



Industry and Regulators Committee

Corrected oral evidence: The work of Ofwat

Tuesday 28 June 2022

10.40 am

Watch the meeting

Members present: Lord Hollick (The Chair); Lord Agnew of Oulton; Lord Blackwell; Baroness Bowles of Berkhamsted; Lord Burns; Lord Cromwell; Baroness Donaghy; Lord Eatwell; Baroness McGregor-Smith; Lord Reay; Lord Sharkey; Baroness Taylor of Bolton.

Evidence Session No. 3

Heard in Public

Questions 16 - 31

Witnesses

I: Mark Lloyd, Chief Executive Officer, The Rivers Trust; Guy Linley-Adams, Solicitor, Salmon & Trout Conservation.

Examination of witnesses

Mark Lloyd and Guy Linley-Adams.

Q16 The Chair: Welcome to the second meeting of the Industry and Regulators Committee looking into Ofwat. I am delighted to welcome two witnesses today. Mark Lloyd, who is here with us in person, is the chief executive of the Rivers Trust. Joining us online is Guy Linley-Adams, who is a solicitor who works with Salmon & Trout Conservation and has advised many environmental bodies in his professional capacity over the last few years. Welcome to you both.

I will start with a scoping question. Are Ofwat's statutory objectives clear and appropriate, and how well does Ofwat manage trade-offs between its various and sometimes competing objectives?

Mark Lloyd: I would like to answer the question by making just a few general comments, which I hope might frame my subsequent answers.

There was consideration several years ago of Ofwat's statutory duties. There was a call from many of us for a sustainability duty to be put into its duties, but at the last minute the word "resilience" was put in instead. I think that has been misinterpreted by many to mean financial resilience for companies rather than environmental resilience.

Ofwat is, of course, an economic regulator and its performance really does need to be looked at in conjunction with the Environment Agency, which is the environmental regulator. There is a complicated relationship between these two regulators and with the Government's various other policies affecting the environment and the industry itself. It is a pretty complex topic.

Our sense generally is that there has been too much emphasis by Ofwat on keeping bills low for too many years and not enough on investment in environmental protection. There has also, I think, been too much emphasis on delivery of carbon-intensive and engineered solutions on water company assets, such as improving treatment works on small rural works, where you could spend an equivalent amount of money or much less on catchment solutions elsewhere and achieve a lot more for society than with the engineered solution.

We would like to see a lot more investment in strategic projects that would deliver far more for environment and society, such as catchment-based solutions. We do not think that water companies should invest in these on their own. They need to be enabled to invest and operate alongside many others in the broader environmental sector.

The Chair: Could you just explain that? Who are the others?

Mark Lloyd: There are lots of other sources of funding that spend money on doing things in catchments. People like the internal drainage boards do work on rivers. Flood defence funding is spent on rivers and there is biodiversity net gain. There is ELM, of course, the huge subsidy scheme

for farmers, which is just being changed. If you converged all those sources of funding around very clear objectives, you could have water companies being one funder of many to achieve a common objective.

The Chair: How well are they connected and networked?

Mark Lloyd: They are very poorly connected at the moment. There is a huge number of plans in every catchment, all of which are different in space and time and, indeed, often have conflicting objectives: you have some people trying to dredge rivers to speed the water up and other people trying to slow the water down. We are spending public money to do opposing objectives, and there is a lack of coherence to it that I think is really poor.

Q17 **The Chair:** Is Ofwat the lead regulator? Is it responsible for determining which of the demands and requirements of these various bodies is actually pursued?

Mark Lloyd: No. I think that Ofwat has a specific role, which is as an economic regulator, but it obviously works in tandem with the Environment Agency, which is the environmental regulator. You would hope that that is a creative tension, but it feels like the water companies tend to operate rather in isolation and there is a blinkered approach to what they should do—that they should just improve their assets and not think about how they could co-operate with others to get a lot more—

The Chair: Do water companies complain about that?

Mark Lloyd: Yes.

The Chair: We will hear from them later, but it does sound like a muddle. I am sorry, I interrupted you.

Mark Lloyd: That is fine. I had pretty much covered, with your subsequent questions, what I was saying. One final point is that failures in other areas of government policy, such as regulation of agricultural pollution or putting sustainability requirements on housing developers, can mean that the water environment gets worse, despite the fact that the water company spends money on doing good things to improve its sewage discharges or effluent, for instance. That money can be wasted in light of other areas of government policy failing.

The Chair: Thank you. Guy, would you like to comment on that?

Guy Linley-Adams: Yes. If I could bring something to the attention of the committee straightaway, today the Office for Environmental Protection has announced that it will start an investigation into the Secretary of State, Ofwat and the Environment Agency to look at the way they have applied environmental law and whether they have met their environmental law duties in respect of sewage discharges to English rivers, particularly from CSOs. This has come off the back of a very detailed formal complaint which Salmon & Trout Conservation submitted to what was then the interim OEP last year.

Ofwat's statutory functions are not clear enough. During the passage of the Water Act 2014, as Mark mentioned, a lot of NGOs fought very hard to have a strong duty towards the environment and towards sustainable development placed upon Ofwat, but what we got a very unhappy muddle. If you read the relevant sections that are now amended in the Water Industry Act 1991, it is incredibly difficult to decide exactly what Ofwat is there to do. In practice, over the years, it has fought very hard to keep water bill-paying customers' bills down, and that has been at the expense of the environment. It has squashed environmental spending that should have occurred over the last two to two and a half decades.

However, it would not be right to portray this as a balance between the environment on one hand and bill-paying customers on the other. The balance that should have been struck is between the environment and bill-paying customers and the shareholders of the water companies. At privatisation, in your House, the Earl of Caithness, who was then the Minister of State piloting water privatisation, made the point very clearly that privatisation of water companies would release private sector funding and private sector investment into the water companies. Ofwat as the financial regulator has the duty to make sure that happens, and it simply has not done it. It has allowed the thing to become a trade-off between bills going up or spending on the environment.

Of course, the Secretary of State has a role giving guidance and direction to Ofwat and, very unfortunately, each time there has been a periodic review, the process under the Water Industry Act, which Ofwat goes through, it has fallen just before a general election. PR04 was just before the 2005 election, PR09 was just before the 2010 general election, and so on. Incumbent Governments do not like to be responsible for water bills going up. As a result, Ofwat's decisions have always erred on the side of reducing the investment required from water companies, and that has been at the expense of the environment.

