

# Environmental Audit Committee

## Oral evidence: The environmental protection policies of the Department for Environment, Food and Rural Affairs, HC 478

Wednesday 29 June 2022

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Members present: Philip Dunne (Chair); Duncan Baker; Barry Gardiner; James Gray; Cherilyn Mackrory; Dr Matthew Offord; Claudia Webbe.

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### Witnesses

**I:** Rt Hon George Eustice MP, Secretary of State, Department for Environment, Food and Rural Affairs; and David Hill, Director General for Environment, Rural and Marine, Department for Environment, Food and Rural Affairs.



## Examination of witnesses

Witnesses: Rt Hon George Eustice MP and David Hill.

Q1 **Chair:** Good afternoon and welcome to the Environmental Audit Committee where we are very pleased to have, on his annual visit for scrutiny, the Secretary of State for Environment, Food and Rural Affairs, Rt Hon George Eustice. Welcome, George. Would you kindly introduce your colleague from the Department, please?

**George Eustice:** Good afternoon. I am joined today by David Hill who is our Director General covering environmental issues in the Department.

Q2 **Chair:** Thank you. I will start with some questions about yesterday's report from the Climate Change Committee. That obviously covers a whole range of topics that range beyond your direct remit, but could you give us your top-line impression of the conclusions in that report and its critique of Government progress against the net zero delivery?

**George Eustice:** There were elements of it that it welcomed and it welcomed parts of our programme but, of course, I am conscious that you will be interested in that it is critical in some ways about the degree of defined policies that we were able to set out to achieve net zero in agriculture by 2050.

I don't entirely agree with that criticism in the sense that we have our net zero plan that was published cross-Government, a sort of indicative policy framework to get to net zero by 2050, but the thing about all of these sorts of targets, net zero by 2050, is we know that in many sectors—and agriculture is no exception—we need some technological solutions to develop in certain areas. They are there in embryonic form at the moment. For instance, there are technologies that will inhibit methane coming from the livestock sector in particular; technologies that capture fugitive methane from things like slurry stores and turn it into biomethane that can be used, and the technology there is developing at pace; technologies to substitute manufactured fertiliser that uses huge amounts of gas and creates a lot of nitrous oxides and displace that with more organic-based compounds are also developing quickly. We need to keep the space for those technologies to develop in the way that we need them to because we can't achieve net zero just by tree planting, important though that will be. As part of our approach we also need these technologies that will reduce greenhouse gas emissions to develop and come to the fore. That is why we have kept space in our programme to develop that.

I think I can summarise our differences with the Climate Change Committee in that we are far more optimistic about the role that technology will perform in some of these areas and we have already seen that develop in the last two years. The Climate Change Committee's perspective is much more that you have to lock down a fixed programme of policies based on the knowledge that we have today and presume that



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there will be no technological development over the next 15 or 20 years. I think that is the wrong approach and the danger is that you would lock yourself into a policy programme that was either unrealistic or had unintended consequences. There is a slight difference between the approach we are taking to that which it set out that it would like us to take, but I think that I should be honest with the Committee about where we differ from it and why.

**Q3 Chair:** You mentioned land use and that is obviously a critical component. Work is being done by the Department in developing a land use strategy. When do you expect to have that available and what is the role for Government in determining how land that is not owned by Government will be used?

**George Eustice:** We have committed in our food strategy to have a new land use strategy and the importance here is to understand, to have an overview by Government about what policy incentives we are putting in place to achieve our net zero ambitions, our ambitions to see nature recovery, but also to maintain the level of food production at roughly where it is today. Squaring that circle requires us to have quite a clear view about the types of land use change we would like to see in certain areas, other areas where we might see sustainable intensification and increased agricultural output from some sectors that don't use huge amounts of land, and then an understanding of the role of approaches like agroforestry and silvopasture in parts of the landscape so that you can get trees into a landscape but not displace agriculture.

That is the challenge that we will be answering and addressing during the land use strategy, but I should also point out that I am a great believer that the role of Government is to have an overview of what they think should happen and put in place the right incentives in the right places to try to see that plan develop. We definitely would not want to see some kind of planning system where, for instance, landowners would suddenly need permission to farm in certain landscapes. The idea of a planning system for land is not something we would do.

**Q4 Chair:** What do you think is the role for bioenergy or using land for solar panel farms, for example, versus food production?

**George Eustice:** I distinguish between crops grown for biofuels, and there is a role for that and we have a number of significant plants producing biofuels. We are making an argument, as you will have heard at the G7, that we should temporarily reduce the amount of biofuels going into petrol at the moment to make sure that in these exceptional times we have the right amount of maize and wheat on global food markets, but there is a role for those crops as we decarbonise. We would not want to stand in the way of that long term.

I differentiate between that and solar because in the case of solar you are in effect looking at a much more permanent land use change where you are taking land out of agricultural production. It is one thing to grow a



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crop of maize that may end up as a constituent part of biofuel rather than going directly into animal feed, although by and large it will have an animal feed by-product from the manufacturing process. There is a difference between that where the land might then go into potatoes or back into a grass ley or whatever and it is still farmed and a solar farm that is really removing land from agricultural production altogether.

**Q5 Chair:** I was at Groundswell last week and saw your speech with Minette Batters from the NFU on the panel. The NFU has made a commitment to get to net zero by 2040 but the President of the NFU was calling for clarity over a baseline measuring the current state of emissions of farms. Is your Department able to give any comfort that there will be a uniform measurement system across the UK ideally?

**George Eustice:** Lord Benyon is leading a piece of work at the moment around the whole issue of green finance. This is a new area and although we have had carbon markets for some time, having green finance markets coming into spaces like biodiversity is quite new. We have done quite a bit of work with groups like the Woodland Trust is creating a woodland carbon code to try to bring some consistency and integrity into the ESG investments into the creation of new woodland. We are looking to build that out into other areas.

In the meantime, as I understood it the concern of the NFU was that they might respond to a Government scheme and see the carbon content of their soil improve only to find that they could have got a better deal by getting some private finance to achieve something similar. It wants to understand the baseline as it stands today. The answer is that every farmer who joins the sustainable farming incentive, which opens for applications tomorrow, will be paid to do the soil analysis to understand the carbon content and organic matter content of their soils. That will give them the baseline data that they need on their own individual holding. The answer is that we will pay them to help them get that data and, therefore, there is no reason for farmers not to join the scheme. It will help them get a better understanding of the data on their holdings and put them in a stronger position vis-à-vis any future negotiations they might have.

**Q6 Chair:** I think that you have just published the rates that you will be paying under the sustainable farming incentive versus those that you were paying under the pilot. If I have read it the right round, it seems that you are paying somewhat less per hectare in the main scheme than you were paying in the pilot. How will that incentivise greater take-up when the take-up of the pilot was disappointing?

**George Eustice:** I think it is more in fact. The rates we paid on the pilot were broadly equivalent to the income forgone methodology that had been used under the EU schemes. We published last summer the indicative rates that were on average about 30% higher than the EU schemes would have been. We recognised that some of the costings had increased. I will ask David to come in because I think all we are doing at



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the moment is opening the scheme. I think that we confirmed final rates of payment earlier this year but I am happy to write—

**David Hill:** I believe that is right, yes.

Q7 **Chair:** Could you clarify that? I am just looking at the arable and horticultural soils standard coming out tomorrow, which at the intermediate level is £40 per hectare, £22 at the introductory. Under the pilot scheme, if I am reading the right line, it was £26 on the soil basis for the introductory and £41, so it is down just slightly.

**George Eustice:** Can I write to you to confirm? Broadly speaking though, the pilots were run under the income forgone methodology and then I think we increased the rates, but it is possible that the final scheme has slightly different requirements and, therefore, the rate is a bit lower because of that. I can write to the Committee to give you chapter and verse on it. The concept behind the new policy in general is that rather than pay farmers a subsidy and they would have lots of conditions attached and on the agri-environment scheme just give them income forgone to compensate them for their loss, the intention of the new scheme is to move away from a concept of a subsidy for land ownership and instead to pay people with a margin for the work we want them to do on their land. The payment rates will be higher overall than the old fashioned income forgone methodology.

Q8 **James Gray:** Very briefly on a remark you made a moment ago, have you had recent discussions with the Department for Planning? I had a letter from it yesterday indicating it thought that grade 3b land was perfectly acceptable for solar. Is that right or not?

**George Eustice:** It is not right. This is something that we are discussing across Government at the moment. I looked at this issue in some depth in about 2015 when we had something of a solar rush at that time. We agreed with the then MHCLG that its chief planning officer would issue guidance to planning authorities that created a strong presumption against solar farms on the best and most versatile land and that is classified in law as grade 3b or above. Grade 3b land is classified as BMV land, best and most versatile.

Q9 **James Gray:** That needs to be clarified. At the moment DCLG is saying 3b is allowable for solar and you have said the opposite, so it needs to be clarified within Government. I think your point that 3b is not acceptable is spot on and absolutely right.

**George Eustice:** We issued this guidance, as I said, about six or seven years ago and this problem was resolved for some time. We are conscious that there have been a few quite big schemes in recent months or over the last 12 months where planning authorities seem to have either forgotten or started to disregard that advice. I don't think that new guidance was issued by MHCLG but if, as you say, it doesn't understand the legal definition of BMV land obviously we will that up with it, but 3b constitutes BMV land.



