waste sites and the number of those. I am sure Sir James can say more, but there is development of the key performance indicators in that scorecard. A set of those were used in shadow form this year, and they are being developed for permanent use in 2023-24, so you will see an improvement in what we are reporting there.

More broadly, as part of the resources and waste strategy, we have let the contract for a big evaluation programme. This autumn, they will do work for us, looking at where the gaps are in our data, so that will get us on a programme to much improve the data, because it is lacking in many areas.

Q3 Angela Richardson: Sir James, it is estimated that only about a quarter of waste crimes are reported at present. What are you doing to increase the rate of reporting?

Sir James Bevan: The answer to that is, first, working with our own teams to ensure that when we have our people out and about, doing their regulatory or other work, that they have their own eyes and ears open. Secondly, we are building stronger partnerships with other agencies, including HMRC, through the joint unit for waste crime, which we might want to come on to later and which is sharing much more information and intelligence around that community, which enables us much better to understand what is going on. Thirdly, we are working more closely with the waste industry itself—the legitimate waste industry, which of course is itself threatened by waste crime. We have good links there, which are helping us to get a handle on the size and nature of the waste crimes that are happening.

Fourthly, we are seeking to enlist members of the public. So, we run active campaigns to encourage members of the public to report waste crime; we think that only about 25% of all waste crime is, as you rightly said, being reported. Our efforts to get more people to call in are starting to bear fruit. We are seeing a rise year on year in people reporting waste crimes to Crimestoppers and we will always take account of and act on what people tell us.

Q4 Angela Richardson: On public awareness, including the campaigns that you are running, are you running those campaigns just through the Environment Agency, or are you using local authorities to help to get that



message out as well?

Sir James Bevan: We work with all partners, including local authorities. For example, on fly-tipping, which you referred to earlier, we ran an exercise last year with a local authority, and with police and landowners, essentially to mock up a fake fly-tip and to attract media to photograph it, and to encourage people to learn how to identify what is a fly-tip and then to report one when they see it.

Q5 **Angela Richardson:** This question is to both of you. Four years after the resources and waste strategy was published, why do you still not have an effective means of measuring progress in eliminating waste crime?

Tamara Finkelstein: First, let me say what we are doing. So, as I said, we have now let to Ipsos MORI this evaluation and that work will start to report this summer. It will start by helping us to see whether we have any gaps in the actions that we are taking on waste all together and on waste crime, and to spot those gaps—as I said, where the data gaps are—and then to work through the different policies that we have and look at their effectiveness. We have that now in place.

We would have liked to have made earlier progress. Covid did intervene, in that we needed, within the Department, to move people on to dealing with the covid impacts on the waste industry and we had to move people within the Department, working particularly on food security and food poverty issues.

That has delayed us a bit, but I think we are in really good shape now. We have put out a number of the consultations that will strengthen the system. As I say, the evaluation programme is kicking in. It is a bit delayed, but we are very much now—

Q6 **Angela Richardson:** So you are saying that you are starting to report, but when will you have the full report?

Tamara Finkelstein: We have been reporting on the strategy, but it has been limited; the data that we have been able to report has been more limited, as the investigation indicates. We have been reporting, but I think we will be able to improve the state of that reporting each year by the work that is being done by the evaluation.

Angela Richardson: Sir James, did you want to come in on that?

Sir James Bevan: Just to add to that, we are improving the ways of measuring our success. You are quite right—what gets measured gets done, so we have to have the right metrics. We already have one important metric, which we have had for several years in our corporate scorecard, which we review and publish every quarter in relation to waste crime, and that is in terms of high-risk illegal waste sites. The metric is “reduce them”. We are doing reasonably well on that. We can come on to the detail if you would like in a bit.

That is only one part of an obviously much bigger waste crime picture, so we are expanding our metrics so that we have more comprehensive



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coverage to measure how we are doing. To give you a few examples, we will probably move next year away from the illegal waste site metric as one of our key measures, although we will continue to track it, to a different measure that will measure the percentage of waste that is being handled legitimately in this country.

We are going to add various other metrics alongside that, including the amount of waste that is being diverted to legitimate industry because the EA is stopping it going into criminal channels; the tonnage of waste that is not going to illegal export, because of our interventions; the tonnage of hazardous waste that is being misdescribed, largely for tax fraud reasons; and so on. There is a suite—a basket, if you like—of metrics that will give us a better handle both on how we are doing as an agency and on whether we are winning the battle against the criminals.

Q7 Angela Richardson: What is the outcome on the consultation into the introduction of digital waste tracking?

Tamara Finkelstein: We are getting on with developing the system to be able to do digital waste tracking. We already have a prototype. We have a very big panel of 1,600 users who we are using to test and develop the system. We will need to put in place secondary legislation—we took powers in the Environment Act to require people to use the digital waste tracking. We are drafting the secondary legislation, which will be in place for next year. At the minute, we are getting an IT partner who is going to help us develop the system further. Our expectation is that later this year we will have a small number of users trialling out using the system on green list waste for export and we will be in private beta next year and then it will be 2024 when we will be able to fully roll it out. That is where we are up to. We are on track on the plans for the digital waste strategy.

Q8 Angela Richardson: My question to Sir James is how you will be able to ensure compliance with the tracking system by waste handlers.

Sir James Bevan: The first thing to say that this is a really important initiative. For the first time, it will give us a really good understanding of who is moving what where and in what quantities.

As you know, at the moment, we have a whole series of fragmented systems, both electronic and paper, and they record different things. There is no one system. Some are not mandatory. Having this new system in place, which will have all forms of waste on it and will capture the full journey of that waste, from the moment it is created as waste through it being moved, stored, treated and eventually disposed of—that comprehensive full-life coverage—will give us data that we currently don't have and will allow us to work out where there is illegality and to target our resources along with those of our partners much more effectively in disrupting that illegality and preferably in stopping it before it happens.

Chair: I think Sir Geoffrey Clifton-Brown would like to come in on this point.

Q9 Sir Geoffrey Clifton-Brown: Ms Finkelstein, I am delighted to hear



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about your initiative on tracking waste electronically. Tracking all waste is really quite a big project. Given the Government's record on new IT projects, how are you going to ensure that this doesn't go the way of other Government IT projects and be a good idea, but actually take years and years to bring into operation?

Tamara Finkelstein: There are always risks around IT projects. I recognise those. I suppose I would say that the record of the Department in terms of the systems that it put in place for leaving the EU is that we did those to time and to budget. That gives us a bit of confidence that we have learned some of the lessons of how we work, in terms of delivery policy and programme management and IT very much together. I think we have developed a way of working that gives me more confidence. Of course, we go through the usual checkpoints with the Infrastructure and Projects Authority at the Cabinet Office, and some of those in order to have checkpoints. We always recognise the risk that we are holding, but that is where my confidence is. I think we are on track to do this piece of work.

Q10 **Sir Geoffrey Clifton-Brown:** So when you write your excellent letters to the Chair to update us on various matters, could you ensure that we are updated on this matter?

Tamara Finkelstein: Very happy to do that.

Q11 **Chair:** How far along is this new IT partner?

Tamara Finkelstein: We are seeking applications until the end of June, so we are looking for the right technology partner.

Q12 **Chair:** Who is writing the business spec for this? Are you buying something off the shelf or are you spec'ing a new system for tracking digital waste?

Tamara Finkelstein: It is a combination. We have developed a prototype and are trying to build on that. That is the starting point.

Q13 **Chair:** That is in-house?

Tamara Finkelstein: I believe so. If you want more detail than that, I might need to write to you.

Q14 **Chair:** You can perhaps appreciate that, in this Committee particularly, our ears prick up when you talk about a new IT partner. Sir Geoffrey and I are a bit nervous after seeing so many new IT partners. What stage is it at? You have not let a contract yet?

Tamara Finkelstein: Not with that partner. We need to develop it to the next stage. As I say, we have good in-house capability now that gets the right balance between us and a partner.

Q15 **Chair:** What is the value of the contract?

Tamara Finkelstein: I don't have that to hand.

Chair: Perhaps you could write to us with that.



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Sir James Bevan: The other thing that gives me additional reassurance is that we will need to design and deliver this with the industry itself, because it relies on the waste industry—literally thousands of companies being able to input data. We obviously want to ensure that, both through their association and by talking to the industry itself, we design a system that works for them.