All this is now unravelling, because we have a terrible state in the rivers where there are far too many discharges of sewage going into English rivers, and that is what we hope the OEP will be looking at.

The Chair: That rather suggests that BEIS has compromised the independence of Ofwat.

Guy Linley-Adams: I think that Ofwat has felt under political pressure to keep bills down at all costs, and it has prioritised that part of its functions over its environmental functions and sustainable development functions, albeit that those functions are very minor; Ofwat will talk about the consumer objective as its main function. That needs to be put in proper context. It does need a political steer from the Secretary of State and from the Government of the day to say, "This is enough". We have required water companies to sweat their sewerage infrastructure assets to the absolute maximum, and as a result they are leaking, they are spilling sewage far too regularly.

Lord Eatwell: I would like to follow up on your comment about releasing

investment. You then said, "investment in the environment". If we look at the overall pattern of investment pre and post-privatisation, is there any discernible trend in overall investment, and is there any discernible trend in environmental investment?

Guy Linley-Adams: I do not have the figures that you require in detail, but I can say that the point made at privatisation was that the state-owned water authorities did not have the money to invest because they were always competing with the local school or the local hospital for their share of the public purse. Since privatisation, an awful lot of money has been paid out by water companies by way of dividends. Professor Hall from the University of Greenwich calculated it at about £57 billion since 1991. If that money were to be reinvested into the water industry, we would be in a lot better position than we are now with regard to the pollution of rivers. There is a question as to whether Ofwat has kept a close financial eye on the balance of investment moneys and where that money has come from. Has it kept a close enough eye on the water companies? The answer to that, I believe, is definitely no, it has not.

Lord Burns: I think it is undoubtedly the case that the amount of investment that has taken place post-privatisation has been much higher capital expenditure.

Lord Sharkey: In fact, it is about the same as the dividends paid out.

The Chair: Sorry, Mark, you wanted to comment.

Mark Lloyd: Yes, I agree with that, but, as I understand it, and I am no economist, the companies have also accumulated very significant debts. I cannot remember what those are, but I think it is in the order of £50 billion, £60 billion, even £70 billion collectively.

Q18 **The Chair:** Are there any clear performance indicators that you would recommend be used to see whether the regulator is doing a good job?

Mark Lloyd: It is a very complicated industry to regulate. There are a lot of metrics that they have to use, including financial ones, many of which, as I said, I do not fully understand. Ultimately, for me, it is about how clean and healthy our rivers are, but at the moment a lot of the measure of the companies' performance is just on how well they are managing their assets. There are lots of other measures about how efficient they are at providing supply to customers, which has been prioritised for obvious reasons, and customer complaints and things. It is quite difficult to pin down clear metrics for how well Ofwat is doing. I think it would take an economist to come up with some measures for how well it is doing as an economic regulator, and that is really not my field.

The Chair: Let us go to a lawyer and see what he thinks should be used as the metrics.

Guy Linley-Adams: In terms of the metrics that you use looking at pollution of rivers, a lot of those are already available and they are recorded and monitored by the Environment Agency, obviously not as

much as we would like. The Environment Agency's budgets have been slashed to the bone over the years, so its level of inspection and monitoring is much lower than it used to be. However, you have those metrics.

On the financial side of things, like Mark I am no expert on what measures you might seek to apply, but when you have people like Professor Dieter Helm, professor of economics at Oxford, talking about a complete regulatory failure when he describes what Ofwat has been up to with the water companies, there must be some very serious questions to answer here. I think that Ofwat needs a much stronger political steer, and I believe that we will get on to the strategic policy statement in later questions. Ultimately, it falls to the Government of the day, and I make no political points here; Governments of both shades have not been strong enough with Ofwat, so Ofwat has not been strong enough with the water companies over many years.

- Q19 **Lord Burns:** I was chairman of Welsh Water from 2000 to 2010—it does not have shareholders, so there is no issue from that point of view—so I had quite a lot of experience of going through the processes that Ofwat went through. My impression and my memory—it is a long time ago now, though—is that the basic mechanism was to ask, “What do we want to happen to bills?”

Given the rate of return on capital that it determined was the case, this determined for the water companies what capital investment they were allowed to have. Obviously, the companies bid for things that they wanted to invest in, but the impression I always had was that it was basically an envelope that was dictated by what it wanted to happen to the overall level of bills. As you say, the result is that, if anything, the water companies are not allowed to do as much as one might want them to do. That was certainly the case when I was involved.

Then you combine that with a separate issue, which is the hopeless condition of our whole sewerage system, which has been in place for so long and is completely unsuitable for the longer term and needs massive investment. There does not seem to be any willingness to try to get help with this particular issue and to decide what the longer-term solution is to deal with a system that cannot cope with the kind of weathers that we are experiencing. How far do you share that view?

Mark Lloyd: If you look at the sewerage system as something that we expect just the water industry to solve, it looks very expensive. I saw Philip Dunne's excellent evidence. He quoted figures between £110 billion and £650 billion, and I know the study that generated those. It looks very myopically, I guess, at just the issue of separating fresh water from sewage, which does need to be done, but if you take a much wider view and look at the sources of that fresh water and reducing the amount of fresh water getting into the sewers in the first place, you could achieve a lot of other objectives by carrying out the work necessary to reduce that influx of perfectly clean water from urban areas.

By making cities much more absorbent of water you can create lovely habitats, wetlands and ponds. That achieves a lot of other objectives than just sorting out the sewers. If you just sort out the sewers, you pour a lot of concrete using engineering and you use a lot of carbon, but if you tackle those other sources, you can help with nature recovery networks, you can create lovely amenity areas in cities, you can create a lot of green jobs, even levelling up. It contributes to so many other things, so you can bring other funding to bear and achieve a lot of other objectives, and the bill for the water companies becomes a lot less. It needs to be a whole-society approach, and we need to do those things at very large scale. So we need to commit to it and set a statutory objective that cuts across all sectors.

Lord Burns: How far should this be the responsibility of Ofwat?

Mark Lloyd: Ofwat has a role to play to enable companies to participate in that collaborative solution. We will talk about the SPS in a moment, but there is a lot of talk in that about taking more collaborative approaches. The regulatory approach is trying to get a grip on something that it does not really have a grip on, but it is still stuck in the past. Inevitably, an inquiry like this will look to the past, but I think that we need to look to a brighter future where we are trying to focus on building solutions rather than working out what has gone wrong for the last 30 years. I think there are some exciting opportunities to do that.

Lord Burns: We are trying to get a grip on this whole notion of duties and responsibilities and what powers they have. We are looking particularly at Ofwat, so we would like some help on that.