**Q10 Chair:** When you were talking about land use you touched on the tree planting scheme, and I should have declared an interest and remind members of the Committee that I am a farmer, as disclosed in my register. On tree planting and the woodland creation, there has been a very poor take-up against Government targets for the last two years. In fact, the amount of tree planting fell in 2021 versus 2020. That might have been a Covid impact, I can accept that, but the ambition remains huge. How are you going to achieve the ambition and can you comment on what the CCC is saying about the tree strategy?

**George Eustice:** Yes. I might ask David to come in a bit more on the detail. We have had two rather exceptional years with Covid that I think has disrupted things. The short answer is that these are more generous grants than we have paid previously. David can confirm the precise figures but my understanding is that we are on course to get to 2,500 hectares or thereabouts in this current year and there is a pipeline of prospective projects, that is people who have expressed interest and are in dialogue with us about planting, that would take to us around 5,000 hectares. We have reasonable confidence that we will see a big uptake, probably close to 7,500 hectares, for later in this Parliament. It is possible that we will fall short of our 10,000 hectare target but I think that we will make significant progress towards it. David, do you want to add anything?

**David Hill:** Thank you, Chair. For the year that you quoted, Covid did have an impact on Government-funded tree planting numbers for a range of reasons associated with the supply chain but also people being able to get out and do the work. The latest figures we have available for 2021-22, which were published within the last month, show that there was a small increase in Government-funded tree planting, 2,700 hectares in total, of which broadly 2,300 were new woodland planting and about 400 hectares of trees planted outside woodland. We also had about 600 hectares that we know have been planted but are not scored in the 2021-22 figures because landowners did not claim against them in time for them to feature in the statistics. They are, in effect, banked for 2022-23 and will show up in the 2022-23 figures.

We also have confidence in a pipeline of projects worth around 12,000 hectares where we know landowners have expressed interest but not yet applied for grants under our schemes. That 12,000 hectare pipeline gives us some confidence that although the trajectory is quite challenging and, as the Secretary of State said, to be on the trajectory we need to be towards 5,500 this year, we can meet that.

**Q11 Chair:** The target as I understand it is to achieve 30,000 hectares a year. Is that across the UK or is that for England?

**George Eustice:** That is a UK-wide figure.

**Q12 Chair:** What is the England figure?



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**George Eustice:** Our planning assumption is 7,500 hectares by the end of the Parliament but with a stretch ambition to go to 10,000 in England. The way we have arrived at the figure is working through with our counterparts in the devolved Administrations, in particular Scotland, to understand their planting trajectory.

Q13 **Chair:** That is not a cumulative target; that is an annual target?

**George Eustice:** That is an annualised target.

Q14 **Chair:** Even if you achieve 5,000 this year, you have to start at zero on 6 April presumably or whenever your—

**George Eustice:** Yes, it is a big target. Broadly speaking, we anticipate that Scotland will deliver about 18,000 hectares a year because it is seeing quite a big expansion in commercial timber plantations. The lion's share of the new tree planting will come from Scotland in some of those landscapes. In Wales in some cases, albeit with some controversy around it, we are seeing an uptick in a lot of its woodland creation, sometimes backed by green finance where they can get cheaper land to establish new woodland. I think it is seeing an uptick also. We think that there will be a relatively modest amount from Northern Ireland, so it will be Scotland as the big one, England doing most of the balance and then Wales the remainder.

Q15 **Chair:** At Groundswell I was talking to some tree nursery folk who said that there is a degree of stop-startism about the schemes that are being introduced, which makes it incredibly difficult for the nurseries to plan for the availability of trees. Again, this might have been influenced by Covid with various schemes being cancelled but—

**George Eustice:** I visited Oakover Nurseries, which is one of the two big players domestically in this space. I think the way I would couch it is more they can see it is a very big, ambitious target and they could increase their production to meet that demand but their scepticism is much more around whether landowners will embrace the schemes at the scale we need them to. For obvious reasons, they don't want to be left with stock on their hands that they don't have a market for, so it is one of the areas we are working on. One thought I have is whether we could come up with some sort of scheme or understanding that if they didn't sell the crop as a one-year whip, which is how they would normally sell it to establish new woodland, they could potentially sell it as a slightly older tree for a slightly different purpose in the farm landscape as trees around boundaries or shelter belts and so forth rather than lose the stock altogether. I think that there are things we could do to try to give the industry confidence to show the seeds.

Q16 **Chair:** Could you also speed up the regulatory process to grant consents for woodland schemes? It is very laborious at the moment; it takes months.



**David Hill:** There is a piece of work under way with the Forestry Commission right now to look at all aspects of the end-to-end regulatory process to see where the opportunities are to speed that up. We are doing that work as an important part of our tree planting programme. Building on what the Secretary of State was saying about nursery capacity, one component of the nature for climate fund, which is the programme funding most of the activity at the moment, is about how we can build further capacity in nurseries, investing in the supply chain, the supply of saplings and so on. That is an important part of the fund that hopefully should give more certainty to the sector as that develops.

Q17 **Duncan Baker:** Thank you, Secretary of State. We will come on to the OEP's 25-year environment plan report and its governance and more specifically the targets and how we fared against some of those targets. It is fair to say from the reports that we have that while we have decarbonised very well and very quickly, our actual performance against natural nature decline still has not been as swift as we would perhaps like. In the OEP's report on the 25-year environment plan it concluded that, "environmental laws and government strategy and policy have not yet proved successful in significantly slowing down biodiversity decline or the unsustainable use of resources or the pollution of the environment". First, I will assume that you accept the OEP's statement and that assessment, in which case why have our plans to do as much as we possibly can to halt nature decline so far not been as successful as the Government would like?

**George Eustice:** I think that it is absolutely the case, but if you look at recent decades the story has been one where we have had various EU directives—the birds directive, the habitats directive, water framework directive, the nitrates directive—and all of them have attempted to create processes, assessment processes, screening processes, reporting obligations and so on. What they have done at best is dampened the speed of decline or in some cases caused nature to plateau. The thing that we set out in our Nature Recovery Green Paper last year was that we needed to change the mindset and not just think about how we can try to safeguard ever-diminishing pockets of nature while the external pressures continue to mount but start to think how we can build back nature, make space for nature on a much larger geographical footprint so that you can see those indices start to turn.

The failure that they describe really is the failure of the largely EU regulatory model that we have had for the last 30 or so years. We are trying to change that to something very different and more sophisticated, which is a thing where we make space for nature to build back nature and not just try to preserve a diminishing resource of nature. The key tools to do that are the new agricultural policy, the sustainable farming incentive and the local nature recovery plan, which we are only opening now so bear in mind that we are only just starting to open these new programmes. They will be quite critical to delivering our target on species abundance, for instance, by 2030. The evidence is that if you get certain





things right and you do it at scale you can see parts of the ecosystem, namely soil biodiversity and so forth, start to recover quite quickly. The experience of projects like the Knepp Estate or, on a less ambitious scale, Hope Farm run by the RSPB is that if you do the right types of things, within a decade to 15 years you can start to see some quite significant recovery in things like farmland birds.

The key tool that we have is the change in our agricultural policy. Backing that we have the concept of biodiversity net gain and the requirement for local nature recovery strategies, which again are ground-breaking and new and will also contribute to it. It is trying to move from a concept of how we have some sort of bureaucratic process to protect bats or newts on one site to something much more meaningful, which is how do you have a plan for nature and mobilise resources to deliver for nature at scale across the landscape.

**Q18** **Duncan Baker:** In broad terms, we will not be able to see some of the impacts of the policies for 15 to 20 years really bearing fruit is one of the points that you have just made, but couple that with the fact that the baseline data that we measure against is still not homogenised across the piece. This Committee over the last five years—and many other public bodies—has always tried to establish the cause that we should have a baseline measure to progress against environmental goals but that has not happened. Will the natural capital and ecosystem assessment programme start to do that for us? As part of that, what have you learned from the pilot of the natural capital and ecosystem assessment programme?

**George Eustice:** I will ask David to answer that one.

**David Hill:** Yes, absolutely, Mr Baker, the NCEA programme is precisely about strengthening the baseline data and for the terrestrial and marine environments it will focus on mapping the location, the extent, the condition of ecosystems and a whole range of natural capital assets. There is a very significant investment going into that programme of £140 million over the three years of the spending review, to give you an idea of the scale. What we learned from the pilots is informing us about how we design that programme across a whole range of different indicators of natural capital.

One of the things that the OEP is calling for in its report is that we have a much stronger baseline assessment that we can then build on. I think that we will see progressively data coming through the NCEA well in advance of the lifespan of the 15-year targets because we will be using that on a rolling basis to assess progress.

**George Eustice:** The apex target that we have is species abundance and the target in the Environment Act to halt the decline of nature by 2030 is based on a species abundance measure. That is where we are taking in the order of 1,000 indicator species that we have been working up with JNCC and others and looking at the populations of those species.



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Basically, if you have the habitat piece right, the approach to the farmed environment right and biodiversity net gain working, we should see that metric moving.