Sir Geoffrey Clifton-Brown: For the sake of propriety, I did not really know that I was going to ask that question until the issue came up. I should declare an interest, as shown in the Register of Members' Financial Interests, as a farmer who, unfortunately, has occasionally suffered fly-tipping.

Q16 **Chair:** Thank you, Sir Geoffrey. Hopefully the project goes well, so we will not have to look at it in too much detail. But this is a really significant issue. Every bit of the system will have to plug in to your new IT system, so there are a lot of moving parts, Ms Finkelstein.

Tamara Finkelstein: I understand.

Chair: We look forward to the letter and will follow through for everything we need from that.

Tamara Finkelstein: We will be happy to give you more information.

Chair: Ms Richardson, if it works, it might solve problems in the Surrey Hills.

Q17 **Angela Richardson:** Oh, that would be lovely. Sir James, the Environment Agency now has access to the police national computer, the police national database and the national automatic number plate recognition service. With your access now to these police databases and systems, what benefits are you realising?

Sir James Bevan: The first thing to say is, we do have that access. It is new, important and helpful. Obviously, access to the database gives us real-time intelligence on suspected and known offenders. We are one of only, I think, three non-police agencies that have that access, so that is important. Access to number plate recognition—the ANPR system—gives us data on vehicles. We already stop and search vehicles that we think are involved in waste crime, but this will allow us to be much more targeted in doing that. It is a big step forward. We are already using that intelligence to run operations overseen by the joint unit for waste crime, which includes the police and other law enforcement partners. If you like, I can give examples of recent operations based on the intelligence we are getting out of that system.

Angela Richardson: Yes, please.

Sir James Bevan: I will give you one example. Earlier this year, there was an operation called Operation Goldjuno. We ran a national week of action with 43 police forces, which must be most of the police forces in this country, targeting metal crime and money laundering, which are often



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linked. That involved over 500 visits by our staff to scrap metal dealers in other sites, joint with the police; stopping 300 vehicles with law enforcement; and marking parts forensically on over 1,000 vehicles, which resulted in 29 arrests being made by the police for various offences.

When we go after someone involved in waste crime, we usually find that if they are a serious criminal, they have a hand in other things, such as drug running, people trafficking and so on. We are already seeing more operations that are more targeted and effective as a result of that new intelligence.

Q18 Angela Richardson: I know that we are coming on to prosecutions, but were there any successful prosecutions off the back of those arrests?

Sir James Bevan: It will take a while for those arrests to turn into prosecutions, if they do. However, we have examples already, even since the start of the waste crime unit in January 2020, where that has led to a serious investigation that will, almost certainly, result in a criminal prosecution.

Q19 Angela Richardson: Thank you. Mr Las, in the NAO Report, Her Majesty's Revenue and Customs estimates that £200 million of landfill tax was not collected in 2019-20. How are you improving your estimate of money lost through unpaid landfill tax?

Richard Las: We have published estimates on losses for a number of years, and the composition has changed a little. The tax gap is essentially the difference between what we expect to collect and what we actually do. The estimate increased to about £275 million in 2018-19, when we extended it to include unauthorised waste sites, because the legislation changed for landfill to encompass that. The figure in 2019-20 dropped to £200 million, so there has been a reduction. I think we would estimate that unauthorised waste sites account for around half of those losses, and the remainder would predominately relate to misdescription and under-declaration at authorised waste sites.

I can go on to our overall strategy in trying to deal with those different kinds of losses. We would expect to continue to work. We had some investment in 2018, from the spending round, which would allow us to increase our resources in these areas. We would expect to make more inroads into those areas going forward.

Q20 Angela Richardson: What is your current estimate of the amount of unpaid landfill tax?

Richard Las: The 2019-20 is the latest one. It gets published annually, and I think it will next be published in July. That is the sort of timescale—later in the summer.

Q21 Chair: We had some interesting evidence from the National Farmers Union, which talks about some of the issues there—for example, waste being baled in plastic, disguised as hay, and left in fields. That is obviously landfill tax not being paid. How do you track that kind of avoidance?



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Richard Las: The fly-tipping aspect of it is not currently included within the scope of that estimate.

Chair: That is my point—so, it is significantly higher.

Richard Las: Yes, absolutely.

Q22 **Chair:** We had evidence from the Environmental Services Association saying that: “At 23% this tax gap is the second highest tax gap in percentage terms across all taxes and is only exceeded by the tobacco tax gap.” Would you recognise that?

Richard Las: That would be about right; absolutely, yes. I guess, typically, we do have strategies across all of our taxes, and we look at them. Tobacco and landfill have some similarities, I guess, in that there are large differentials in rates and criminality is involved. However, ultimately, they are also quite different.

I think that if we look at landfill tax in particular, it is not really there to generate revenue; that is not its primary purpose. It is there to generate changes in behaviour and, broadly speaking, it has been pretty successful in that regard. There has been a 90% decrease in local authority waste going to landfill as a consequence.

Q23 **Chair:** There is, of course, a Treasury review of landfill tax because, while it does drive good behaviour, it clearly can, as the Report highlights, drive this sort of behaviour—dumping on a farmer’s land, the Surrey Hills or wherever it may be. Do you know the timeframe for that review, and do you have any hints about what might be in it?

Richard Las: I think that the call for evidence concluded in February 2022. Broadly speaking, you are right: it is looking at a number of aspects of landfill tax—the structure of the tax and the impacts of proposed changes on businesses, local authorities and individuals, as well as on waste crime. It is now being considered by the Treasury, and I guess a report will be published in due course. However, I do not have a timescale for that.

Q24 **Chair:** Ms Finkelstein, while the Treasury is looking at it from the money point of view, your Department, and indeed the Environment Agency, must be concerned about the impact on your work. How closely is the Treasury discussing it with you, or is it money driven?

Tamara Finkelstein: It is looking more broadly because, as Mr Las says, it is a tax designed to have an impact on behaviours. The Treasury is not closely involved in that. There is a broader point: it has consequences on other forms of waste activity, such as fly-tipping. We need to ensure that every aspect is covered if people are trying to illegally get rid of their waste. We need to have a strong system in every area. I think that is our contribution.

Sir James Bevan: Just to add, landfill tax fraud is a really big issue for us as well, because it does not just cheat the Government and the taxpayer out of money, but it damages the environment. It can threaten public



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health. That is why, a couple of years ago, we created a new category of waste misdescription officers in the Environment Agency. Their main role is to target landfill tax fraud and waste misdescription more broadly throughout the whole resource chain. That is starting to show its benefits.

We have been working much more closely with HMRC on landfill tax and other investigations. We publicise that jointly; that is designed to send a signal to fraudsters that we are looking more at landfill tax fraud. We have become quite adept at identifying the accompanying issues that you just referred to. For example, there is a thing under the landfill tax where, if you are a waste producer, you can apply to HMRC to discount the water content of your waste. You only pay duty on the dry weight, which is a lot less than the wet weight of your waste. We identified together what we were pretty sure was fraudulent claiming of water discount. We talked about that together in the joint unit for waste crime. There was a potential tax loss getting on for £200 million from that. Together, we have now agreed and put in place a new process for making applications for water discount and—surprise, surprise—they have dropped significantly. That suggests that we have identified and at least partially blocked another source of fraud.

Chair: That is quite a big success in terms of the millions saved.

Q25 Shaun Bailey: Sir James, in your speech on 12 April at the Let's Recycle event, you mooted the idea of the industry possibly providing some sort of funding, either through charges or directly, to the Environment Agency. Do you feel you are adequately funded to do what you need to do at the moment?

Sir James Bevan: We will always do the best we can with the money we have. We could always do more with more money. The fact that we are starting to see significant wins in the fight against waste criminals indicates to me that we do have resourcing in place to start to make progress. In the spending review that has set departmental budgets for this financial year and the next two, the Government have baselined the £10 million that we were getting on an ad hoc basis to specifically fight waste crime. That is really helpful. It allows us to plan and deliver consistently for three years. It gives us assurance that the money will be there, and I think it is a good signal of the Government's commitment.

Q26 Shaun Bailey: Obviously the ringfenced element of that £10 million that was specifically for waste crime has now been rolled into your core enforcement budget. On a day-to-day impact view, clearly that is going to be stretched further than it would have been before.