Guy Linley-Adams: In relation to the duties, there are duties on the water companies and they essentially boil down to providing clean drinking water and then building sewers and dealing effectually with the contents of those sewers. That has been ruled on by the High Court. Dealing effectually with sewage means treating it, rendering it reasonably harmless and inoffensive. Those duties on the water companies are enforceable by Ofwat under Section 18 of the Water Industry Act, so Ofwat has the statutory function to make sure that the water companies do their basic requirements: provide water, and take the sewage away and treat it properly. It has failed to do that, partly because of this balancing act that it always has to do in relation to bill payers.

I will quickly comment on something that Mark just said in relation to nature-based solutions, not infrastructure—not concrete and steel for sewage works. That is fine if you can separate rainwater from sewage and put that into nature-based solutions rather than into the sewers, that is great, but there still will remain a need for sewage, the foul water, to be properly treated. It is very difficult to see how you can apply a nature-based solution to that. Arguably, the nature-based solution is being applied right now; we are allowing the rivers to deal with it, and that is not acceptable.

Lord Burns: Is it not the case that the flow of foul water is relatively

stable by comparison with the flow of stormwater?

Guy Linley-Adams: Absolutely.

Lord Burns: Therefore, you can actually build works that will deal with that flow a good deal more easily than you can produce wastewater treatment works that can deal with these very exceptional events.

Guy Linley-Adams: Absolutely. If you can separate rainwater and make sure that it does not enter the sewers, your actual flow of foul water is entirely predictable. If we had a modern system, that we started from scratch, we would make jolly sure that they were separated. The water company's role would be clear and they would know exactly what to expect through the pipe at any particular hour of any particular day.

Mark Lloyd: Yes. I am absolutely not advocating for a complete rejection of all engineering and concrete, but I have been to see a brand new stormwater tank that was built by United Utilities, and it is absolutely vast. It is about the size of two football pitches and it fills up in a matter of minutes. Once that is full, everything goes out to the river.

There is a real problem in that companies are expected to receive very large quantities of water from the rest of society, and we have put all our engineering now into speeding up most of it as much as possible to send it down the sewers. We need to reverse that process and change it. Certainly the sewage that does go to treatment needs to be treated well, but the logistical challenge is because of the vast quantities of it.

Lord Burns: I had the experience of going to see these tanks, which are huge, as you say; masses of concrete is used. It always strikes me that it is not a long-term solution to the problem.

Mark Lloyd: No. It is a sticking plaster, and we need to be tough on the causes of sewage.

Q20 **Lord Reay:** I should disclose that I own a small stretch of the River Lune in north Lancashire, where sadly the salmon and trout numbers have been in decline for a number of years.

On to the question at hand, what is your view on the Government's draft storm overflow discharge reduction plan? Are the proposals sufficient to significantly reduce storm overflows?

Mark Lloyd: I think it offers too little too late. It puts an objective of 2050—I may not be alive by then—and it is going too slowly. Many of the companies have committed to achieving more than that by an earlier date. It feels to me that they are kicking the can down the road for successive Administrations. Again, it is very focused on just the water industry and fails to grasp the holistic approach that I have been talking about. It needs to set a statutory objective to bind in all other sectors—local authorities, housing developers, highways agencies. Everyone is part of the problem and everyone needs to be part of the solution.

It is unambitious, and we were very disappointed to see it, having been on the stormwater overflows task force. We were not consulted about the plan that came out and we were very disappointed by that outcome.

Guy Linley-Adams: I would echo what Mark said. I am extremely disappointed. I would just point out that the plan comes off the back of the various provisions in last year's Environment Act, which that were largely put in there as concessions as a result of Philip Dunne MP's Private Member's Bill and then the Duke of Wellington's Private Member's Bill in your House.

I have to congratulate the Government of the day on a wonderful smoke and mirrors exercise, because this plan appears to reduce the legal responsibilities on water companies and kick them into the future. The Section 94(1)(b) duty of the 1991 Act is still on the statute book and it still exists. The plan seems to attempt to undermine that duty and allow water companies decades more to deal with this problem.

We have had 30 years since privatisation, and is about time these problems were dealt with. If I had a pound for every plan that Ofwat, the Environment Agency or water companies drew up that were never actually seen through, I would be a very rich man. So we have to be a bit sceptical of this plan. It is a nice announcement for government to be able to make—"We've got a plan"—but it does not alter the basic legal position.

Q21 **Lord Reay:** Does the plan lean too heavily on specifying outputs rather than outcomes, and might this affect whether nature-based solutions could be used?

Guy Linley-Adams: With the caveat that I mentioned earlier about nature-based solutions. They are appropriate in certain locations, but not in others. I am not entirely sure I know the difference between an outcome and an output, but the outputs from Ofwat have been the kind of outcomes that we would like to see. This feels a bit like jargon to me.

Mark Lloyd: For me, what the water company is spending on its own assets might be an output, and it might be looking at that level of investment. The outcome, for me, is whether our rivers are getting healthier or not, and that is a combination of many factors—sewage being a very large one, agriculture and land management being a slightly larger one. There has been a lot of focus on sewage, I think sometimes at the expense of agricultural pollution.

The outcome, for me, is healthy, vibrant rivers that people can enjoy and swim in without worrying that they will encounter something horrible floating down the river. Again, we need to take a collective approach to that but at the same time regulate firmly the water companies' contribution to that collective effort. There needs to be much more of a guiding mind in order to achieve outcomes rather than just a few limited outputs, which may well be overridden by other people's failure to deliver outputs.

Lord Reay: Sewage and agricultural run-off no doubt play a role in the declining numbers of salmon and trout in our rivers. What other important factors that are contributing? I have heard of netting in the North Sea, predatory birds, otters. What would you attribute this to?

Mark Lloyd: Sea trout are very unfortunate, but salmon have an even worse problem because their range is so huge. Some of them go to Greenland, some of them go to Iceland, but then they come back. At all stages of their life they face threats. They could be netted by Russian trawlers when their smolt is going out through the ocean. There are problems with climate change, which are affecting where their feeding grounds are. There are lots of barriers to migration. There are low flows, which make it harder for them to navigate those barriers to migration and make them more vulnerable to pollution. Their spawning beds are full of soil from farmers' fields. They are poisoned by various different pollutants that are getting into our rivers and by cocktails of different chemicals, which can affect their transition between fresh and saltwater. They are bombarded by us. Ron Campbell, who is a brilliant fisheries scientist, said that fisheries management is not about managing fish but about managing people, and he is dead right. They just suffer so badly because they have so many opportunities to be harmed by us.