The other thing that we are seeking to do on some of the habitat measures where we are in some ways stuck still with the good and favourable status measure that we had from the EU and it is less clear on habitat how you would express that differently, we are nevertheless trying to grade those habitats better so that you can capture progress towards good and favourable. Rather than it being a threshold that you have to cross before you have passed, if you are doing some of the right things and it is recovering and you can see that it is in a better state than it was three years previously, we should know and understand that. It is important to know that some of the things we are doing are making a difference and moving towards the target even though you might not have crossed the threshold.

**Q19** **Barry Gardiner:** Minister, the fact that although one would hope that the metric moves, the dial moves, we saw with the 2010 biodiversity targets that it didn't. We saw with the Aichi targets for 2020 that it didn't. We had in place the Lawton report, we knew what it was about, all the things that you have just eloquently talked about, and we saw again it didn't make a difference. Why should we have any confidence that this decade, now the third decade doing the same thing, will actually halt the decline of biodiversity in species? It didn't in 2010 and it didn't in 2020.

**George Eustice:** Professor Lawton is incredibly supportive of the new policies that we are bringing forward because they deliver what his report called for, which was a landscape approach to seeing recovery of nature. The answer is that we had his report about what should happen but we didn't have the tools to deliver it. I don't want to refight the Brexit debate—we spent long enough doing that—but we were hampered with the common agricultural policy that we had, which was very prescriptive and meant that the vast majority of the money went on a subsidy for land ownership. The funding on pillar 2 schemes went down under the last EU settlement in about 2013. I argue that we did not do what was necessary but now we can do and we intend to.

**Q20** **Duncan Baker:** I hope, Minister, that when I am sitting where you are sitting and you are sitting where I am sitting, it is less than 15 to 20 years and we can hold my feet to the fire that we have seen species decline start to reverse somewhat, if we can go on to job applications.

**George Eustice:** It is very important point that although I give as an example Hope Farm, it took about 12 years before they saw certain types of farmland bird return to the farm, so that takes longer but bits of the ecosystem recover faster. Soil is a very good early indicator and if you manage your soil well and you have good soil husbandry and you reduce tillage and so on, you can see things like earthworm populations and springtail populations come back very quickly and you can see that happen within a few years. You might not have to wait quite as long for



the springtail to return in abundance in the soil. It might take a bit longer for the nightingale to come back.

**Q21** **Duncan Baker:** Excellent. Good. Well, that has buoyed us. In 2018 DEFRA accepted a recommendation from this Committee to undertake and to publish an audit of existing national, EU and international environmental targets. This Committee and the OEP have just come out in support of those recommendations. When will the Government uphold their commitment to publish an audit of those existing recommendations and laws?

**George Eustice:** We have done some work on this. David?

**David Hill:** We have. As I think you will be aware, we are due to publish a refresh of the 25-year environment plan in January next year and under the provisions of the Environment Act that will now have statutory underpinning. That will be the point at which we refresh the whole framework of the 25-year plan but also set out how we are delivering against it. We will also have the advantage by then of the legally binding targets that are being set under the Environment Act, on which we have just closed the consultation. In that refresh we will be setting out the interim targets that support those long-term targets. That seemed a logical place, therefore, to explain and set out, as I think the OEP is recommending, how the targets in the Environment Act relate to other statutory responsibilities, some of which derive from retained EU law and some from previous law.

You can expect to see the refresh of the 25-year plan be the place where we try to set out the whole landscape and how it fits together. I think that Dame Glenys's recent report recommended that we do that, broadly speaking.

**Q22** **Duncan Baker:** I will move on now to questions about the draft environmental principles policy statement. You produced that draft policy statement under the Environment Act and recently laid it before Parliament for scrutiny. I find that particularly interesting because it also includes the precautionary principle and, Secretary of State, you will know I am not a great fan of that with some of the issues that I have experienced in my constituency, but we will come to that in a second. When do you plan to issue the final version of the statement, will you respond to the views expressed by parliamentary committees before issuing it, and when do you plan to commence the provisions of the Environment Act that will make the statement binding on Ministers and officials?

**George Eustice:** David, do you know the timings?

**David Hill:** Yes. We are intending to finalise and publish the statement this autumn. We have had very helpful inputs through the consultation and a number of parliamentary committees. I think that this Committee is due to give us its formal response as well. A decision is still to be taken



about precisely what sort of implementation period there should be in how long Government Departments have to prepare and so on between the statement being published and coming into effect. We think it would make sense to have a short implementation period of a few months. The reason for that is the work we are doing across Government Departments to make sure that this is not just a document that lands in Departments' in-trays, that they actually understand what they will do with it and how they will reflect it in decision-making because this will bite on the decision-making of all Ministers right across Government.

We envisage an implementation period, and we will confirm how long later this year, just to allow time to ensure we can embed it properly across Departments. That does not mean nothing is happening right now. We have a network of senior civil servants in every Department with a designated champion for working within their Department to socialise the principles and make sure that they are planning now for how they will be able to make a running start later in the year.

**Q23** **Duncan Baker:** How will you ensure that ministerial colleagues, and particularly in other statutory bodies, will observe the principles of the Environment Act when making this policy? I want to specifically talk about the precautionary principle. Bodies such as Natural England and the Environment Agency—if we are dealing with water extraction issues out in our constituencies and I have had instances of sustainable farms wanting to achieve planning permission to employ people—are invoking use of some of the principles in this policy statement, particularly the precautionary principle, as a joker card when the evidence is not wholly unequivocal and that is a huge problem. How will we use these principles here sensibly and ensure that they are not misused?

**George Eustice:** We have not brought those principles into the Environment Act because they were in the EU. We put them in the Environment Act because they are in the Berne Convention, which we are a signatory to in our own right as a nation state and in fact long before the EU occupied environmental policy as something for itself. We have already signed up to these principles and with this document we are seeking to define what those principles actually mean, should mean and how they should be used in UK law by UK bodies.

There has been a long-running debate, almost pitched as an argument, from people who say that you should have a risk-based approach or a science-based approach and that is seen as a US interpretation that some would see as not following the precautionary principle. Then others say that you should have what they call a hazard-based approach and this is defined as being the way EU does things where you assume that everything is a problem and the answer to nearly every issue is no because someone invokes the precautionary principle. We are trying to argue in this statement that it is a misunderstanding, that it is about science and it is about risk and it is also about hazard but it should also be a symmetrical test.



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We make clear in the statement that if there is a new technology and the prima facie evidence is that that new technology or new approach might be less harmful to the environment than existing practices, there should be a margin of appreciation in its favour. It should not always be a timid, restrictive thing where you say no to anything based on a precautionary principle. It should be applied symmetrically so that you are constantly making judgments that on balance will be better for the environment. That is what we set out in this statement.

To answer your question as to how you prevent agencies getting spooked, misusing may be how some would interpret it. I think the real problem we have had—

**Duncan Baker:** It is subjective, Minister.

**George Eustice:** It is subjective and so there is ambiguity. When you have highly ambiguous EU directives with highly ambiguous obligations where nobody really knows whether they are abiding by the law or not unless and until there is some court hearing and a judge passes a personal opinion on the matter, it is not a great way to run a system. We need to seek to drive out ambiguity from the system for Ministers and Government and Parliament to define what it is doing in line with those precautionary principles. If anyone has a problem with that, go and JR the Government or report the Government to the OEP and we can have that argument with them, but you need to liberate agencies from having to exercise judgments in this way as far as possible so that they are clear about what they need to do to abide by the principles. There will be an ongoing role for Government, Parliament and Ministers to drive out the ambiguity that has been the curse of the system for so long.

Q24 **Chair:** You mentioned the OEP there in the context of the statement. You established the OEP, you invited it to comment on the draft statement. Did it give you any advice that you then chose to ignore?

**George Eustice:** It gave us some advice and we took some of it on board but not all of it. David, do you want to elaborate on that?

**David Hill:** Broadly exactly as you described.

Q25 **Chair:** Tell us what you decided not to take on board.

**David Hill:** I can't immediately recall exactly which points we took on board but my recollection is they were broadly supportive of what we are trying to do with the framework, so these are not huge issues of substance.

Q26 **Chair:** I think it is the first example where the OEP has been in a position to give you advice, so it might be quite telling to have a look at if you are willing to write to the Committee and tell us.

**George Eustice:** It gave some issues that were around technical clarification and language and, broadly speaking, we adopted those.



Specifically linked to the precautionary principle point, it expressed a view that the emphasis in some places of the term “proportionate” might have been overused. We disagree with that and the reason for that is that we are not seeking in this to reconstruct an EU interpretation of the precautionary principles. We are seeking to construct a set of principles that are consistent with our own obligations under the Berne Convention. There were one or two areas where we did not follow the advice but others where we did.

**Q27 Chair:** I don’t want to dwell on this too much longer because Mr Baker has had quite a good crack at it, but on policing this statement across Government Departments, although DEFRA has “environment” in the title, do you have the clout to persuade other Government, Ministers in other Departments to abide by these principles or should that really sit in the Cabinet Office or somewhere where they are more accustomed to persuading Departments to do things that your Department normally does not engage on with them?

**George Eustice:** I think that we do have the clout. David might like to come in. You have been a Minister, as have some others around this table, so all Government policies have to go through a write-round process to get collective agreement. The way that I envisage this working is that, first, we will give guidance to other Departments about how they should approach this and this will be a duty that civil servants in those Departments will have to put policy proposals through that prism and consider it. It is likely that where they have proposals that touch on the environmental principles they would want to engage DEFRA early to discuss those principles and whether they think that they have considered that properly to demonstrate that they have carried out that duty. Of course, if they did not take on board any suggestions we might have, we would have the ultimate sanction of blocking it at write-round and ensuring there was further discussion.