Sir James Bevan: We have a core grant that we get from the Government that funds all our environmental work, including all our enforcement and prosecution work. We cannot use the fees that we get from regulating legitimate industry to fund enforcement against criminals—that is against Treasury rules. The basic grant that we have had from the Department for the last several years has been declining over time. The element of the grant that we now have for enforcement is about



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£7 million for this year, compared to £10 million or £11 million a few years ago. That is putting pressure on us. But all organisations should be rightly challenged to do better with less.

- Q27 **Shaun Bailey:** Are you confident that you can meet, what would appear to be, the increasing pressures around waste crime—in particular, the uptick in instances? Clearly there is going to be a pinch point there somewhere—particularly for your organisation.

Sir James Bevan: How do you do better with less? Answer: you do it together. A core part of our strategy now is working with not only our DEFRA colleagues or HMRC, but other agencies, the public and the legitimate waste industry to leverage in all the resources we need to tackle the problem. The Government will never be able to provide enough on their own, and they shouldn't. Together, if we pool public and private resources, we have a good shot at tackling this problem successfully.

- Q28 **Shaun Bailey:** Would you say, perhaps, that the shift has to go from pure enforcement to more collaboration? Is that what you are trying to say—prevention, as opposed to pure enforcement?

Sir James Bevan: Yes, indeed. One of the ways in which our strategy for tackling waste crime has shifted is that, rather than having an ambulance at the bottom of the cliff, we want a fence at the top, so that people don't fall off. We are increasingly targeting waste criminals upstream, before they commit crimes, and disrupting their activities rather than trying to clean up the mess afterwards, although that will still sometimes be necessary.

- Q29 **Shaun Bailey:** Ms Finkelstein, the Environmental Services Association estimates the cost of waste crime to the English economy to be around £924 million. Is DEFRA doing any measurements on the economic impact of waste crime more broadly? I appreciate that that is an estimate from the ESA. What are you doing to monitor economic impacts and value for money for what you're trying to implement?

Tamara Finkelstein: We are not doing the direct equivalent of what the ESA has done, partly because we have looked at its methodology and it looks to be in the right place, broadly. Part of our evaluation will be looking at the cost-effectiveness of particular interventions, which we will do through the evaluation programme.

- Q30 **Shaun Bailey:** Let me turn to the local picture more broadly. Last year, local authorities reported around 7 million instances of fly-tipping. My understanding is that only 25% of those have been investigated. In my local authority—Sandwell, in the Black Country—we saw an uptick in incidents from just under 6,000 to 10,330. There were 1,301 enforcement incidents for 2021, for that 10,330 figure, and 32 fixed penalty notices. Is that a system that is working?

Tamara Finkelstein: Local authorities have the responsibility to deal with fly-tipping and we have the responsibility to give them some of the tools that they need to do that. We have given them tools such as fixed penalty notices, some of the powers they need to seize cars that they think might



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be involved in fly-tipping, and so on. They have some of those tools. There are obviously inconsistencies, as you described, between different—

Q31 **Shaun Bailey:** I don't mean to cut across you, but that is a 10% enforcement rate. Surely that must be concerning for you, as a Department.

Tamara Finkelstein: It is concerning to us, in that we want to ensure that local authorities have what they need to achieve the best performance they can in dealing with fly-tipping. We are looking at the different things that might help. One of those is that we are developing a fly-tipping toolkit that helps to share some of the best practice, to ensure that local authorities know the best ways to do things. The first of those is about how to best put together cases that you are taking through to the magistrates court. We are working with magistrates so that when cases go to them, they recognise the impact of waste crime.

Q32 **Shaun Bailey:** Just to drill down on that point, surely you are also contending with the court backlog, though? Are you doing any work with the MOJ around that? You will be contending with every other civil action case or magistrates court case that has become backlogged in the system over the past couple of years. Surely that is also going to have to feature in the work you are doing.

Tamara Finkelstein: Obviously there are those challenges around backlogs, but the work we are doing is more about ensuring that it is not a wasted journey if you get something to court—that you are putting in place the most robust case possible, so that you get the right outcome. That is the work that we are doing.

Q33 **Chair:** Ms Finkelstein, as Mr Bailey has highlighted, there have been 32 fixed penalty notices and no prosecutions in Sandwell. Thanks to our colleagues at the National Audit Office, we have information for the local authority areas of every member of the Committee, and only South Thanet managed more than one prosecution—it managed 15. Broadly speaking, apart from Richmond Park, the prosecution rate is less than 10% in every Committee member's local authority area. That is a randomised sample, if you like, of local authorities across England. Our Scottish and Welsh colleagues are not included. As Mr Bailey was trying to highlight, there seems to be a gap between action on the ground and the scale of the crime. What do you think is the reason for that?

Tamara Finkelstein: I think there is more to do for local authorities to be as effective as they can in pursuing—

Q34 **Chair:** But it seems odd—those local authorities are not all deliberately being ineffectual. There must be some bigger barrier there. As we all know from our constituency work, our residents are very concerned about this. Fixed penalty notices—we will come to prosecutions—are relatively straightforward to issue, so is there a resource issue in local authorities?

Tamara Finkelstein: We have just done some research. We have just published it and are looking at how we can act on it, what works and does not work, and what we can do nationally. We are taking forward that



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research on what the incentives and disincentives are, and what might be more effective.

Q35 **Chair:** Are there any exemplar local authorities that you think are doing a particularly good job?

Tamara Finkelstein: I do not have that to hand. One thing we have done is invest some money—£450,000 this year, and another £450,000 next year—in specific local authorities that have fly-tipping hotspots.

Q36 **Shaun Bailey:** How did you identify those local authorities for that funding?

Tamara Finkelstein: Those with really good projects to exemplify, in order to look at ideas that might work most effectively.

Q37 **Shaun Bailey:** Just so I am clear, does that £450,000 go to local, specific authorities with fly-tipping hotspots to push forward projects? Sorry, I am trying to understand how the funding has been allocated. What metric was used to identify that those local authority areas were specific hotspots? With those 10,000 instances in my local authority, fly-tipping has gone through the roof. I might be wrong, but I am not aware that my local authority has had a share of that funding. How have you picked those local authorities?

Tamara Finkelstein: Local authorities that had high levels of fly-tipping and wished to apply for a particular project were able to apply. It may be that your local authority did not choose to apply or did not have a particular project in mind. Eleven local authorities are getting money from that pot. There was a trial of a “no bags on the street” policy in Newham, and AI-enabled CCTV in Buckinghamshire. I think Thanet got money for gated community gardens.

Q38 **Shaun Bailey:** Were any of the local authorities north of the M25?

Tamara Finkelstein: I do not have the full list of authorities, but I can let you have it.

Shaun Bailey: That would be very useful.

Sir James Bevan: May I just add to that point? This is another problem that we would better tackle together. Although the EA does not lead on fly-tipping, which is for the local authority, we will get involved when there is a lot of waste—20 tonnes or more; when it is in a particularly sensitive area; when it is hazardous; or when we think there is evidence of a link to serious organised crime. That involvement will not just be advice and support for the local authority; we will often lead in pursuing the culprits.

I am looking at my stats, and in the last five-year period, we did 26 prosecutions ourselves of what we would call illegal dumping—large amounts of fly-tipping. We are using our powers to disrupt fly-tippers. Last year in Kent, for example, we used our powers to seize a tipper truck that we thought was being used to fly-tip waste in Rainham. We are staying, and will stay, involved in supporting local authorities.



Q39 Shaun Bailey: That is an interesting point on crossover. From the point of view of the Environment Agency, are you seeing more of that crossover, whereby you are stepping in more frequently when local authorities should be acting?

Sir James Bevan: Yes. The responsibilities are very clear; we are not seeking to blur them. What I am saying—and it works the other way, too—is that the more we collaborate with other partners, the more success we will have in achieving our aims and vice versa. So, as a general strategy, we are working more collaboratively, across all forms of waste crime, with all our partners.

Q40 Shaun Bailey: Is the collaboration at a level that you are happy with at the moment?

Sir James Bevan: It is a lot better than it was. It is still in its infancy.

Shaun Bailey: So there is more to be done.

Sir James Bevan: There will always be more to be done.