Problems in the river are the easiest ones to solve and, I think, the ones that we should focus on most, but there are lots of things going on that we cannot even begin to understand, particularly in the marine environment.

Guy Linley-Adams: I agree with Mark. I will just add that we can deal with only a certain number of the threats to wild salmon and sea trout, so it is those that we have some power over that we need to focus on. Those threats are water company discharges, and certainly agricultural pollution—unfortunately, things seem to be drifting in the wrong direction there too. So we need to focus on what we can do and, fingers crossed, on the threats of climate change that apparently we are failing to deal with.

The Chair: That sounds like a good output.

Q22 **Lord Sharkey:** I would like to focus on the tension between long-term investment and customers' bills and, in particular, whether the Government's strategic policy statement, its steer, actually provides enough prioritisation, or even any prioritisation, for Ofwat to be able to make significant and meaningful trade-offs in this area.

Mark Lloyd: We welcomed elements of the latest strategic policy statement. It put environmental protection at the top of the list of priorities for the first time, but, as Guy and I have said before, that was after decades of suppressing bill increases at the expense of the environment. There was also a bit too much language about Ofwat enabling and encouraging things to happen rather than requiring them to happen, so it looked a bit gentle.

There was a welcome shift towards a more catchment-based, collaborative approach, which I have talked about earlier, using nature-based solutions, but the reality is that the regulatory approach of both the Environment Agency and Ofwat has not shifted to match the rhetoric in the plan. Those are very good words, but the reality is that they are carrying on with the regulatory approach that they have always had. Someone I was talking to likened it to the captain of a ship standing on the bridge issuing orders for the ship to make a sharp turn but gripping hold of the wheel at the same time. That rather feels like the approach of the regulators. Their regulatory systems have not caught up. They are quite hard to change, because those organisations have an inherent inertia, I suppose, and a resistance to change.

Lord Sharkey: Is the strategic steer meaningfully directive in any sense?

Mark Lloyd: I think it is taken quite seriously. The industry and Ofwat pore over it, which is why language is so important. Saying “encourage” is not nearly as strong as saying “require”. If Ofwat is told that it has to require this of companies and that does not happen, it can be held more easily to account. If you say “encourage”, it can say, “We encouraged them, but they did not do it”. Stronger language would be helpful.

Guy Linley-Adams: Absolutely. Together with the Angling Trust, Salmon & Trout Conservation issued its own shadow SPS and it did exactly that; it had much stronger language. We need the Secretary of State to make it absolutely clear to Ofwat that it is not just about encouraging or cajoling the water companies to do what they are required to do by law; it is about actually requiring them to do it—directing Ofwat to use its enforcement powers.

Unfortunately, the SPS is still ambiguous. It says that you need to improve all the things to do with the environment, but you also need to keep customer bills down and to allow water companies to be financially secure and pay dividends. There is an inherent contradiction in the SPS, and it needs to be much more focused on the environment because we have some catching up to do. We have had 20-odd years of suppression of bills at the expense of the environment, just as Mark said, and that needs a correction.

Ofwat, I think, is taking steps to improve its understanding of the environment, but so often in the past it has said, “That’s the Environment Agency’s remit. It’s nothing to do with us”. That needs to change. Ofwat needs to appreciate and be given the very clear steer that the environment is definitely its responsibility.

Q23 **Lord Sharkey:** If the SPS were to become more directive, or use plainer or more forceful language, to what extent, if any, would that compromise the independence of Ofwat, and would that matter?

Guy Linley-Adams: Whether or not it compromises the independence is, I suppose, a question of outcomes. What is the outcome we want? We want a better water environment and cleaner rivers. If Ofwat needs to be

told firmly what to do and that compromises its independence a little bit, then so be it.

Mark Lloyd: I agree with that. I do not think that many of our regulators are independent. I think they are arms of government. In particular, the Environment Agency has lost a lot of its independence, I feel, and it is really just part of Defra now. To some extent, there are pluses to that; it is democratically accountable.

Lord Sharkey: Would you in general accept that increasing investment to improve the water environment would almost inevitably increase the cost of living pressures?

Mark Lloyd: Yes and no. Guy has made some good points about raising capital, which again I do not fully understand. Ultimately, people waste vast amounts of water, and at the moment they pay a flat rate for their water so they do not care. In fact, we have one of the highest uses per capita of water anywhere in Europe. Many of the problems that we talked about in our rivers are derived from low flows—there is less dilution, there are less wetted areas, and less habitat for the fish, and the temperatures go up. So it is really important that we keep as much water in the rivers as possible. If people were paying for what they actually use and that was expensive, they might use a lot less.

There is a real case for a social tariff, protecting those who are most vulnerable in society. Doing that based just on low users is difficult, because there might be a single parent with lots of children and inevitably they have to do quite a lot of washing. Some kind of income-based rising block tariff or something would make it fairer. Obviously we need to protect the poorest in society, but the vast majority of people have a pretty good deal in terms of what they pay for, and they could pay substantially more. I realise that there are pressures on lots of household bills at the moment, but water is a fundamental asset and we really need to look after it. We get the environment that we pay for.

Guy Linley-Adams: I agree with Mark. It cannot be beyond the wit of the water companies and Ofwat jointly to put in place a proper social safety net to ensure that those who are suffering do not have to pay excessive bills, but the rest of us need to appreciate just how cheap water has been for many decades. It is extremely cheap. We do not think anything of leaving the tap running when we are cleaning our teeth or whatever because we do not see huge bills coming through the door.

We need to get the balance right between bill payers and shareholders and investors in the water companies, but if we get that right there should not be a huge hike in bills to pay for the investment that is required. The water companies make a lot of money and pay a lot out in dividends. That money perhaps should be ploughed back into their operations by way of investment in infrastructure rather than paid out in dividends.

Lord Sharkey: Does Ofwat have the authority to do that or to bring

about that change?

Guy Linley-Adams: Yes. Ofwat has a responsibility for how the water companies operate their investment policies and how they pay out dividends and so on. I believe Ofwat would say—if you are questioning Ofwat at some point, perhaps this would be a question for it—that it does not have enough control over that as it would require. Maybe primary legislation is required to give Ofwat a stronger financial control over water company structures. You may remember a Michael Gove speech in 2018 to Water UK when he was Minister of State. For a Conservative Minister who I assume was supportive of the privatisation agenda generally, he was scathing of how the water companies had created structures, paid little tax, paid a lot out in dividends and so on. That was quite a surprise in 2018. That is not that many years ago, so I suspect that the problems he identified are still there.