**Q28 Chair:** As you know, we will be writing to you following this session. I know your consultation ended last week and there may be some views that I hope you will be able to take into account. Sorry, David, do you want to add something?

**David Hill:** I will add to the Secretary of State’s remarks to say how we are trying to underpin some of that in the official machine. I chair a group of directors general from all the main Departments with a stake in supporting the environment plan. It has the Treasury and Cabinet Office present. One of the things we have done through that group at that level is socialise what are the principles, how we would expect Departments to apply them. We will be using that group on an ongoing basis to offer support, like the network I described earlier, and some challenge as well. But ultimately, of course, scrutiny and transparency is one of the best tools here for ensuring that Departments are taking account of the principles, so there is that recourse to the OEP and if a Department is seen not to be using the principles that might well be something that the OEP wished to look at.



**Chair:** We will move on now to James Gray, touching on some of the EU matters you have raised.

Q29 **James Gray:** You will remember when we had the great Brexit Act all the relevant regulation or law was broadly transferred on to the UK statute book and you wanted to produce a list of those laws and regulations that you thought were right for repeal or change and indeed a list, therefore, of those that you wanted to retain indefinitely. How is the Department progressing with the production of that list?

**George Eustice:** That will obviously be a very important piece of work once the retained EU law Bill goes through. That will create quite an extensive power through secondary legislation to be able to amend much of the retained EU law since quite a lot of it was in the form of regulations or tertiary legislation in the EU that simply by a quirk of the way the EU Withdrawal Act works currently sits as primary legislation.

We have already made clear through the Green Paper some of our priorities in this space, particularly around the habitats regulations. As we set out in the Green Paper, the more we have looked at this body of law the clearer it has become that it is quite fundamentally flawed, for these reasons. It only engages when an activity is defined as a plan or a project and so if something needs a permit or a licence or planning permission, the habitat regulations engage and start to behave and require all sorts of assessment. An activity that is unlicensed in some way suddenly falls outside of scope and does not engage the process. It sometimes obsesses about things that are quite small but nevertheless need a licensing requirement and sometimes misses things that could be quite significant and have significant impacts on sites because of the way the legislation was poorly drafted.

The other thing is it is very ambiguous and so there is a very open-ended, ambiguous obligation to assess certain things. As I said earlier, it is very unclear for most people, including Government, to know whether you are assessing the right things at the right time and you can very easily be second guessed by a court down the line because there is a lack of clarity about what is actually required. Then there are lots of other things about the process. It requires lots of documents and impact assessments to be drafted, that often then go to a planning department in a local authority where nobody really understands it anyway to be able to scrutinise it.

On multiple levels the habitat regulations and the habitat directive are quite flawed as a mechanism for people to work with but also in its objective. It is a well meaning objective to protect the environment but it does not even deliver that effectively. That is one area that we are certainly looking at.

After that there is a host of other areas where we have legacy EU processes, waste and resource management, marine strategies. There are multiple different EU legacy strategies that require us periodically to



churn out some 400-page document that regurgitates everything we have already said in the last 20 years. This was the sort of requirement that we used to have to do standard reporting to the European Union. It serves very little purpose or value, to be honest, and in the long term the reality is that the environment improvement plan should be where we set out our approach to everything that matters pertaining to the environment. The environment targets set under the Environment Act should be the primary targets that we are pursuing so that you have a consistent, coherent set of targets that work together. At the moment we have a plethora of legacy EU processes and targets, some of which are completely unrealistic and unachievable and have always been known to be such, some of which if you miss them it doesn't really matter, you just churn out another 300-page document. There is a lack of consistency about how they work.

The other big area that we will look at is tidying up some of that legacy EU architecture around reporting and strategies that, as I said, in the main serve very little purpose or value.

**Q30 James Gray:** When administrative historians look back at this in 100 years' time and they look at the great corpus of European law and regulation that was brought across, will they conclude that, thanks to these efforts, you have reduced that or increased it? Which do you think is more likely?

**George Eustice:** They will see that we have reduced the complexity and paperwork and bureaucracy and form filling and all the documents that go with it. I hope that they will see that we have significantly reduced that and that we have replaced it with something that actually means something, that drives real change on the ground, mobilises financial resources where we need them and gets the right mindset in different parts of government and the right regulatory approach to deliver for the environment. I think they will see that we removed a rather chaotic system that we inherited and replaced it with something that was focused, more coherent and ultimately more meaningful.

**Q31 James Gray:** If you look at the last 25 years, the tradition in the UK has been for civil servants to goldplate EU regulation rather than the opposite. My inclination is to imagine that if indeed this was the case they would look at these regulations and laws and say, "Here is the problem with it. Let me now bring back an even better one for you, Secretary of State" and we will land up with a heck of lot more than we had. That has certainly been my experience while we were members of the EU. We did all sorts of things whereas the French shrugged and said it is all too difficult.

**George Eustice:** I have sometimes heard that critique, but I have been a Minister in the Department for quite a long time. When we were in the EU we were sort of mid-table in the amount of infraction fines we had. If you take infraction as a measure of the willingness of a nation state to try to take a sensible proportionate approach to certain legislation rather





than a breach—because by and large infraction was brought in for rather petty administrative reasons—we were not the worst but not the best, I suppose you could say.

On whether we gold plated, the corollary of that is I had multiple occasions where there was something I thought was an important agenda in the EU and I said, “Maybe we should lean into this and say more” and there was always, paradoxically, a great caution to trying to do more. It was always understood that if you put in a plan to the European Union and said you were going to do X, Y and Z, suddenly there would be a whole army of auditors having a view about whether you had done that the way they would like you to do it and whether you had correctly recorded it. It led to a chilling effect ultimately on your approach to environmental policy where you went through the motions to tick the box for the EU but actually in some cases felt unable to engage with an agenda in all sincerity just because of the legal jeopardy that surrounded it. We are free of that kind of concept.

To answer your question, I suppose it will come down to Ministers and Governments to set the right tone and the right sort of approach, and that is certainly what I am trying to do.

- Q32 **James Gray:** All right. If you are right in thinking that we were somewhere around the middle—we were not gold plating, we were not absolutely bog standard either—and your ambition is that your historian in 100 years’ time will come to the conclusion that we have reduced the amount of overall law and regulation, does that not imply a reduction in standards for habitats or for environmental protection of all kinds? If we are about the middle at the moment but you think we will get rid of quite a lot of stuff, doesn’t that mean that by definition we are reducing all these environmental protections?

**George Eustice:** I think it depends whether you think the regulations we have had have been a particularly good utility to the environment. My contention is that often they have not. Often we have ended up with a lot of process that has not achieved a great deal for the environment and what we want to get to is a place where we have simpler processes and a more coherent regulatory framework that is simpler but achieves the outcomes that we are pursuing.

- Q33 **James Gray:** All right. Let’s move on to enforcement. We have the refresh of the 25-year environment plan coming up next year. In the estimates there is £20 million I think across the environmental protection programmes of one sort or another. How much of that increase is for enforcement?

**George Eustice:** We have made available some financial increases particularly for the Environment Agency who asked for additional resource so that it could do more work on water quality, particularly in diffuse agricultural pollution. That is some extra resource that we found



for it last year to add to its existing resource. David, there might be other areas as well.

**David Hill:** I think the Environment Agency's budget over this first year of the spending review is up £47 million on the environment side of their business, so all of their environmental regulatory functions. That is to support new work. For example, that is investing in an additional 4,000 farm inspections per year, an extra 500 sewerage inspections per year. I might need to write to you with a precise breakdown of that £47 million but there is an additional investment going in. Similarly, we are seeing an uplift in Natural England's budget this year. Again, some of that is new work, so it is not all enforcement. It is, for example, work that it is doing to support the implementation of biodiversity net gain, but those two big environmental regulators are seeing additional resources in those areas.

Q34 **James Gray:** I will come back to Natural England in a moment. How much extra resource are you going to pump into the 25-year environment plan in its refresh this year? What is the actual spending? Leaving aside the EA, the rest of the spectrum.

**David Hill:** Across the piece as a whole, for example on the biodiversity elements of the plan, the spending review represents an additional £300 million on measures that directly support biodiversity. The flood defence programme, which is obviously important in that many of the flood defences we now deliver involve nature-based solutions, has increased to £5.2 billion over six years, so that is a doubling of the flood defence programme. I am happy to provide a full list of all the different funding lines supporting the plan if that would be helpful.

Q35 **James Gray:** That would be very helpful. Thank you. Yes, please. The NAO tells us that despite being asked to do so, Natural England has not produced any kind of report on the implementation of enforcement. Are you asking it to do that?

**George Eustice:** My understanding is that it raised a specific question about site monitoring in particular because there had been previously an understanding that it would inspect sites, I think between four and nine years and seven years was the average. That particular sentence had dropped from its reporting document but it is the case that in 2021 NE has conducted monitoring site visits of 3,766 of the sites. There is 21,500 sites in total, so that is about 17%, which is roughly one in six were inspected last year. The inspection rate is broadly the same but rather than setting itself this fixed thing where it has to inspect all of them at a set time, it is taking a slightly more agile approach of focusing on sites that might have deteriorated where we need to understand that and why or might be improving where equally we need to understand why.