Tamara Finkelstein: Could I add something? I had forgotten a digital fly-tipping education tool in Durham, as one of our 11, so I had one from the north and I wanted to share that with you.

Q41 Shaun Bailey: Fantastic.

There was an interesting point—just to go back—about standardising the situation. The NAO notes that 10% of authorities were only reporting customer-reported incidents of fly-tipping. How are you—again, as part of the collaboration work—trying to standardise the approach to reporting? Clearly, reporting is a big part of this and of understanding where we are. What work are you doing around that? Clearly, it is an issue, because that is quite a chunk of authorities.

Tamara Finkelstein: Absolutely. We require local authorities to give us information around fly-tipping, which we then publish. And we have been doing work to develop guidance around that, to assure ourselves around them providing to us standardised information that we can then give to you. This is why I said at the start that we feel that the data we have on fly-tipping on local authority land is actually quite strong. We have confidence in that. But we are continuing to develop that guidance further.

Q42 Shaun Bailey: Certainly the feedback I get from my constituents is that there is a general feeling that if you fly-tip, you are going to get away with it. How are you combating that with local authorities? I hear what you are saying about collaboration. I hear what you say about prevention. But clearly, the call from my communities is about seeing tough enforcement, which they don't feel that they are seeing. For you as a Department, where do you feel that line is drawn? My constituents want to see prosecutions, which they are not seeing any of; enforcement notices; fines being paid; and money going back into the community. Where's that line for you?



Tamara Finkelstein: The role for us is ensuring that local authorities have the powers in place and, as I say, those have been increased. The fly-tipping toolkit is a genuine attempt to give advice as to how local authorities can do their work, do it effectively and learn from what others are doing. That is overseen by the National Fly-tipping Prevention Group, which includes the NFU and others, so that we can give that advice and encourage that consistency.

I said that we had done research work that has just come back. Out of that we would hope to see whether there are other things that we can support local authorities in doing or, if we think that there is something around powers or regulations that we need to put in place, we can do that. That is the next step: how do we strengthen the overall system in which they operate?

- Q43 **Shaun Bailey:** This is the final question from me. Ms Finkelstein, are you broadly happy with how local authorities are able to respond to fly-tipping and with their enforcement responsibilities at the moment? Are you happy with the stats that we have looked at today and with the fact that, as I said, there were no prosecutions in Sandwell and 32 penalty notices. Do you feel that the system is functioning in the way it should?

Tamara Finkelstein: For this, as for the whole agenda that we are talking about today, I think we have a system in place that supports doing that work, but there is more to do. That is why we have done the research—to see whether there is more that we can do in the fly-tipping space—and are doing the toolkit and, across the piece, digital waste tracking and so on. The various things we need to do, and the consultations we have put in place, are because we think that we have a strong regulatory system but that it needs to be stronger. So I would say there is more to do.

Shaun Bailey: I will leave that there for now, Chair.

Chair: Thank you. It is noticeable how few prosecutions there are. Do you think the right incentives are in place for local authorities? Obviously, they have had budgets cut over recent years; there have been lots of pressures on them. We will get on to some of the prosecutions, but authorities spend a lot of money pursuing somebody. In my area, in Hackney as a borough, we had, in 2021, over 10,000 van-sized incidents and 2,598 tipper lorry-sized incidents—sorry, that was in the year before; we have reduced the tipper lorry-sized incidents by quite a bit, but there were still 463 in the last year that we have figures for. And there were over 13,000 incidents in total. This is a lot of work for a local authority to keep on top of, but there isn't a big financial reward for pursuing it, although obviously there is the reward of satisfied constituents and residents. Do you think we need to look at the system so that councils are not penalised for going after waste crime?

Tamara Finkelstein: Well, there is a requirement for local authorities to do this work and it has a real impact on the public, as you say.

- Q44 **Chair:** But it is a very costly thing to do. I am sure all our local authorities



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want to do a good job, but the problem is that a lot of resource goes into pursuing one lorry tip or one van tip. At the scale I have in my constituency, with over 10,000 van incidents, if you even get 100 of them you are still only chipping away at the problem.

Tamara Finkelstein: There is a wider set of tools than prosecution, such as fixed penalty notices and seizing vehicles that you suspect of fly-tipping. That wider range of tools is part of the system that has been created. We will look at the research to see if there are other things that could help support that activity being done well, recognising the limited resources, which is true across all the agencies involved.

Q45 **Chair:** I think we were quite concerned. Normally, we are a Committee that likes to see money spent well but, in my case, we see 150 fixed penalty notices in 2021 but over 10,000 van-sized incidents. It is not like it is not being done, but it is a tiny percentage of what needs to be done.

I want to come on to investigations and prosecutions. Sir James, how are you speeding up investigations into waste crime? They can be very slow, especially the big ones, but what are you doing to trim that timeframe?

Sir James Bevan: Prosecution is not always the right answer. We want to stop the crime and its effect on the environment and people, and sometimes there may be ways of doing that. There are often ways of preventing that, or of dealing with a crime that has happened, that do not take us to prosecution. It is usually our last resort because, as you say, Chair, prosecutions tend to be slow, complex and expensive, and we need to make sure we target our time and money in the right way, but we will not hesitate to prosecute if we think that is the right response. We will, almost always, be liable to prosecute in the event of a very significant amount of damage being done to the environment and/or culpability—a deliberate attempt to break the law and damage the environment.

Q46 **Chair:** That is what you do, but how quickly? Are you speeding up the time it takes?

Sir James Bevan: We are not speeding up the time it takes. It is taking longer, as the report rightly points out, for us to bring cases to prosecution. There are good reasons for that that are to do with the strategy I was talking about earlier, which is to go after the biggest, baddest criminals who do the most damage. That is the strategy, and it is starting to bear fruit but, as you know, you need a very high level of evidential proof if you are going to win a prosecution.

It is a sad truth that many of the serious organised criminals that we go up against have extremely well-paid lawyers. The court system allows them a lot of running room, which makes it a challenge to bring a successful prosecution. We will always try to bring a prosecution to a head as quickly as we can, but that has to be consistent with ensuring that we have the evidence that we need and that we have a reasonable chance of securing conviction.

When we prosecute, we usually win; our current hit rate is 91% in relation to prosecutions. We seek fines that we hope will be a deterrent to the



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culprit; for example, we got £1.5 million against Biffa for waste export illegalities. However, it is taking longer because we are having to put more effort into those specialised cases and, of course, there have been backlogs in the courts as a result of covid.

- Q47 **Chair:** And indeed before covid. You mentioned Biffa, a known company with a track record and people that can be pursued for money, but we heard evidence from various people, including SUEZ Recycling and Recovery UK, which describes itself as “one of the UK’s largest waste and resource management companies providing services to the public and private sectors”. That evidence highlights a couple of examples of companies that set up at a rate that undermined local businesses, but then folded and went bust, leaving the site clean-up to others and disappearing into the ether. How much of a problem is that for you? You can go for the established companies with a track record, but there are companies that do not really intend to be there to pick up the problems.

Sir James Bevan: It is a big issue. There are thousands of waste companies; most of them are legitimate and a lot of them operate on the edge of economic viability. The last thing we want is to tip a legitimate company that is generating growth and jobs in your constituencies into insolvency. When we are regulating those operations, we will always try to keep them operational and afloat as a business while we try and bring them back into compliance with the law.

Sometimes we get to a point where we have to make a choice. We will make an intervention to, for example, suspend a permit, to stop them using a site for waste activities. That could, and sometimes does, cause that company to either go bankrupt or do a moonlight flit and disappear. We try to avoid that, because when that happens we have a whole host of other problems. The organisation that is responsible for managing the waste site, if it has been abandoned, is the holder of the permit to manage that site—the company that has done the moonlight flit. If the holder of the permit is not available to deal with the site, then it falls to the landowner, who is often someone else—an innocent third party—who we also do not want to damage. We are constantly trying to avoid pushing companies into either moonlight flits or insolvency, while making sure we bring them into compliance.

- Q48 **Chair:** In its evidence, the NFU talked about companies posing as legitimate waste operators—they have asked for temporary storage and then they have just disappeared. Then it is the landowner who has to pay the cost. Do you provide guidance and advice when you pick up those issues? That is to both Sir James and Ms Finkelstein. We have far less evidence of that, but I imagine it is the same for other landowners too.