Lord Sharkey: Is weighing the interests of citizens and future citizens against hard-pressed bill payers right now really a job for Ofwat? Do the Government need to intervene more directly?

Mark Lloyd: That does seem to be at the core of what Ofwat's mission is meant to be: trying to ensure that customers are getting good value for money. I think it has failed in the past to make the environment a priority, and to balance that it has just kept bills low and has got on to companies about issues like productivity and things. It has just gone after that rather than seeking to achieve some kind of balance.

Guy Linley-Adams: I think that has come largely as a result of the muddle of duties that Ofwat was given in 2014 in the Water Act. It has a sustainable development responsibility, but it is a caveated, weak duty. Therefore, it is not a priority for Ofwat to look at what future generations of bill payers might have to pay. That correction would be very welcome—giving it a very clear steer from government, whether by way of primary legislation or by guidance, that it has to have one eye on what future bill payers will have to pay and what they will have to pick up in cleaning up the mess that we are creating.

Q24 **Lord Cromwell:** Good morning. The only declaration of interest I want to make is that, as I am talking to you, my children are surfing and swimming off the coast of Devon right now, so I have a personal interest in this, if not a financial one.

Before I get on to my main question, which is about the price review process, I wanted to ask something that has come into my mind several times during what you have been saying. In Ofwat, are we in danger of shooting the messenger? Can the water companies, even if they are less avaricious for their shareholders and directors, afford to do what is necessary, or are we talking about a massive public investment by the Government in the sort of structure we need to solve this problem? I cannot imagine any government since the Victorian times wanting to go public on that. I would be very interested if you can briefly tell me whether you think that is a correct understanding, or am I too

pessimistic?

Guy Linley-Adams: If we had started better back in 1991, 30 years ago, and increased the level of investment for each of those years since then, we would be in a much better position. This will be a long-term thing, but I do not think that it is beyond the financial capabilities of the water companies to get on with this investment. It will take time. You have to prioritise. You have to go for the most polluting sewerage infrastructure first. Obviously that makes sense. But we need Ofwat, the Environment Agency and the Secretary of State to keep the pressure up on them the whole time and not to give them an easy ride, because they have had too much of an easy ride.

Lord Cromwell: Does your fellow witness agree with that position?

Mark Lloyd: Yes. The point I would add is that, as I said earlier, I do not think it is the responsibility of the water companies alone to solve the problem. If we left it all to the water companies, we would be looking at the timescales that are in the Government's plan. I think we could rapidly accelerate that by doing lots of other things. All new developments being built now should be water friendly. We are really short of water in this country. We face severe flooding problems and we have problems with our sewers. That is not being done at the moment. There are a lot of things that the Government could do in other areas that would be enormously helpful to achieving that target sooner and with less pressure on bills. But I agree with Guy that it can be done and it must be done.

Q25 **Lord Cromwell:** Thank you very much, and thank you, Chair, for indulging me to ask that additional question. Can I come now to the price review process that Ofwat deploys? Is that good enough to give us sufficient levels of investment in water and the sewerage infrastructure? I am not just thinking about steel and concrete; I am thinking about some of the things that you mentioned earlier—nature-based, catchment-based, partnership-based and so on solutions. Is the price review the right tool for the job?

Guy Linley-Adams: The structure of the price review itself is not a problem. It is how it is applied. There are some restrictions on what the water companies can spend the money on. If there are solutions outside immediate water company infrastructure, as Mark mentions, perhaps the price review process needs to be moulded a little bit to make it more possible for water companies to get involved in those things and to pass the cost of being involved in those projects to its shareholders and to the bill-paying customers through the price review process.

But I do not think that the price review process itself is a poor one. I would be loath to see any less regular scrutiny of water company investment programmes than there is already.

Mark Lloyd: There is a bit of a problem with timing. We have not seen the next price review methodology. It has not been issued and we do not know what this next one will look like. That process, as we have said before, has not really achieved what it should have achieved over the last

30 years. As I have said a few times, collaborative approaches are the way forward and they provide lots of opportunities for better value for customers. But those collaborative approaches take quite a long time to organise, because you have to get lots of other organisations around the table and find the intersection between all your objectives.

If you only get given your guidance and the steer from the regulators shortly before you have to put your plans in, there is no time to do that. So the companies tend to default to saying, "Right, we've got to get on with this. We'll just draft up a plan for us to deliver what we've got to deliver on our own", rather than thinking about how they could do that in combination with others, which would make better use of money and achieves wider objectives than just the single objective of improving sewerage, sorting out supply or whatever.

Lord Cromwell: Thank you. The difficulty but the reality of all this is that it is an extremely complex ecosystem of problems that you are trying to address here. Perhaps you have partially answered this, but do you feel that Ofwat and the Environment Agency are a bit too prescriptive, particularly through WINEP, in what needs to be done to get, dare I say, a more outcomes-based and nature-friendly programme? Latched on to that, how much difference can nature-friendly prevention of run-off, for example, really make? I do not know if you can quantify that. Is it a marginal difference or can it be a major factor in solving the problem?

Guy Linley-Adams: As I understand it, separating rainfall surface water from sewage can make an enormous difference to whether you get spills at sewage works. If you can separate the two systems as much as possible, that is to be applauded. There is clearly a role for the planning system in that. It should not be possible to build new builds where there are surface water drains connected to sewers. Certainly, retrofitting old buildings is the kind of thing that building regulations should be looking at. This will all take time.

I have a slight nervousness about the emphasis on nature-based solutions and the partnership approach. I do not understand how a partnership approach can treat raw sewage. It has to be the water company that does that. Separating rainwater and surface water away from sewage and all sorts of approaches can be done, but we must not think that there is some collaborative, cosy group of the willing who can sort sewage other than the water companies. They own the sewage works, and they have to treat it.

Lord Cromwell: Is the solution to mandatorily retrofit, or unfit in many cases, the separation of sewage and water? Is that the real answer?

Guy Linley-Adams: Over the long term, yes.

Mark Lloyd: We at the Rivers Trust called for reform of the WINEP several years ago, and there has been a review over the last few years, which we have been quite closely involved in. It used to be a black box system just between the Environment Agency and the water companies,

and I am happy to say that we have made some progress towards opening that up and making it more collaborative. It is a very big programme. It is a billion pounds a year. We are working with two companies to experiment with getting our catchment partnerships involved, of which there are 105 around the country as part of the catchment-based approach. They are local partnerships that know what needs to be done in their local area. They will inform that process with those companies, and I am hoping we can roll that out as part of rebuilding a better governance system for water management in the country.