Q36 **James Gray:** I think that the NAO's criticism was not so much that it is not doing the right kinds of inspection but until 2018 it produced an annual report on how much it had done. It has stopped producing that annual report now. Should it once again be producing a report of what it



has done?

**David Hill:** It reports against the condition of the sites annually, I believe. We feel the condition is the outcome that we are seeking to achieve and a more meaningful measure for public consumption than monitoring visits. Monitoring visits can be more or less intense depending on local circumstances. NE might make an assessment that it does not need to look at a site again for six or seven years, say, depending on what the local conditions are but that could change if it becomes aware of damage to the site or other conditions change, so it might become more intense. It is taking a kind of risk-based approach. It will publish what is the state of the site and we think that is the more meaningful measure to track.

Q37 **James Gray:** When you say “annually”, my understanding from the NAO report, which I have not read in great detail and I may well be wrong, is that until 2018 Natural England produced that report annually, as you correctly said, and since then it has not. For the last three years it has not done so.

**David Hill:** It is still publishing it on condition, on the outcome. It is not publishing on numbers of visit although they have the data and we have access to it, but it is publishing against condition figures.

Q38 **James Gray:** The EA says that its enforcement activity has been reduced because of change in the way it is funded. It is very complicated, and I do not understand the estimates at all, but it has changed from grant-in-aid funding for enforcement and handed the grant-in-aid funding to other activities and the enforcement grant-in-aid funding is now significantly lower than it was before and that means that it cannot spend so much on enforcement. Is that a broadly correct interpretation of the figures?

**David Hill:** Over the last decade or so there has been a reduction in its grant-in-aid line, and the grant-in-aid line is the line that supports direct enforcement. Many of its regulatory activities are funded through charge income, where it charges the polluter for the permit or the service that it provides, but it cannot use charge income to fund enforcement activity. What we have sought to do over the last couple of years is hold its position steady on enforcement, so that is where the spending review leaves us.

Q39 **James Gray:** Surely the amount you can charge for failing to achieve standards has not increased and surely you were doing that 10 years ago when the grant-in-aid funding was that much higher? Your line would be logical if you are collecting a lot more from charging, but if you are collecting the same amount from charging then surely that simply leaves the EA with less money for enforcement.

**David Hill:** The charge income has increased over the period, depending on the nature of the industries that it is regulating and so on, so it has more charge income than hitherto. The complexity arises from what it is allowed to use the charge income for and that is why the grant-in-aid line



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is significant. As I say, what we have sought to do over the last couple of years in the budget settlement that we have signed off for it is at least hold the position stable, and that is broadly the position for the next three years.

**Q40 James Gray:** I must admit these things baffle me, and therefore I think the Committee feel concerned that the EA's grant-in-aid funding, particularly for enforcement activities, has now fallen to a level at which those important activities cannot be carried out properly. It might be helpful if you write to the Committee to expand on exactly how much the EA is getting and how they are spending it, rather than go into detail now. We are concerned that enforcement has become a bit of a casualty of Government cuts over the years.

**David Hill:** I am happy to provide the Committee with that further information. As I say, there have been some additional investments to increase capacity in certain areas, such as farm inspections, so there is some additional money going into those areas over this year and the subsequent three years.

**George Eustice:** It is important to know that the Environment Agency is the largest DEFRA agency by a very long way. It has 10,500 staff. That is more staff than every other arm's-length body put together. It is about five times larger than Natural England, and if you think of the work that Natural England does on all the protected sites, running agri-environment schemes, wildlife licensing, the Environment Agency is a generously resourced organisation.

**Q41 James Gray:** A turkey ripe for plucking?

**George Eustice:** The truth and reality and the situation we are in, of course is that everyone would always like more money, and I know that the outgoing Chair of the Environment Agency has often said that she would prefer to have more money. We know that there is not a huge amount of money around in the current context. We need to look very carefully at how the 10,500 staff it has are used and if they are being tasked effectively. Are they working in an ergonomically good way to get the best outcomes? There is a new Chair coming into the Environment Agency soon. We have announced our preferred candidate and one of the things we will be asking them to do is to think about that structure and tasking of staff on different activities.

**Chair:** We will be holding a pre-appointment hearing jointly with the DEFRA Committee next Tuesday.

**Q42 Cheryl Mackrory:** Secretary of State, if we can talk a bit about the funding and prioritisation of ELMS. Earlier this year, in January, DEFRA stated that by 2028 it expected that the £2.4 billion annual farming budget would be evenly split across farm levels, but earlier this month DEFRA suggested that only £50 million of the annual budget had been allocated to landscape recovery. Could you comment on those figures and let us know the direction of travel?



**George Eustice:** Yes. It is very important to note that we never intended the three different schemes that we have—the sustainable farming incentive, local nature recovery, which will be the successor to countryside stewardship, and then landscape recovery, which will ultimately be the scheme through which we do most of our tree planting and woodland creation—to be like old-style EU pillars, where there was a fixed budget in each. That is now how it would work. There is a continuum that runs through all that. Some of the things that we do currently under countryside stewardship we might in future pick up under sustainable farming incentive and some of the things that we are currently doing through the nature for climate fund and our tree planting scheme will probably eventually morph into landscape recovery.

I never intended these to be pillars, but because the industry we work with—particularly the NFU but also NGOs—have been familiar with EU pillars and obsessing about budgets and how much budget is in which, I think people have overreacted to this. We stated that at the moment, and that is of the new budget that is coming out, the vast majority of the headroom created by reducing the subsidies on land ownership is currently going into either sustainable farming incentive or countryside stewardship.

We want to take an approach where we are not too prescriptive or have fixed budgets that then must go back to the Treasury if it is unspent. It is much better to have a scheme that can follow the demand, so that if there is a huge demand for the sustainable farming incentive we will loosen the reins and let the money follow that, because we want farmers to do the right thing. If, as is possibly more likely, there is a slowish uptake in the sustainable farming incentive and we see quite a lot of farmers think, “If I am going to do this let’s do it more ambitiously so let’s go straight to countryside stewardship”, again we want the ability to flex funds into that to support the choices that farmers are making.

We have tried to step back from this suggestion of a three-way split. It was only ever an indicative thing, to show people that we intended to do those things. It does not mean that we are not tree planting. We have the nature for climate fund that has £500 million in it going to tree planting. It does not mean that we are not doing peatland restoration. That is being funded out of a separate pot. All the work that we need to happen is happening. We are trying to stop people getting too obsessed about how much money is in each pot.

Q43 **Cherilyn Mackrory:** You will hate my next question then, but could you put a figure on what has gone there? Is the £50 million nearer to where we are now, and can you make a projection of where we might be next June, in 12 months’ time?

**George Eustice:** £50 million into?

**Cherilyn Mackrory:** It said £50 million of the £2.4 billion annual farming budget would go towards developing the bigger land reform schemes. If



you were to add up the three schemes that you just talked about—I know you do not want to go down that road, but for the purposes of the question—are we able to put a figure on where we are now and potentially project where we might be?

**George Eustice:** I can write and give you them, but broadly speaking most of the tree planting that we are doing is coming out of the nature for climate fund, which is an additional fund over the agricultural one. There is only a very small amount coming out of that.

We are seeking to do a number of landscape scale regeneration projects as pilots, so about 15, and we have had significant interest in that. Most of the new funding so far will be going principally through countryside stewardship, where we have seen a 40% surge in demand, and then following behind that probably the sustainable farming incentive.

Q44 **Cherilyn Mackrory:** Given that today's Climate Change Committee report went significantly off track for things like tree planting and woodland restoration, there will be concern, and I suspect there will be Committee members who have concern, that the Government are no longer prioritising what we have just been talking about, given the problems that we have with food production with the war in Ukraine and so on. We have COP15 later this year. Could you reassure the Committee where the priorities lie and how you are managing the balance between food production and nature recovery?

**George Eustice:** As I said earlier, where we perhaps have a slightly different view to the Climate Change Committee is on the potential of technologies such as methane inhibitors in the livestock sector or methane capture so that you can create a biomethane resource from some agricultural holdings, particularly dairy. We have far more ambition to do more in that area. We have also concluded that making good progress in that area will be key to carbon budgets 5 and 6. Trees take a long time to grow, so they will contribute to net zero but between now and net zero we need to deal with emissions, and that requires us to look at methane and methane inhibitors and at nitrous oxides from fertilisers. That is a big focus and I think the Climate Change Committee probably underestimates the potential to do more in those areas.

Q45 **Cherilyn Mackrory:** Is it your suggestion that the Climate Change Committee table that it has put in here where it says new woodland, peatland restoration and woodland management are all significantly off target is not giving you the grace to wait for those habitats to grow?

**George Eustice:** We are doing all those things, so we are doing peatland restoration and tree planting and we have set out clear ambitions in that. It and some others are calling for us to go even further, plant even more trees, and at some point you must take a judgment about having high ambition but one that is realistic and that can be achieved and balancing that with what technology can deliver. There is a tendency that I see in some scientists to think that we know about trees, we think we know



what trees do and, therefore, because we think we can measure the impact of trees that is the only thing that we feel we can prescribe. What Government must do if they want a coherent strategy to deal with net zero is to recognise emerging technologies and future proof the policies, so that they keep the space for those policies to develop. Otherwise there is a danger that you lock in on a policy trajectory that is not going to work.