Sir James Bevan: We do provide advice and guidance to farmers and any other landowner. We do that to help them understand how they can avoid the problem of fly-tipping or other illegal activity on their land. Part of the other interventions is going to be reform of some of the laws that allow fly-by-night companies to operate like that. The carriers and brokers arrangements, under which almost anybody can register as a carrier or a



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waste broker, is a classic way in which a criminal goes to a farmer or landowner and says, "Look, I am registered with the Environment Agency, give me your waste for this money and I'll treat it."

Q49 **Chair:** What are you doing about that?

Tamara Finkelstein: We have taken consultation on the carriers, brokers and dealers rules. They will require a much higher level of competence, and evidence of not being a rogue dealer, in order to be able to register. People can therefore have confidence that when they have got somebody who is registered as a carrier, broker or dealer, it is somebody legitimate. There will be criminal checks.

Q50 **Chair:** Would you suggest a fit-and-proper-person test?

Sir James Bevan: There will be a technical competence test, which the Environment Agency will regulate. We will apply a broad definition to technical competence. For example, we will normally do background checks on people if we have a reason to be suspicious of their application.

Q51 **Chair:** How much of this involves asbestos? Asbestos is very expensive to remove and dispose of safely. There is the very dangerous stuff and there is the stuff that is encased in a corrugated way, which is apparently much safer because it is more inert. I think in Australia it is still legitimately used. Do you find that there is a big problem with people breaking the rules on asbestos?

Sir James Bevan: Asbestos is one of the issues, but everything is a problem. If you are a criminal and you offer to take someone's waste away with cash up front, you have already made all your money and then you dump that waste—whether it is asbestos or anything else—at no cost to yourself.

Q52 **Chair:** So, basically, if you have got no scruples, you've got no scruples about what you are dumping. I take your point. Mr Las, you have only prosecuted one case of landfill tax evasion in the last year, I think—or is it at all? Why is that? What is stopping you taking more prosecutions?

Richard Las: If I start by describing HMRC's overall approach to tax compliance and landfill, that might put it in a bit of context. I will definitely address your questions as well. Generally speaking, we try to encompass a wide range of interventions in all of our areas. We predominantly use civil powers to identify and rectify non-compliance.

In terms of our waste crime strategy, we do a lot of work around promoting good compliance, which means working with the waste industry and providing education—those sorts of things. We have quite a strong prevent strategy, which is about blocking fraudulent claims and trying to design the duty to make it easy for people to pay the right tax.

Then we have a respond part of our strategy as well. Where we see somebody trying to avoid their obligations, we will tackle that non-compliance with a range of civil and criminal powers. We talked a little about unauthorised waste sites. We have an unauthorised waste team.



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Their work involves visiting sites and assessing for tax on those unauthorised disposals. As Sir James mentioned earlier on, it very often involves working with the Environment Agency. Since gaining the power to do that in 2018, we have closed 321 investigations into unauthorised waste sites. Last year, that team raised £14 million-worth of assessments. These are assessments of sites where there is joint and several liability and into anybody who is involved—a carrier, an operator and so on.

In terms of misdescription, that work involves visiting registered landfill sites. We touched a little on the kind of exemptions that people were falsely trying to claim.

Q53 Chair: Like the water exemption?

Richard Las: Absolutely. We have upped our activity on that. To give a sense of how much activity there is, over the last four years the yield from that activity has been just under £400 million, so broadly speaking there has been about £100 million every year in terms of assessments we have raised in relation to that specific activity—there was a dip for one year because of covid, but it is broadly that.

In terms of prosecutions, it is a pyramid. We use prosecutions in a more sparing environment. Currently, we have one active criminal investigation going on. We have two further cases under consideration. Sitting beneath that, we have around 230 civil investigations going on.

Q54 Chair: So there are three investigations currently under way?

Richard Las: Yes. If your question is, “Why so few?”, one reason is that we have lots of alternative disposals that we can and do use, and we work with others. What we are trying to do is exactly the same. We are trying to prevent the activity.

Q55 Chair: We have had regular discussions in this Committee with Jim Harra and his predecessors. There are a bunch of politicians who think prosecutions are a good way of deterring people. You have a different view because you are trying to get money, and we get that. But Operation Nosedive took six years. There was no prosecution—the CPS decided against prosecuting anyone, because the evidential requirements were not met. I am referring to paragraph 2.4 on page 27 of the NAO Report. Can you talk us through what went wrong with Operation Nosedive? A lot of HMRC and other resource went into it, and in the end they got off.

Richard Las: I know you understand that legal obligations with relation to taxpayer confidentiality mean that I won’t talk about the specifics of the case, but I will definitely give you a picture of the events in more general terms. I hope you understand that I care passionately about tackling tax fraud and non-compliance.

Chair: I would be surprised if you didn’t, given that you work at HMRC. If you didn’t, we would be worried.



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Richard Las: I want all our investigations to conclude with a positive outcome. It is not always possible. There are a variety of reasons for that, and I will go into them. I guess some are evidential. Sometimes we are not able to find evidence. Sometimes it does not exist. That is the reality of it.

Chair: This was six years, and it went as far as the CPS.

Richard Las: Yes, it was. That is not untypical for complex investigations, unfortunately, where you have a lot of information and material. Those investigations can last a long time. I have investigations that are going on for 10 years. I would rather they were quicker, but the complexity of them and the work we have to do can mean that they run a long time. In this particular case, a number of factors—rather than a single incident or aspect—cumulatively led to the decision not to proceed. As you pointed out, Chair, the Crown Prosecution Service was involved. Ultimately, it decides who should be prosecuted. The opinion of the counsel involved at that time was that it was unlikely that a trial would be successful. On that basis, we made the decision to discontinue our investigation.

Q56 **Chair:** According to the NAO Report, it was a bit more complex than that. Paragraph 2.4 states: “the Crown Prosecution Service decided against prosecuting anyone because evidential requirements were not met, due to different approaches taken by HMRC and the Agency to investigating the alleged non-compliance.” Is it partly because of that that you have since had the joint unit for waste crime in place? Why did you not get that sorted at the beginning of the investigation, rather than waiting for it to get as far as the CPS after six years of investigation and for that to be the reason that it did not proceed?

Richard Las: Some of that came out only during the course of an investigation, when you start to examine material. On the framework, the joint unit for waste crime has absolutely made a huge difference in terms of our operations and the amount of joint work going on on sites.

Q57 **Chair:** Have you aligned your processes?

Richard Las: We have. Although there would still have been joint working, and the case teams would have been working together at various points, I do not think agencies all spoke with one voice to the operators on all issues. We were not completely aligned. That causes difficulties in trying to deliver a prosecution in which you have to establish culpability beyond all reasonable doubt.

There are other issues in there. We had an awful lot of information complexity around it. I would not like to say that it was just about the co-ordination. We were learning lessons ourselves; this was our first criminal investigation into landfill tax. We were and are still learning what good evidence is, especially in a landfill tax context—these are really difficult sites in which to conduct investigations and get high-quality evidence. The evidence that you want to use to prove misdescription, say, is in the ground. You do not have it in court like you would in other cases. That is a challenge for me and my team, but I am just trying to explain it to you.



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Q58 Chair: I am just trying to get my head around this. The landfill tax was introduced in 1996. Operation Nosedive took six years, but given where we are now, even if you take those six years off, it was a long time before the first prosecution, and we know that there have been problems since. What prompted Operation Nosedive, and why were there no prosecutions before it?

Richard Las: We will prosecute where we believe that it is necessary or proportionate, or that the scale of the fraud requires it and we have information and intelligence to support that. I know that we have had the landfill tax for a long time, but for many years, the differences in rates and duties were quite small. The objectives with the tax were ultimately to encourage people to move away from using landfill, and it was broadly successful in that. We were not seeing huge rates of non-compliance.

We have introduced teams and increased the scope of the tax to include unauthorised waste sites, so we have put in resources to tackle that. We work very closely with large businesses—80% of landfill tax revenue comes from them. Each of them has a one-to-one customer relationship manager. We are not seeing fraud there; we are seeing—

Chair: Error?