Guy is right; we need to get the basics right and treat sewage. Some works are treating sewage to a reasonable standard—say, to 2 milligrams per litre for phosphate. Then, in the WINEP, they can be directed to drive that to 0.25 milligrams per litre, to make a big investment. That will cost millions of pounds. If you look into the wider catchment, a dairy farming rural catchment, for example, could spend half the amount of money that it would have spent on that rural sewage treatment works and work with all those dairy farmers and reduce the phosphate levels by far more. This is about outcomes and outputs, so your output at the sewage treatment works does not improve but the outcome for the environment is far greater. There is a lot in that.

My one caveat is that we should not be paying people not to break the law. Farmers should be regulated up to a certain standard, and that is not happening at the moment. Then they could be paid by companies to go the extra mile to reduce the amount of pollutant. It is not the right use of customers' money to be spending on helping people not to break the law. Having said that, there are huge opportunities. This has been done, famously, by United Utilities in the River Petteril, where it managed to demonstrate that this would be a much more cost-effective approach.

Q26 Baroness Taylor of Bolton: I was going to ask how well you thought Ofwat was working with other regulators and authorities, and you have covered a lot of that in your answers to the specific examples that you have been given. I am still a bit confused. You have just been talking about WINEP and possible progress there. Some people say that co-operation is improving, but I also get a sense of frustration. Perhaps some of these authorities or regulators quite like the fact that things are in silo, because they cannot be blamed for everything. They can always blame somebody else: "If only somebody here had done something differently, we wouldn't have this problem".

Do you get a sense of frustration? If we could turn the clock back—although perhaps we need to do it looking forward—would the answer be to take the issues up stream to very early planning levels, government targets on house building, and building on flood plains? Is getting co-operation at that level what is essential in order to get proper regulation and proper solutions later on?

Mark Lloyd: I think that is exactly right. There is a real breakdown in the system at the moment. Water companies are not statutory consultees, so

they just have to accept whatever happens in the catchment and then cope with the consequences. We have things like the OxCam Arc, which will be hundreds of thousands of houses from Oxford to Cambridge in one of the most water-stressed areas. We have rivers drying up completely in that area. There will be a lot more people using water, a lot more people sending sewage down into the sewers and a lot more surface water coming off. If we are going to do something like that, we need to do that incredibly carefully, with all the authorities thinking very carefully about water. It is already suffering, and with climate change that will get a lot worse. The water companies need to be at that table and part of the collaborative solution.

You are dead right; it is about governance. There is a failure of water governance. You made the point that organisations like to have just their bit to look after, and I can understand that; it is a very complicated business, and trying to be in charge of all of it is very difficult. Ultimately, it feels like we need to take the national objectives that we have with the 25-year environment plan, and then, from the bottom up, through catchment partnerships, identify the priorities in a local area. Then, on a regional basis, we need to bring together some of these very large sources of funding to converge on solving those problems and addressing the priorities for local people but delivering on those objectives.

At the moment, it is just a chaos of plans, many of which, as Guy said, do not get delivered. They are overlapping, people are pulling in different directions, and we are spending money in one way that counteracts money being spent in another way. I hesitate to use the word "shambles", but it does feel like that from time to time. Everyone is operating in their little boxes. So, yes, I think you are exactly right.

Guy Linley-Adams: I do not have an awful lot to add. Perhaps one way to bring Ofwat particularly towards environmental goals to help it to work better with the Environment Agency would be to change its duties; give it a primary function in respect of the environment and sustainable development that it does not yet have, and balance that more properly with the consumer objective so that it is not all about the bill payers. Certainly in the past, before the Environment Agency and when it was the National Rivers Authority, Ian Byatt of Ofwat and Ed Gallagher of the NRA could hardly speak to each other, so I hope it is better now than it was then. I suspect it will be, but there is definitely a problem with the regulators being in their respective siloes: "We're the financial regulator", "We're the environmental regulator", and, "That's your responsibility".

Baroness Taylor of Bolton: It is better than never speaking to each other, but it is not much progress, is it? Thank you.

Q27 **Baroness Donaghy:** Good morning. This may not be the central area of expertise of either of you, but are the financial models in the water industry a concern? Could Ofwat be doing more to ensure that more money in the sector flows into investment rather than out into high executive pay and dividends?

Guy Linley-Adams: Certainly the dividend payments have been excessive over the years. These are incredibly low-risk businesses. The customers will not disappear overnight. The infrastructure was largely there. It should be possible to have a financial structure that allows very long-term investment to be gathered from the private sector to make sure that the infrastructure is in place. Indeed, that was the promise of privatisation; that was exactly what was going to happen, and it has not happened. Whether you can blame Ofwat entirely for that is not clear to me, but it is the financial regulator and it needs to keep a stronger control over what goes on, particularly with the company structures that some of these water companies create.

Ultimately, as I said before, it has to be down to the Secretaries of State to direct Ofwat and to give it the steer that is required to make sure that the water companies return investment into infrastructure rather than send it off as dividends or, as you say, high pay for their executives.

Mark Lloyd: I think very few people understand the financial models of water companies, and I am not one of them. I have not done the sums on executive pay, but I doubt that reducing executive pay would make a significant difference on the billions that are invested by water companies. It is really a political question. It certainly does not look good when CEOs are paid bonuses when their companies are not complying with the law, but that is a political question for politicians, and happily I am not one of those.

Baroness Donaghy: Are there lessons to be learned from the example of Welsh Water, which is run as a not-for-profit company with profits reinvested for the benefit of consumers? That is probably a little political question with a small "p", but do you have any views on that?

Guy Linley-Adams: The not-for-profit model looks like a better model. The Saïd Business School at Oxford University just produced a very interesting report that was co-authored by a previous CEO of Dŵr Cymru. It strongly suggests that the model is better, because money is not syphoned out of the company but reinvested in the company. The Office for Environmental Protection is now looking at the role of Ofwat, the Environment Agency and the Secretary of State, as I said. One of its roles is to suggest future solutions to any problems that it finds, and one of the things that we hope it will look at is whether the Welsh Water model is, in fact, a better one for water companies than the fully private companies that we have in England.

Baroness Donaghy: Mark, do you have a view on this?