**Q46 Cherilyn Mackrory:** Given the international food production challenges that we have now, what is your view on the uptake from the farming sector from landowners on progressing towards this? Is it good or do you wish it were better? Should we be doing more to encourage them?

**George Eustice:** Generally speaking, if I look at the organisations it is fair to say that organisations such as the CLA are very supportive of the policy trajectory we are on, and some of the other organisations such as NSA, the National Sheep Association, are also quite supportive of some of the things we are doing and also the TFA, even though there are some real challenges that we recognise on tenants. There is some progress there.

The NFU is alone among the farming organisations in having a policy of saying that we should stop the policy trajectory and stick with a land subsidy, but to be fair it is also engaging on the policies that we are looking at. We are making some quite satisfactory progress in these areas and the encouraging thing is the big uptick in demand for countryside stewardship. We now have 31,000 farmers, some 40% of all the BPS claimants in the country now in countryside stewardship. Probably about half of agricultural land already is in a programme of that sort and that is a big step forward.

**Q47 Dr Matthew Offord:** I am sure that you have been reading our “Water Quality in Rivers” report that we published back in January, at least Mr Hill has been reading it, maybe late at night. Can you give us an update on the departmental progress regarding the report?

**David Hill:** Yes, it was a very helpful report, and we published our response to it quite recently. The report is informing a great deal of our thinking. The Committee will have seen, for example, the strategic policy statement to Ofwat, which is essentially the guidance that will frame the approach Ofwat should take to the next price review. There is significant ratcheting up of environmental ambition in that strategic policy statement, for example on some of the most egregious issues that we face around sewage storm overflows.

I mentioned earlier the efforts that we are making to increase our capacity around enforcement and investigations, so the additional investment in farm investigations in particular. We see the work that we are doing around setting the Environment Act targets, on which consultation just closed, as a very important part of how we drive up performance across the sector as a whole. Clearly there are still some



very significant issues that are taking time to turn around in the sector, and the Committee will be aware of the ongoing enforcement actions that both Ofwat and the EA are taking against water companies on a range of issues. It is action to move it forward on a broad range of fronts.

**Q48 Dr Matthew Offord:** Okay, but no particular timeframes?

**David Hill:** We have just consulted on a draft plan on storm overflows, and we are digesting the response to the consultation on that now, so we intend to bring a final plan forward in September. That is a very important part of the programme. The Environment Act targets are due to be set later this year. In the refresh of the 25-year environment plan that I referred to earlier we will use that to say more about the interim targets, so the milestones on the way to those long-term targets and how we will deliver them. There is quite a lot of progress in those areas.

**Q49 Dr Matthew Offord:** Interestingly, you talk about the storm overflows reduction plan and there is quite an emphasis on water companies reducing overflows. In some ways that feels as if it is addressing the symptoms, rather than the cause. Would it not be a better idea to work with the Department for Levelling Up, Housing and Communities to change planning rules, so that land management practices are altered and we do not get surface water entering the drain system?

**George Eustice:** Yes, we will activate the provisions that were in the last Water Act, 2010 or thereabouts, but to activate the more formal requirements for sustainable urban drainage. The truth is I think that has been put off for far too long. If we have the housing growth ambition to meet the need that there is, we will need to see those new developments fully embracing our sustainable urban drainage to take pressure off the drainage systems.

I understand your point about the storm overflows, but in a way we are targeting significant reduction, particularly among the 3,000 most damaging of those storm overflows, to get their environmental harm right down to nil and to do that initially by 2035. The reason we set it at that is that the solution will differ from catchment to catchment. In some cases, it may be that they should look at the housing developments that happened post-1960s when they should have been on a separate street drainage system, but where sadly in many cases that has ended up plumbed back into the foul water sewer system. That should never have happened. It may be that they should identify where they have those problems, to separate the drainage out in the way that it was intended. In others, it might be creating additional capacity, additional holding lagoons and so on, to be able to deal with higher peaks of rainfall.

We want to let the water companies choose the model that works best to reduce the use of storm overflows. We think that setting that target but giving them the space to innovate and produce a solution is the right thing to do.





**Q50 Dr Matthew Offord:** We had previously made some recommendations about presumptions against planning permission, in the intensive poultry industry for example, in those catchment areas where there is nutrient pollution. There has also been issues about nutrient neutrality and planning consent for housing. Would you say the Government are choosing to prioritise planning permission for intensive poultry units with consequences for water catchments over planning permission for new housing?

**George Eustice:** No, we just do not think you should create a presumption against them, but what obviously should happen, particularly if you have a large new poultry unit that would require environmental permitting from the Environment Agency and making sure they have the right facilities to manage the poultry manure coming from that, is quite important. It is also the case that poultry manure can sometimes be successfully dried and can be used as an organic manure on other arable farms. It is sometimes more transportable than some other farmyard manure. Managed correctly and done properly we do not see a reason to create a presumption against the creation of these, but the Environment Agency and the relevant planning authority would need to ensure they are not causing environmental harm.

**Q51 Dr Matthew Offord:** Also in the Environment Act you are proposing a 40% target of reduction in agricultural pollution. I am not a farmer but I have some links with farming, but I would still like to see that to be zero. I would like there to be no pollution. You are still allowing 60% of agricultural pollution to enter water courses. Is that good enough to return our rivers to a good state?

**George Eustice:** That is specifically about nutrient loads and that is predominantly in the agricultural context excess nitrogen, some phosphate although most of the phosphates are coming from sewage works. We think a 40% reduction is significant and gets our protected sites on the way to recovery. These are systems that take years to adjust and so the problems we have today are still a consequence of fertilisers that were spread in the 1980s and early 1990s. It takes a very long time for it to work through the groundwater system. We think a 40% reduction in nutrient loads is entirely doable. We will do it through catchment sensitive farming schemes, increased investment in improved slurry infrastructure and grants to support that, the sustainable farming incentive, which will encourage more green cover crops over winter to stop nitrates leaching.

Of course the big spike in fertiliser prices that we have seen, while causing a lot of anxiety for farmers, is also causing quite a few farmers to reappraise what the right level of fertiliser to apply is. Rothamsted Research this week published a study that shows that done the right way you can still get very high yields in arable farming with significantly less fertiliser being used. We have seen a 40% reduction in fertiliser over the last 30 years or so. We think that we can deliver another 40% reduction in nutrient loads through a range of measures. Removing it altogether



would require a fundamental abandonment of farming in many parts of the country, and that is not something that we are willing to do now.

**Dr Matthew Offord:** A friend of mine recently said that the water that fell on the Welsh mountains goes under the sea and was coming up in Exmoor where he was living, so I understand there is quite an aqua filter system.

Q52 **Chair:** Do you think it is appropriate for fines paid by water companies for pollution events to be paid into the general fund of the Treasury, or do you think a more useful and productive use of the money would be to restore the problems in the areas where they have been caused?

**George Eustice:** It is a matter that the Treasury will have strong views on, as you can imagine. To be fair, we have a long-standing principle in this country that fines do not get ring-fenced for a particular purpose, so if there is a purpose, environmental improvement, there is public money available to deliver that. If there is a need for a licensing regime or a polluter-pay principle that means that people need to make a contribution for the pollution they cause, we have various mechanisms to do that also. It is quite a fundamental principle under our system that a fine goes back into the central pot and is not ring-fenced for a particular thing. I think that the Treasury would be very concerned about the thin end of the wedge if we were to depart from that.

Q53 **Chair:** Indeed, but as part of the new economic principles policy statement that we have been talking about, surely polluter-pays would be a perfect way of requiring the polluter, who has been fined by a regulator or a court, to pay to restore the damage that they have caused. It would seem to be totally logical and consistent with your principles statement.

**George Eustice:** All Ministers need to prioritise the discussions they have with Treasury colleagues, based on those that will be most productive or where you can make most progress. This is not one that I think is an area they would—

**Chair:** Perhaps it is a battle that we can pick up on your behalf.

**George Eustice:** I know it is a long-standing view of you in particular, Chair, and the Committee.

Q54 **Chair:** I have one other question before we move off water. In the Environment Act you have now mandated for much greater transparency through monitoring of the status of water quality in rivers. This summer, during the summer bathing season, a number of water companies are trialling measuring systems. To what extent do you encourage, or does it come up to the Department's notice, the extent to which the Environment Agency acts as a brake on innovation, given the advances in sensor technology that are happening across the economy? The Environment Agency seems to be quite stuck in looking only at tried and tested monitoring systems that it has been using for many years and is reluctant to embrace new technology.



**George Eustice:** I think that criticism may be a little unfair, but if you have specific examples we are happy to look at that. There have been some issues around water quality, particularly around sewage overflow, storm overflow and discharges from sewage works. To be fair, two years ago we changed some of the policies and the strategic policy statement that we have now published for Ofwat gives very clear direction to it to prioritise improvements in this space in the next pricing round. We have brought forward a number of investments, so around £2.5 billion is going into this between now and 2025.