Richard Las: Well, error, but we see areas where the legislation is challenged, and we see differences of opinion. Our teams have been hugely successful in preventing losses in that area—losses of about £1.1 billion over the last few years. That is not crime as such, but we get to a position where we have investigated.

As I say, it is quite difficult to go into huge detail. It would be wrong, in general terms, to assume that the end of a criminal investigation means the end of our activity, because we have a whole load of other civil powers. We can do lots of work around recoveries and those sorts of things. But I absolutely accept that, in that case, for the reasons that I have outlined, we were not able to take it forward to prosecution.

Q59 Chair: Sir James, do you think you have got the right balance in terms of which enforcement actions you take?

Sir James Bevan: If I may, I will comment first on the issue we were just discussing. I did go to one of the sites that was part of this investigation in 2018, and I did talk to our staff and the HMRC staff who were then engaged in the investigation. They were first class and working in lockstep, and they were completely committed to bringing the criminals to justice, so they will have been disappointed too.

Q60 Chair: I am sure that you would not go into a prosecution like that if you were not intending to, and that your agency staff and HMRC staff would have been absolutely committed, but it didn't work, though, did it?

Sir James Bevan: I can only speak for Environment Agency staff, because I lead them, but the point I want to make is that the ones who are tackling waste crime—particularly organised waste crime, which is what we were dealing with here—are going up against some of the worst



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people in the country. Our staff are exposed on a daily basis to threats, intimidation and violence, including actual assault and threats against their families. They have to wear bodycams and stab vests, and often need police protection when they are doing their job. They do not get paid a lot, and they are incredibly committed people who do a really good job. We absolutely have to learn the lessons of Nosedive, and I think we have. We can talk a bit more about that in a moment, but I want to put on record that I think the country owes a debt of gratitude to our staff and other people who are fighting these criminals.

Q61 Chair: Absolutely. I do not think any of us would disagree, but one of the best rewards for them for all of that is that the prosecution is successful.

Sir James Bevan: Of course. We are determined to avoid this happening again. Like Mr Las, I cannot go into any detail on the specifics. I can say that, since Nosedive, we have worked closely with HMRC to identify what went wrong and to identify better ways of working that will reduce the risk of a repetition. We are now effectively running joint investigations through the joint unit for waste crime. I note that the report quotes HMRC officials as saying that they think the joint unit has reduced the risk of repetition, and we agree with that.

Q62 Chair: I suppose it was always going to be better going forward, as we say wearily on this Committee. But in terms of the other tools that you have, you are issuing guidance, warning letters and so on. When you have issued some of those warnings or stepped up some action, do you monitor whether that has a knock-on impact on people breaking the rules?

Sir James Bevan: Yes, we do. We try to be a proportionate, risk-based and outcome-focused regulator, which means that we use different tools to achieve the outcomes that we want. Obviously, at one end of the spectrum, we have advice and guidance—that is always the default.

Chair: Which legitimate people will take on board.

Sir James Bevan: Yes, and most people will respond well to advice and guidance. If that does not work, we have an escalating series of civil sanctions.

Q63 Chair: Can you actually track through when you have issued some new advice or guidance over a period of time?

Sir James Bevan: Yes. We have a system that we are overhauling, so it will be better in a couple of years' time. But we already have a system where we enter every intervention that has been made in relation to a particular offence, so that we can track that—not least because we might need to produce it in court later. We will use an escalating range of responses, up to and including, as we have already discussed, prosecution at the far end if we need it. We will choose the intervention that we think is most likely to achieve the effect that we want, but as I said earlier, for serious criminality that does wide-scale damage deliberately, we will almost always use the prosecutorial tool.



- Q64 **Chair:** Ms Finkelstein, your Department is not quite the epicentre, but you have an awful lot of organised crime under your remit. As I think Sir James said earlier on, a lot of these people are also involved in lots of other crime, such as people smuggling, people trafficking and so on. How do you engage with other Whitehall Departments on this? Do you have a group that tries to match up? If you pick up an issue through the Environment Agency, how do you feed that into the rest of the Whitehall system, and do you get warnings from other bits of Whitehall and other agencies about criminals who could also be involved in waste crime?

Tamara Finkelstein: We can pick that up through that engagement on policy or the overall regulatory system, but in the main, we do it through the joint unit within the agency. It works very effectively with HMRC, the police, the fire services and so on, so we would do this via our engagement through the agency and would happily pick up any issues with other Government Departments, as needed.

- Q65 **Sir Geoffrey Clifton-Brown:** May I ask both the Environment Agency and HMRC whether, given the very low number of prosecutions, the system—the evidential bar—is too difficult? Could you suggest modifications to the system that would enable you to make more successful prosecutions, Sir James?

Sir James Bevan: I would not want to pronounce on the evidential bar. I think sentencing is an important issue. I agree with Ms Hillier that there is a massive deterrent effect in a big sentence. The only sentence that makes a difference to a waste criminal—particularly an organised waste criminal—is jail. Although fines are going up, and we always press for high fines, an organised waste criminal treats them as a business expense. In terms of the amount of money that can be made, a fine is a business expense.

We would not only like to see higher fines being applied—the sentencing guidelines provide some room for that—we would like to see more and longer custodial sentences. We have achieved those. In 2015 we got a seven-and-a-half-year custodial sentence for a man in Leeds involved in widespread fraud in relation to recycling waste. When he failed to pay back some of the proceeds of crime that he had been ordered by the court to repay, we went back and got another nine and half years added to his sentence. We publicise those things. The more of that we can do, the more effective we will be in bearing down on the real criminals.

Richard Las: It is a really interesting question, and Sir James mentioned a point earlier about moving to the top end. When you move to the top end of any crime, you end up with more challenges. The investigations are more complex and difficult. You come across people who are well resourced with deep pockets who can afford good legal teams. At HMRC, I am responsible for all investigations across all our areas, and we are regularly fighting that kind of battle—on a daily basis—but I would not give up on it. It is really important work that we do. We have got really professional teams who conduct those investigations—they are deep experts. It becomes a balance: you have to make a choice about how



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many of those very large cases you can adequately and properly resource in a professional way, compared to some of the others.

I will say something about the evidential balance. A criminal case is seeking beyond reasonable doubt. In a civil case—which we have opportunities to bring—it is on the basis of the balance of probabilities. While they are different, in practical terms for most investigators they are the same. You still have to gather all the evidence, but there are different processes to go through. The successful strategies are when we have a whole-system approach, where prosecution is part of it, but there are lots of other activities about making the system more robust, hardening certain weaknesses and having a range of interventions. It is a balance, but I do not think we can shy away from pursuing the large cases—it is just about numbers in the end.

- Q66 Sir Geoffrey Clifton-Brown:** Given that both of you are hinting that the system is difficult, particularly on the criminal side and meeting beyond reasonable doubt, are either of you making any representations to your sponsoring Ministry—DEFRA in Sir James’s case and the Treasury in Mr Las’s case—to suggest constructive changes to enable more successful prosecutions?

Richard Las: There are a lot of common features across the criminal justice system that apply to many organisations. Over the years, a lot of work has been done on disclosure obligations and how best to manage them. That is an area of managing cases that is very resource intensive. There have been cross-law-enforcement activities on improving the quality of disclosure training and professionalising it so that we have dedicated officers who can do a better a job on it.

Broader than that, it is probably not within our responsibilities. We will talk to agencies about that, but thinking about practical things that we have done, that is one area where there has been an issue and we are trying to make improvements.

- Q67 Sir Geoffrey Clifton-Brown:** I do not want to delay the Committee, because others have lots of questions, but HMRC are reputed to have the most powers across government in terms of the disclosure we have been talking about, so I am a little surprised to hear you say how difficult it is. If it is difficult for you to get disclosure, it must be even more difficult for the Environment Agency and local authorities.

Richard Las: That is disclosure in the sense of dealing with the courts and the evidence and material. There has been an exponential growth in data held on our mobile phones and laptops. When we conduct an investigation, all that material is there to be examined and looked at, and we need to consider not just whether it helps our investigation but whether it can help a defence as well.

- Q68 Chair:** One of the stark things that has struck us when looking at this is the number of prosecutions: about 2.4% of crimes are prosecuted, roughly. The figures are laid out in the summary of the NAO Report in paragraph 17. About three quarters of the prosecutions led to a fine of



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£500 or less. That is not in your hands at that point. Mr Las and Sir James, do you think that is too low?