Mark Lloyd: Not a strong one. I do not detect that Welsh Water is significantly better than its counterparts. All companies are different and have very different challenges to face, and it is very hard to compare them like for like. I think that is one of Ofwat's challenges. Few would hold up Scottish Water as a shining example, and that is still state owned. It is very difficult to judge. I can completely understand how people object to dividends being paid out when companies are polluting,

but dividends are necessary in order to attract investment, and investment enables good things to be done. Again, it is straying outside my area of expertise, but there is an element of optics about it as much as reality.

Q28 Baroness Bowles of Berkhamsted: I have no detailed interests to declare, other than that I live in a 19th-century house, which is one of the many in our area that is not connected to mains drainage, and there are issues with that.

Moving on to my actual question, do water companies truly fear the consequences of regulatory intervention such as fines, or are they seen as the cost of doing business? Should fines be put to better use and made available for environmental improvements rather than being returned either to the Treasury or to consumers? When it is to the customer, it is actually a very small amount per individual customer, although I recognise that the overall amount can be significant.

Guy Linley-Adams: We have seen a welcome increase in the level of fines being targeted at water companies. Obviously, there are an awful lot of essentially repeat offences and repeat offending going on here. We have current investigations by Ofwat and the Environment Agency looking at over 2,000 sewage treatment works for routine breaches of permits, and we strongly hope that those will end up in full-blown prosecutions and significant fines. That is the only way to make the water companies adjust their behaviour.

I would be very unhappy to see those offences dealt with by way of what are called enforcement undertakings, which are sub-prosecution civil penalties whereby the water company donates money to a local good cause by way of compensation for what it has done. That is extremely attractive to all sorts of polluting companies and offenders because it avoids prosecution, but there is a useful stigma attached to prosecution. In these cases, where the routine breaches have been so widespread and there have been repeat offences and very similar events at many different sewage works, it would not be appropriate to deal with it in any other way than full-blown prosecutions.

Mark Lloyd: Prosecution has other impacts than just the fine. As Guy said, it can affect reputation and ESG ratings, and things that affect the cost of raising capital. Prosecution is a powerful deterrent and the fines have gone up somewhat, but the level of non-compliance with permits suggests that those fines are not acting as a sufficient deterrent. Whether they have caught up yet remains to be seen.

I would really like to see those fines put to good use. Enforcement undertakings are one way of doing that. The other way would be to ring-fence Environment Agency fines and Ofwat penalties and return those so that they are spent on something much more useful, like a river restoration fund, that could be used by organisations like ours and others to put the environment right. I do not think they should disappear back to Treasury or be returned to customers by way of a rebate, because I do

not think that is meaningful for customers; it is £15 a year even for a very large penalty. I have written to David Black about this and to the Secretary of State suggesting that we should ring-fence fines and penalties and put them to much better use.

Baroness Bowles of Berkhamsted: Given that there could or should be an effect on the cost of capital if really serious actions against the water companies were taken—tantamount to criminal actions, I suppose—does that also create a case to say that in the interests of the consumer the fines have to go in in order to replace or to compensate for the fact that the cost of capital goes up? Or do we expect the cost of capital to be absorbed by the investors? I think Guy understands where I am going with that question.

Guy Linley-Adams: I understand the question. I think that the cost of capital is a question for the water companies and their financial people. I do think that it would be wrong to limit the prosecutions that you bring against a water company for pollution offences because you fear the effect on the cost of capital.

As well as a fine going off to the Treasury, there are already ways for the courts to require restoration. Restoration notices can be issued, and the Environmental Permitting Regulations allow the Courts to add a penalty on top of the fine, and that money goes to restoring the damage caused by the water company or whichever polluter it might be. So there are ways of doing it without going down the enforcement undertaking route and without losing the useful stigma of having been prosecuted for an offence. The public increasingly expect water companies to be prosecuted. They do not like the idea of sub-prosecution settlements behind closed doors. It does not look good. Given the outcry that we have had about sewage pollution in rivers, it would be an unwise regulator who made too much more use of enforcement undertakings in relation to water company offences.

Baroness Bowles of Berkhamsted: How would a restoration notice work when the main problem is that we cannot deal, for instance, with surface water? They could not compel complete restoration as a way of dealing with that within a given area, especially when it was perhaps the right to connect that had actually caused the problem. What kinds of things could be covered?

Guy Linley-Adams: Post-prosecution, that money can go to the projects that Mark was talking about earlier: the nature-based solutions, the sustainable urban drainage systems, the separating of significant inputs of surface water into sewers in particular localities. That is where the catchment-based approach works.

Baroness Bowles of Berkhamsted: So the court could make a restoration order that related particularly to a catchment area where the spillage or whatever had happened.

Guy Linley-Adams: As I understand it, yes, it could. That has to follow a prosecution.

Mark Lloyd: That would be very helpful, and we can do a lot of work with habitat restoration in rivers to make them more resilient to future pollution incidents and to create the habitat so that the wildlife can return. If there has been a bad pollution incident or something, it provides that habitat to accelerate the return of wildlife to that area. I would like to see that.

There is one other thing, which is that when some companies—Thames Water has been notably quite good at this—have caused a big pollution, they have volunteered a contribution like that so that that work can start immediately. Obviously that plays well for them when it comes to the prosecution, but I think there is a genuine attempt on their part—and I do not think they have been terribly popular in the rest of the industry for doing it—to make a contribution to the local community that can be put to good use. Certainly I remember negotiating one on the River Wandle with Thames Water many years ago. That helped set up the Wandle Trust, which became South East Rivers Trust. That was a pretty substantial sum; I think it paid half a million pounds, because it realised that it had done something wrong and it put its hands up and admitted it.

I would like that approach to be adopted much more, rather than companies fighting cases tooth and nail. It can take the Environment Agency a long time to bring prosecutions, because often it does not have the resources to do it and its evidential standards are incredibly high; it is like a police investigation. That does not seem like an efficient use of resources.

Baroness Bowles of Berkhamsted: In order to bring that about, would it be necessary for, say, Ofwat and the Environment Agency, if they are the prosecutors, to put that within the case that they are making but with a general understanding that if the expenditure happens up front it would be looked at more favourably, or does it just all come down to the judge?

Guy Linley-Adams: The donations that Thames Water sometimes makes when it is facing a prosecution obviously work well as a plea in mitigation: you have done a good thing, you have put your hands up, and so on. I think the Treasury would fight very hard against any idea that fines should be ring-fenced, and that might be a battle that Defra would not win, even if it tried to go down that route. Any mechanism that can keep the significant prosecution rate and significant fines as well as provide funds for these good works would get a lot of support, but we should not be shy of prosecuting just because it is difficult or there are high evidential burdens. Lots of these water companies plead guilty, so the burden of bringing a prosecution is not always as high as it is made out to be.