At a policy level we have made a change through the amendments that we made to the Environment Act and the work that we had done prior in the guide to Ofwat. The Environment Agency for its part also required new monitoring equipment at sewage sites a little over a year ago. It was the feedback and results of that monitoring that picked up a problem that had previously not been seen or noticed, which surprised both water companies and the Environment Agency. That is now the subject of some ongoing investigations that the Environment Agency is making. Ofwat is also doing its own investigations around whether water companies had delivered the infrastructure to the specification that they were supposed to, under the pricing strategy.

We have and the Environment Agency put in place new monitoring that has led to the initiation of some quite comprehensive enforcement work that was announced last November, which is ongoing.

**Chair:** We will watch this space. Thank you.

Q55 **Claudia Webbe:** Secretary of State, you have mentioned the biodiversity net gain, which seems to affirm it as a key biodiversity priority within the Environment Act. In reality, there is no mechanism for enforcing or even monitoring the biodiversity net gain. Indeed, I think Government expect local authorities to use existing planning enforcement to enforce net gain. We have heard that there is an inability to do this, given the lack of resources and lack of time to do so. What is your strategy for enabling this to be meaningfully addressed?

**George Eustice:** I might ask David to come in. Local planning authorities are the logical people to enforce this. They are the ones who will either make it a condition of planning, that there is space made for nature within a development, or for the most part will collect the financial revenue that comes from biodiversity net gain to invest it principally in their own local nature recovery strategy. They will have local nature reserves, some of which will be under their ownership and some might not, but they will have a strategy for their area. They are, therefore, best placed to collect those revenues and spend them in accordance with the plan that they have in place. I think the principle of localism is the right one here. I do not know if David has anything further to add.

**David Hill:** Perhaps a few additional points will be helpful. First, it is worth noting that the concept of biodiversity net gain has been in



planning policy for more than a decade, so as a concept it is familiar to local authorities. We are putting it on a mandatory footing. There are both onsite and offsite elements to biodiversity net gain and we envisage that many of the onsite elements could be addressed through planning conditions, planning obligations as a normal part of the planning process, supplemented with the introduction of conservation covenants, which we legislated for in the Environment Act.

For offsite where it may not be possible to achieve the net gain of 10% within the ambit of a development, we are introducing a register of offsite gains and we are developing that register with Natural England. That is important because that will offer a measure of assurance about the quality and integrity of those offsite gains.

The other thing we can draw some assurance from is that every developer, as part of the planning application process, will need to produce a habitat management plan, which sets out how they will approach and deliver biodiversity net gain through the development. There is a number of things to put in place to supplement the enforcement.

On your point about resources, we have already provided around an additional £4 million to local authorities under the new burdens principle, around some of the early work to establish the systems for mandatory net gain, but we are committed to provide more funding as the rollout continues. That is baked into our spending review settlement.

**Q56 Claudia Webbe:** It is interesting that you speak of a register for offsite but you have introduced the need for the onsite. Why not create a register or enable a register to be created for onsite biodiversity net gain? How otherwise are the Government going to strengthen the monitoring and enforcement of onsite biodiversity gains to address the gaps in the current policy?

**David Hill:** We think onsite can be addressed, just as any other planning condition, through the local process of testing the planning application and the conditions that the local authority applies. Planning departments are well-versed in doing that, but we are supplementing that with support and technical guidance on the introduction of biodiversity net gain.

The point about offsite versus onsite is the offsite may be less visible to the local authority. It may be in another place entirely, and that is why there needs to be some sort of mechanism for that objective, independent assurance of the quality and integrity of the onsite. The onsite ought to be visible to the local authority within its own community.

**Q57 Claudia Webbe:** It is the onsite that I want to focus your attention on. That seems to be where there is the lack of capacity within local authorities in their ability to monitor, to enforce and to engage with this process, to report on, because there is no notion of the capacity to address that and there is no increase in resources.



**David Hill:** There is an increase in resources under the new burdens principle, so £4 million already to date but with a commitment to additional resources to support local authorities in exercising these functions. There will be some additional resource to ensure that the capacity is there to do this. We have also had a series of pilots running to test different aspects of the system. We will be working with local authorities to share the learning from that so that we provide some additional support to local authorities as they get to grips with this.

Q58 **Claudia Webbe:** The Government said that they would need about 257 ecologists across local authorities, Natural England and DEFRA to deliver the net gain. How many ecologists are in position across these organisations now?

**David Hill:** I cannot give you a precise figure, but we would be happy to write with that figure. We are substantially uplifting Natural England's budget directly for their work to support the implementation of biodiversity net gain. I think their total budget increase year on year, this year compared to last year, is approximately 34%, so quite a significant uplift in Natural England capacity and capability. That money will be spent on technical experts to help with the implementation of the reform.

Q59 **Claudia Webbe:** I am sure the Chair and the Committee would welcome you providing us with that information in writing. I will push you a little bit further and say in 2021 only one-third of local planning authorities had access to an in-house ecologist. The Government are planning to implement the biodiversity net gain by 2023. How are the Government going to address the deficit in ecological expertise in local authorities within a year?

**David Hill:** As I say, part of the response to that is the additional resources that are being put in. Speaking from my own experience working for a local authority before joining DEFRA—and this was with Essex County Council—we were able to draw on centres of expertise, pooled resources across a number of local authorities, which made a lot of sense in that context, because districts in particular would be able to draw down on more expert capacity held at county council level to support, for example, planning for new developments and in particular the sustainability of those new developments. There are models in local government that consolidate that expertise and I think ought to give us some confidence that although there is always a case for more resource, we are putting the new burdens funding in so that the expertise will be there to draw on.

Q60 **Claudia Webbe:** One of the other difficulties that I think local governments have highlighted is the enforcement threshold for intervention for the local planning authorities undertaking enforcement action is quite high. Will the Government work with the Local Government and Social Care Ombudsman to develop a more appropriate threshold for local authorities to undertake enforcement action to deliver on the objectives of the policy?



**David Hill:** Some of the work that we are doing now and need to do between now and November 2023 is precisely around getting that detailed framework for enforcement worked through. That work is under way now and we are absolutely working closely with local government to finalise that. I will certainly take that away and make sure that is reflected in the planning work that we are doing right now.

Q61 **Claudia Webbe:** I am sure the Secretary of State is listening closely. I hope that is an agreement that Government will take that on board to strengthen the enforcement abilities. How does the Department intend to address deficiencies in the biodiversity metric that led to it undervaluing such places as shrubland and rewilding projects?

**George Eustice:** We are in the process now and will shortly be consulting on some revisions to the biodiversity metric. The one that we have, that we have been using, is pretty good but you are right, in engagement with stakeholders things were raised that maybe it should reflect a bit better. Of course, we can take that on board and change it.

The point I will make on all your points is that we are doing something quite new, which is through biodiversity net gain. We are conscious that there has been this long-standing problem that often local authorities do not have their own in-house ecologists or the expertise. That links to the problem I said earlier that most local authorities do not even have anyone who can understand an impact assessment put before them, let alone be able to scrutinise it. Getting that in-house capacity is one of the things we are doing through that new burdens funding, and we expect that of the £4 million that has been issued a lot of that will be about recruiting the expertise that they need in this area. They have a close working relationship with Natural England, so we have increased the resource and focus of Natural England on this, because it often has very good technical knowledge at a local level and can support local authorities in putting together their local nature recovery strategy and also making this work.

They are all good points that you raise. We have tried to address them in engagement with local authorities, through multiple consultations on many different elements of detail. Will we get every last bit of it right when we go live on this? Almost certainly there will be refinements to be made but the Act gives us the provisions to adjust SIs, adjust processes and improve this once we get going. As with all things new, the key thing is not to put it off or delay. The key thing is to get things moving, get in the water, get the system operational and then over time increase that capacity, refine the regulations, refine the biodiversity metric so that it gets stronger year after year.

Q62 **Chair:** How many local authorities are there in England that have planning responsibility?

**David Hill:** It should be about 350.



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- Q63 **Chair:** I appreciate resources are very constrained and tight, but you have prayed in aid the £4 million contribution that will be made to local authorities. If one is generous and assumes that you will be able to recruit a qualified ecologist for an all-in cost of £40,000, let's say, that is 100 people.
- Barry Gardiner:** I just checked the figures, Chair. The division would be 15,564 on the basis of the 250—
- Chair:** Per planning authority? That would be about one-third of an individual.
- Barry Gardiner:** For 257 ecologists into the £4 million. At the moment, of course, the evidence that we have secured in the All-Party Parliamentary Group for Nature, the Chartered Institute of Ecologists and Environmental Managers have said that one-third of all planning authorities have no in-house expertise whatsoever for ecology.
- Q64 **Chair:** Would you like to reflect on that?
- George Eustice:** Yes, the £4 million is the first instalment under the new burdens principle, and that operates in a particular way.
- Q65 **Chair:** Is it ring-fenced?
- George Eustice:** It is ring-fenced for the biodiversity net gain. That is how it works under the new burdens principle. I do not think it would be fair to say that it is ring-fenced specifically to recruit ecologists. As I said, we have also boosted our capacity for Natural England, because we think in many cases they will be able to provide quite a lot of the expertise as well. It is a combination of building some of the capacity in local authorities, but building the local NE capacity, since they will also be able to help put this together.
- Q66 **Barry Gardiner:** I want to discuss fertiliser production with you, which I am sure many farmers have wanted to discuss with you in recent weeks, given that the price has gone from £280 per tonne last year to about £1,000 per tonne a couple of months ago. There is a sneaking suspicion that the Government are shifting into the long grass the phasedown of fossil fuel-based fertilisers by delaying actions to reduce ammonia emissions by a year. Can you categorically say that is not going to happen?
- George Eustice:** Yes. We have an agreed policy that we have worked with industry on that will abate the urea, so basically using treated urea where farmers choose to do that in certain times of the year that significantly reduces the ammonia emissions. We have delayed it for this year, for a very good reason, because there is so much—
- Q67 **Barry Gardiner:** Sorry, I do not mean to interrupt you, but the first thing you said made me think, "Oh, great, they are not delaying it by a year" and then you have just said you are delaying it by a year?