Sir James Bevan: The courts are obligated by the sentencing guidelines to have regard to the individual's ability to pay.

Q69 **Chair:** That is my point. Do you think that stops it being a deterrent?

Sir James Bevan: The answer must be yes. It is having that effect—let's be frank—but those are the sentencing guidelines. There are ways to individuals that we use—for example, the Proceeds of Crime Act. Criminals hate it when you take their house or their car, so we are using that more frequently now and more successfully, and that also generates revenue for the EA because we get a proportion of the confiscated assets. Unlike most fines that go to the Treasury, a proportion of POCA—Proceeds of Crime Act—assets come back to us, which we put back into fighting waste crime, so that is a double win. The criminals hate it and it resources us to tackle other criminals.

A particular issue worth looking at is fines levied against companies. Companies, particularly big companies, have a much greater ability to pay than an individual does. There is a question about whether we could not see, more reasonably, more eye-watering fines imposed against big waste companies when they do bad things.

Q70 **Chair:** That's the long answer. We appreciate the sentencing guidelines, but what you seem to be hinting at is that big companies should be fined harder. Do you think the courts are fining them hard enough?

Sir James Bevan: What I am saying is that the fines need to be a real deterrent.

Q71 **Chair:** You have to be very careful in your wording, Sir James, because you can't tell the judges what to do. I appreciate that. Of those three quarters of the fines that are £500 or less, does some of that scoop up larger companies that could pay more?

Sir James Bevan: Of course it does, yes.

Q72 **Chair:** But they somehow managed to convince the court that they hadn't got the means to pay.

Sir James Bevan: None of us can second-guess the court. The court applies the guidelines, which is exactly the right thing to do. If you are asking me how to fix the problem, part of the answer is a more powerful deterrent.

Q73 **Sir Geoffrey Clifton-Brown:** Can I come in here? On the level of fines, we know that the fines that people get for polluting rivers are very substantial in some cases. It is difficult for you to comment, as the Chair has hinted at, but it seems to me that the level of £500, considering the work that you have to put in to get the prosecutions, is inadequate.

Chair: And the local authorities—



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Sir James Bevan: In terms of a deterrent, I think those fines are inadequate. We do not see any of that money—it goes to the Treasury—but it can sometimes, as you rightly say, Sir Geoffrey, cost us more money to take the individual to court.

Q74 **Chair:** That is pretty much always the case with a fine of £500 or less. Mr Las, what about HMRC's point of view?

Richard Las: Across our whole portfolio, we do not have a track record on that. In the last pre-pandemic year we secured just over 600 prosecutions for various tax offences. The total custodial sentences across all of those was about 620—bearing in mind the fact that some of those people will receive a non-custodial sentence. We do have a wide range of sentences. We have people who get seven or eight more years as a custodial sentence for some offences.

Q75 **Chair:** But there is the fact that three-quarters of all prosecutions for waste crime led to a fine of £500 or less. Does that affect the decisions you make about whether it is worth prosecuting, given the time and resources involved from HMRC and other agencies?

Richard Las: I would hope—expect is too strong a word. We have a criminal investigation currently, and let us hope we have another couple. If we get them to a conclusion, I would not be looking at those sorts of outcomes. I would be expecting us to get custodial sentences for the individuals involved.

Q76 **Chair:** You seem to be hinting that you will rigorously pursue prosecution when you think you are going to get a custodial sentence, because that is worth your time.

Richard Las: Sometimes it is definitely worth prosecuting someone for them to have a criminal record. I accept that. Equally, there is a judgment to be made. If we have alternative mechanisms where we can get the tax back—penalties, interest and so on—we have to look at that balance. It is on a case-by-case basis.

Chair: There is a slight difference because you are trying to get the tax back; Sir James and others are trying to stop the crime happening in future.

Q77 **Shaun Bailey:** Going back to the tax regime, the one thing I noted from the NAO Report was that landfill tax has been set higher than inflation. More broadly, is there not a concern that the regime itself is encouraging people to try to either avoid tax or to commit some of these waste crimes? What conversations are being had in HMRC and with Treasury colleagues more broadly to try to get them level? Clearly, there is a need for that levy—that tax—to be there, but obviously compliance is a key part.

Richard Las: We are going back quite a long time, and the approach has changed. There was a period when there was, in essence, an accelerator, with the rates going above the rate of inflation. That was for the reasons we have already discussed in terms of trying to change behaviour. It is



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about making alternative methods of disposal more competitive, because if the landfill tax rate is not high enough, no one would go to another mechanism because it would still be cheaper. That was broadly speaking the rationale. In the mid-2010s—about 2015 or 2016—we started to increase landfill tax just by inflation. That was at the same time as when we looked at the scope and brought in unauthorised waste sites. Going forward, there is the current review, and I think it is the right time to look at the whole balance and whether it is achieving its objectives, how the tax fits in with those objectives and how it impacts on businesses.

Q78 Shaun Bailey: That dovetails with the inflationary pressures, given the situation we are in at the moment. Has HMRC done any sort of assessment of the impact of rising inflation on compliance rates more broadly? I suppose the focus of my question is not necessarily on the bad actors that we have talked about, but on people who are actually sticking to the rules, because those people, companies and organisations will obviously be impacted. There may be a risk to compliance rates. How are you mitigating that? How do you ensure that those people who play by the rules can continue to do so?

Richard Las: It is a little hypothetical in some respects, because it has just started. We have been in this position before where the economy has worsened, going back quite a few years, and it does make things more difficult. It does mean that sometimes tax is the last thing people want to pay because they have other things to do first, so it can cause problems with compliance—absolutely.

Q79 Shaun Bailey: If you draw a parallel with, for example, the personal direct taxation space, mitigations have been put in place to ensure compliance is met, such as by extending payment deadlines and measures on debt. Surely if compliance is such an important part—we know it is; enforcement is one half of the piece, but compliance is the other—and given where we are, there will have to be conversations within HMRC about ensuring that the pressures that organisations are under now don't lead to an uptick in non-compliance purely because of where they are found.

Richard Las: Absolutely. We already have a very active debt management process, which will engage with taxpayers when they are struggling to pay their liabilities. People are able to negotiate to schedule payments over a period of time. Those things are in place now. I would absolutely agree with you; as things get more difficult, I am sure they will become more important.

Q80 Shaun Bailey: Will you be doing some work on this? Will it be in the scope of HMRC to do some work around what that may look like and the impact?

Richard Las: I have no doubt we will. It is not my area of HMRC, but I would be very surprised if not.

Q81 Chair: One of the other big challenges is waste being exported illegally. Between 200 and 450 containers of waste are misdescribed, and you



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investigate a small percentage. Presumably you are doing that on an intelligence-led basis—that will be your argument. Do you think you are catching it all? How are you trying to stop it happening?

Sir James Bevan: There is a lot of waste being exported. We estimate—it is an estimate, because the way the system works means we do not get all the details ourselves—about 14 million tonnes of waste a year. About half of that is going to developing countries. That is mostly scrap metal and plastics. The rest is going to Europe. That is mostly what is called refuse-derived fuel, which is combustible waste—wood, plastics and so on.

As you know, you can only lawfully export waste for recycling or recovery—using it for some useful purpose like burning it to create heat. You cannot lawfully, except under very tight conditions, export it for disposal—landfill or dumping. But we know that a lot of waste is being exported for those illegal purposes, because there is a lot of money to be made from it.

It is one of our top priorities. We are active in trying to stop it. As you said, we intercept hundreds of containers every year that contain waste that would be unlawful if we allowed it to be exported and we stop it. That is mostly as the result of intelligence-led operations, although sometimes it is just literally looking around a port, opening up containers and seeing what is in them.

Last year, we think we prevented about 18,000 tonnes of waste from being illegally exported, by stopping the containers at port and by various upstream interventions.

We prosecute. I mentioned Biffa. We do other prosecutions in relation to waste export. We are enhancing collaboration with other agencies, including HMRC. We have a new MOU between us that we signed last year to do that. Then, obviously, there is the issue of adapting some laws to reduce or block the opportunities in future.