The Chair: Guy, are you surprised that serial offenders like Southern Water have not been prosecuted?

Guy Linley-Adams: There have been some prosecutions of water companies. Obviously I would like to see more and more. The point I made earlier is that these are not new offences or mistakes that have been made. The same old modus operandi appears again and again: the pumps were not maintained, the alarms were ignored, the intake weir at the sewage works was set at the wrong level so more went down the CSO and less to treatment. These are the same offences over and over again. So the more prosecutions the better, and eventually we have to start looking at the potential responsibility for the directors themselves. If they do not respond to a high level of prosecution from the Agency, perhaps the only way to deal with it is to shake the directors in their chairs.

The Chair: We will take that up with the directors when they appear before us.

Q29 **Lord Eatwell:** Before turning to my specific question, can I follow up the question from Baroness Donaghy about Welsh Water? Obviously it is organised in a different way. It has a different corporate structure. I think both of you were fairly dismissive as to whether its performance was any better than the other companies. I wonder if you would like to reflect on that.

Secondly, could you also reflect on Scotland, where the water industry is organised differently? Are there better results? Are there better achievements?

Thirdly, is there any particular corporate model that you can look at in similar countries in, let us say, northern Europe, where things are done better?

Mark Lloyd: I think I said that the jury is out on Welsh Water. I do not think I was dismissive. Certainly there are areas where I know it has made good progress and better progress than other companies, but, as I said, they are quite difficult to compare with each other like for like because they have different challenges. Scottish Water is not regarded as being particularly successful as a state-owned—

Lord Eatwell: It is a co-operative, is it not?

Mark Lloyd: Yes. I think it is still state owned, but I do not know. I certainly know that its performance is not great. I do not have other models to propose. That is not my field. I do not know if Guy has anything more to add.

Guy Linley-Adams: Similarly, I do not know anything about models overseas, but the report by the Saïd Business School at Oxford is well worth reading, because it makes a very good case for the Welsh model.

From previous experience, before Welsh Water became a not for profit—when it was still a fully privatised normal company, if you like—it had a better attitude to talking to environmental NGOs. This is going back to the early 1990s. Perhaps that was because it has a pride in itself, a nationalist with a small “n” pride in what it does in Wales, in a way that

perhaps the English water companies do not have. So teasing out what differences are caused by the difference in model, whether it is a not for profit or not, or whether it is the national water company of Wales, might be more difficult to do.

In my very simple view of things, if it is a not for profit it is ploughing the money that it makes back into itself rather than sending it off to shareholders. That has to make sense, does it not?

Lord Eatwell: It might have less access to capital markets, but that depends.

Guy Linley-Adams: The Saïd Business School report addressed that directly and did not think that it had any particular effect.

Lord Eatwell: I see, okay.

Guy Linley-Adams: I am no expert, but I would recommend reading that report.

Q30 **Lord Eatwell:** The specific question I wanted to turn to is the relationship between Ofwat and the water companies, which we have not really discussed. Is there the right balance in the relationship between the regulator and the companies—or, if you like, to be extreme, has there been regulatory capture? Do the companies dominate Ofwat? How do you see that balance between the water companies and Ofwat?

Guy Linley-Adams: Fairly unsurprisingly, we are not often invited to sit in on meetings between Ofwat and the water companies, but I get the impression that Ofwat is too close to the water companies and that it needs to be more robust, more prescriptive in what it tells water companies to do, and slightly less collaborative with water companies. I get the impression that a lot of what is decided between Ofwat and water companies is done by negotiation and then there is a decision, rather than Ofwat saying, "This is what you need to do. Get on with it". I would like Ofwat to back off a little bit from the water companies and be a little bit more headmaster and a little bit less counsellor.

Mark Lloyd: I am not sure that I agree with that. The last price review process went quite badly wrong, and lots of companies went to the Competition and Markets Authority and fell out with Ofwat. It feels like quite a tense and uncertain process for companies each five years. As I said earlier, there is a timescale issue and they have to rush through it and put their plans in. It occupies a vast amount of energy in companies. We have quite a lot of interactions with companies, and it is quite difficult to plan things sensibly with them at the moment because they are all heads down working on their WINEPs. It does not feel like the most efficient system, but I do not know what would be better.

There is this paradox between what I am proposing, which is much more collaborative and thinking about the problem collectively, but also trying to keep a regulatory grip. I sense that the regulators are aware of that paradox, and it is quite a difficult one to solve. You would have to have a

regulatory grip on their contribution to that collaborative effort, so you could overcome that.

Q31 Lord Cromwell: Can we turn now to our job: parliamentary scrutiny of Ofwat? Could we be doing more to hold it to account? If so, what and how? It would be easy for you to pass that question straight back to us, but here is your chance to tell us what you think we might usefully add to what we do now.

Mark Lloyd: I do not know if it would agree with that today, given that this inquiry is ongoing and an OEP investigation has been launched. It probably feels like it is getting quite a lot of scrutiny. I am not clear who holds Ofwat to account. Before I knew this news, and knowing that this question might come up, I thought that perhaps it would be the OEP, and it appears that it might well be the OEP. I know that it has a particular interest in this issue.

I will end my comments by saying that it feels to me that Parliament should pay much more attention to water in the round. It occasionally pops up as an issue, when it is a fundamental resource that we all rely on for our very survival. Too often, I find that it does not get the attention that it deserves, given its significance in the broadest sense.

Guy Linley-Adams: Perhaps a higher level of scrutiny would be good. The model in the Climate Change Act of the UK Climate Change Committee and the way it reports on government plans, as against the budgets, and has a reporting cycle, might be a useful model to look at. Some sort of water commission to look at what the Agency and Ofwat are doing and have been doing and to nudge them in the right direction by way of regular three-yearly reports or the like might be a useful way to keep an eye on what Ofwat is doing so that we do not get to the situation we have got to now, where it has been making mistakes over too many years. Those would be corrected by the system. The model is there in the Climate Change Act.

The Chair: Gentlemen, that brings us to the end of today's session. Thank you very much for your answers and, indeed, your candour, which will inform some of our future questions to witnesses, particularly from the industry and from the regulators. One is still left with a sense of, "Who's in charge, and who should be the headmaster?", to use your expression. Thank you very much indeed.