It is a bit like the Donald Rumsfeld known unknowns; we know some of what we know, we know some of what we don't know and we don't know some of what we don't know about waste exports, but we will know more as a result of the innovations that we are talking about today and we will keep going—

Q82 **Chair:** Presumably this is an international thing. There will be a receiving country that will know that it has come from the UK and will provide us with intelligence back.

Sir James Bevan: Yes, we do work with other countries. We have a strong interest in that because in certain cases the Environment Agency can be liable for repatriating illegally exported waste to a third country, so we will often hear about it that way for the first time—from the receiving country's authority. We are developing collaboration with those third parties as well.

Q83 **Chair:** Has there been any challenge as a result of leaving the European



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Union that makes this more difficult or changes the way you have to operate?

Sir James Bevan: It has changed the context. I don't think it has made it inherently more difficult.

Tamara Finkelstein: Is it worth me talking about some of the things we are putting in place that will help? We talked about the carriers, brokers and dealers reform—raising the level of people involved in this helps. Obviously, the digital waste tracking will make quite a big difference. We are reforming the packaging—that is the extended producer responsibility work. That means packaging producers holding and providing a lot more information, which will allow us to see the chain. The important bit will be that in order to get the packaging waste export recycling note that they need, there will now be a requirement to know more and provide more evidence about where you are sending it, which was not true before. We are ratcheting up through these different reforms.

Q84 **Chair:** When will all this kick in? You have all these things you've just mentioned. We are looking at them all, and they all have different timescales. When will we actually see a step change?

Tamara Finkelstein: There are various timescales. We are talking about 2024 before all that is in place.

Chair: So there is still some time to go.

Tamara Finkelstein: Yes. We are continuing to ratchet that up, and are looking at different ways to improve it and improve the data.

Q85 **Chair:** Do you have one overarching, senior, responsible owner for this project? There are all different elements to it—the carrier licensing, the digital tracking with the IT provider, and so on. Have you got someone overlooking the whole thing?

Tamara Finkelstein: We have a broad waste reform programme that has different elements in it, as a portfolio of programmes.

Chair: Do you have a single responsible owner for that?

Tamara Finkelstein: Yes, we do.

Q86 **Chair:** Fine. Well, I say "fine"—we will see when we have them in front of us, which may be a little while. There is still a little way to go until 2024. Finally, you have the joint unit for waste crime, which was set up just over two years ago, and then covid happened. This is your chance, really, to tell me what you think you need to do this better. We have heard from Ms Finkelstein about some of the issues and things that are being changed. Do you have enough money and resource? Is there enough drive from various bits of Whitehall and the system to do it? Mr Las, is there anything more that HMRC needs to do better on tackling waste crime? This is your chance to bid.

Richard Las: On the joint unit for waste crime and how effective that has been, our view is that it has moved things forward tremendously. We have



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heard about some of the joint work that goes on and the joint visits to look at misdescription, in particular, which is one of the problem areas. I think that is really positive. From our perspective, we engage with the joint unit through a series of single points of contact in HMRC that act as a hub, so that they can access various HMRC capabilities and channel intelligence. Until now, we haven't had anyone in the unit, but we will be putting someone in it permanently in the coming year to further embed that.

More broadly, if you are looking at me bidding for more resource, the answer would probably be that we had the investment from the 2018 spending round in specific teams. I have talked a little bit about the results, which have been really encouraging—and that is in the context of two years of covid, where they haven't operated as well as we might have wanted them to. I want to see how well they bed down, because I think they can do more. I think there is still much more to be gained from the joint unit. At this stage, I am broadly happy that we can pivot to risks when we need to.

Q87 Chair: Do you think the joint unit needs funding in its own right, because, of course, it is not funded directly?

Richard Las: That is probably not for me to comment on. It is for the other agencies. We access it in a slightly different way.

Chair: Ms Finkelstein?

Tamara Finkelstein: There is always an issue about money and resources, but there are elements to being able to do this work and strengthen it. We have talked about the collaboration and the way in which the joint unit works—you get that kind of resource from across different agencies working on it. Clearly, there is the money, but there are also the powers. As I have said, we have been increasing the powers. We talked about the data right at the start—about improving it. That is a really key tool. We also introduced charging powers in the Environment Act. There is a suite of things that we are putting in place, and it is about using all those tools.

Q88 Chair: The data is constantly an issue. It is expensive for local authorities to track even in their own area. That is another challenge. Sir James, what do you need? What would you have on your wish list?

Sir James Bevan: On powers, we have sought and been given by DEFRA and the Government the additional powers that we need, and we are using them. There may be a few more coming down the pike, which we have talked about. I am comfortable with that. Information is now in a much better place as a result of the data sharing, and the access that we have to the police and other sources. I am comfortable with that, although not complacent. I think the partnership thing is a real win. That is a big advance over the past few years. Having a coalition of people and agencies who are fighting waste crime together gives me confidence that we will be much more successful in that fight.



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I agree with the permanent secretary on resources—we all know that the public purse is under pressure. That is why we are working with DEFRA colleagues on other ways of financing some of our work, such as charges on businesses that we regulate, and talking to the waste industry itself about contributing, which it might, because waste crime is undermining the legitimate industry. That might be another source of revenue. That is on us to pursue.

The only other thing that I would like, and which you are helping us with, Chair, is greater public awareness of waste crime as a thing and the damage that it does to communities. Sunshine is the best disinfectant: the more that people know about it, the more that people tell us about it and the more that we can tackle it together.

Chair: I think the idea that the owner of waste has to pay for it will surprise quite a lot of people.

Q89 **Sir Geoffrey Clifton-Brown:** Sir James, may I come back to this business of exporting waste illegally? It is totally unacceptable for this advanced country to be exporting waste, often to less developed countries, illegally—the types of waste you were describing. That begs two questions: presumably from your intelligence, you know which those countries are—which are more likely than other countries—and, if so, is the UK Government make representations to them to be more stringent in looking out for this type of illegal trade?

Sir James Bevan: We have a pretty shrewd idea of where most illegal waste is going—most of it to non-OECD countries, which are less able to process it and more damaged by getting it. We have no evidence that that is happening with the deliberate connivance of the authorities in those countries—

Sir Geoffrey Clifton-Brown: No, I wasn't suggesting that, but they should be more vigilant in—

Sir James Bevan: But closing the loop will require us—I think this is a new area that we will need to look at—to work more over the next few years than we have in the past with the recipient countries of illegal waste exports.

Q90 **Sir Geoffrey Clifton-Brown:** Maybe, Ms Finkelstein, some of our overseas aid could go towards helping them to detect that trade.

Tamara Finkelstein: We will need to look at this, because we are looking to ban the export of plastic waste to non-OECD countries—that is a Government commitment. We will need to look the range of ways in which we achieve that.

Q91 **Sir Geoffrey Clifton-Brown:** My second question on that trade is, how closely are you co-operating with our ports? They must have access to paperwork. Okay, I suspect that often the paperwork is forged, but they must be quite used to dealing with forged paperwork. Do your HMRC customers have an idea about some of this stuff?



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Sir James Bevan: From our perspective, very closely—we have an excellent relationship with Felixstowe and all the other major container ports. At least on the ground, that relationship is in place and working well.

Richard Las: I will add a point to that. You are right, landfill tax itself is not due at export, but from an HMRC perspective, it is a customs offence to export prohibited and restricted goods—it falls under the Customs and Excise Management Act 1979—so, we are interested.

Recently, we had a joint project with the Environment Agency and Border Force at Dover about illegal exports, using real-time data to see what we could find. I do not have the results of that to hand, but it is something that we are looking at jointly to see whether we can improve targeting.

Q92 **Sir Geoffrey Clifton-Brown:** Is there any chance that we might get those results before we have to produce our report? How long do you think it will take? Do you have the results in the system?

Richard Las: I am sure that we would have the results; I just do not have them here.

Chair: Let us have an offline discussion about it and whether it is appropriate to put that in the public domain.

I thank our witnesses very much for their time. The transcript of this sitting will be on our website uncorrected in the next couple of days. We will produce a report on this issue in due course. As I indicated at the beginning, it is an area of interest to the Committee. Once again, as well as paying tribute to the National Audit Office for its investigation, I put on the record our thanks to David Davis MP and Kevan Jones MP for their dogged determination in pursuing this issue, leading to the investigation in the first place. Thank you very much.