**George Eustice:** Sorry, yes, we have confirmed that we are delaying it by a year and then we will look at the situation. The reason for that is with fertiliser prices where they are we want to ensure that farmers have access to as many alternatives as possible to manage their nitrogen needs in this current year.

We must recognise the fact that we have huge turbulence in international markets. As you said, the price of ammonium nitrate has spiked, and many farmers will be thinking about alternatives and reducing the amount of ammonium nitrate, some trying to use more organic-based manures, some using nitrogen-fixing legumes as part of the mix in their crops and others may have access to urea and might want to use it. We do not want to stand in the way of those alternatives this year.

Q68 **Barry Gardiner:** Is it rather like those who say, "Goodness me. We did not go to renewables quickly enough and now we have an energy crisis, and we cannot get enough gas, so what we need to do is become more reliant on fossil fuels by drilling more gas". Is that not the parallel logic to what you are saying instead of saying, "Gosh, we need to move to renewables much quicker" or, "We need to divest ourselves of fertiliser based on fossil fuels even quicker than we thought we did because we have the problem created by those fossil fuels"? It defies logic that you would say, "We have a real problem here. Let's go slower in solving it."

**George Eustice:** No, I would say the opposite. It was not the most popular thing I have ever told the NFU conference, but in February this year I was clear that we must recognise that fossil fuel and gas is a finite resource. We probably passed peak oil a decade ago. Gas is now in the hands of ever fewer countries, many of which are not reliable partners. Therefore, we have a strategic imperative as a country to focus on developing alternative sources of nitrogen and alternative technologies.

One of the things we have been promoting and that we will be supporting and supporting R&D on is whether we can use things such as digestates from OD plants and other organic manures and support some of the technologies that are there now to turn that into a pelleted but organic-based fertiliser as a substitute for manufactured ammonium nitrate.

These are things that I have been saying since February. It has brought into focus the strategic imperative to move away from manufactured ammonium nitrate to alternatives, but for the immediate short term this year we wanted to make sure that farmers are able to access urea as an alternative to ammonium nitrate should that be something that works for their holding.

Q69 **Barry Gardiner:** This is a problem that I keep experiencing with Ministers, that they seem to say the right thing but then it is cutting across the implementation. If you are delaying the phasedown of fossil fuel-based fertilisers and yet you are saying, "Of course we need to reduce our reliance on fossil fuel fertilisers" why are you delaying that phasedown?





**George Eustice:** The purpose of the changes we are making to urea is much more around ammonia emissions and the air pollution problem, as you will know. Indeed, the paradox is that use of urea over ammonium nitrate is better in carbon emissions than ammonium nitrate, but it is worse in ammonia. It is one of those issues where we must take a judgment that because it is a potent cause of ammonia pollution, we will take action on urea even though it is better and has lower carbon emissions than ammonium nitrate.

The important question is strategically longer term we need alternatives to ammonium nitrate, which is the central plank of our nitrogen needs, and that is what we have been talking about and supporting.

Q70 **Barry Gardiner:** The UK Chair of Nature Friendly Farming Network has said, "Delaying actions to reduce ammonia emissions will do little to lessen the sector's reliance on expensive, largely harmful and increasingly inaccessible inputs. It's vital that we prioritise a move towards nature-friendly practices across the whole farm landscape, supported through farmer-to-farmer learning and funding for farmer-led research." What part of that do you disagree with?

**George Eustice:** None. In fact, we are doing all of that. The sustainable farming incentive soil standard is all about green cover crops, green manures like phacelia that can capture nitrogen over winter and ensure that it is available for the following crop, nitrogen-fixing legumes in crop mixes, so that you fix nitrogen directly. These are all things that we are doing and the scheme that will deliver them is opening tomorrow and is something that farmers in regenerative agriculture are very supportive of.

Q71 **Barry Gardiner:** I am totally supportive of those, so what are the things that you are delaying by a year? Maybe I can approach this from the other direction.

**George Eustice:** The measures that would have placed restrictions on the use of urea this year. That is all we are delaying. Nothing else is delayed. We are delaying that simply because there is not in this current year sufficient availability of organic alternatives to substitute all the ammonium nitrate that farmers might want to substitute, given its cost.

Q72 **Barry Gardiner:** Do you predict therefore that within a year the present problems in procuring fertiliser, because of the situation in Ukraine and other matters, will have dissipated and will no longer be there, or is it something that again next year you may be saying to this Committee, "We need to delay it by another year"?

**George Eustice:** We have said we are delaying it for this year, but we have not decided what we might do next year, for precisely the reason you cite, which is that there is huge turbulence. The price of ammonium nitrate is directly correlated to the gas price. As you say, it peaked in March at around £1,000 per tonne. It has since eased back to around £600, £620 per tonne, and the major manufacturers in this country are



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producing large volumes at that level and farmers are buying at that level. It is also possible that that price of ammonium nitrate will tick back up. I think the future price for it in November is already at over £700 per tonne, and while we have such turbulence on the gas market it remains quite a fragile situation.

**Q73 Barry Gardiner:** Are you confident that within a year the sustainable farming incentive and the work that you are doing with nitrogen-fixing plants and so on will have improved the situation sufficiently that you may not have to take the same decision next year?

**George Eustice:** I am hopeful that we will be able to do it next year, but in the current environment I think that is as far as I can say, rather than “confident”. If we do have a serious problem with availability of ammonium nitrate next year, and people can access urea to provide some of their nitrogen needs, I would not stand in the way of them doing so for another year.

**Q74 Barry Gardiner:** You have read the Committee on Climate Change report to Parliament today that suggested that it is agriculture and land use along with buildings that pose the largest risks to delivering our 2030 NDCs?

**George Eustice:** Yes. As I said earlier, I recognise the view that it expressed on agriculture and for the reasons I have set out I do not share its analysis on that basis. What it is underestimating is the potential for technologies, particularly around methane capture or methane mitigation in things such as animal feeds. I think it is underestimating the potential for some of those technologies.

**Q75 Barry Gardiner:** Does the Committee on Climate Change not have sufficient scientific and technical advice?

**George Eustice:** As I said earlier, many scientists focus only on what they think they can measure. If they think they have an understanding about what trees can deliver, and they think that there are other uncertain technologies that have potential but that they cannot yet measure, they will always give you a conclusion based on what they can measure with certainty today and prescribe a course of action based on what they think they know with certainty today.

Policymakers need to understand the dynamic nature of this and that there are technologies that will come forward with some solutions in the future.

**Q76 Barry Gardiner:** That is not what the scientists do with the IPCC and so on, is it? They give you a very precise measure of probability, usually 66% or 90% or 95% probability, so they do not give you that certainty. That is not the way scientists who are engaged in this field work at all.

**George Eustice:** They work on a very high confidence basis, 95%.

**Q77 Barry Gardiner:** But they will always tell you exactly what it is. It is a



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65%, or a 95% probability. Of course, that probability, when we are talking about climate change, is only for a 50% chance of avoiding dangerous climate change.

**George Eustice:** The point I make is that people underestimate the ability of some of these other technologies, feed additives to reduce methane, reductions in fertiliser, so 50% of our greenhouse gases are nitrous oxides, and other systems around methane capture. We think that there is far more potential there than some scientists currently admit.

**Q78 Chair:** Secretary of State, there are poultry producers, particularly in my constituency but I am aware of pig producers elsewhere, that are actively not replenishing their sheds because they think they will be selling their product at a loss. Are you aware of this? Is this a widespread problem across the country? Are you aware that the consequences of this will be increased reliance on imports of meat products from other countries?

**George Eustice:** Yes, particularly the egg sector is suffering some difficulties presently. The poultry meat sector is currently very vertically integrated, so there are three very large players in the market and the vast majority of them would be in open book contracts with the retailers. If the price of feed goes up by 30%, which is what has happened and on a broiler plant half of their costs are feed costs, that 30% increase in costs is automatically reflected in the price that they receive, because they are on a cost of production type contract.

In the poultry meat sector, while there is some pressure and time lag, generally they are recovering their increased costs through the market and through the contracts they have. It is a more mixed picture when it comes to the egg sector and like other parts of agriculture, where you have quite a fragmented supply chain and smaller suppliers going into processes in the middle quite often, or a marketing co-operative in the middle, some of them are finding it harder to get the pass through of their costs.

**Q79 Chair:** Is that something that the Government can help with in any way, or are you going to have to accept this and let the market resolve it?

**George Eustice:** It is very difficult, because it is one of those areas where the market should adjust to it, and generally what is happening in most of these areas is that supermarket buyers will hold their ground for as long as they need to. They are operating in a ferociously competitive market. In many cases they will pay an increased cost for their product but try to hold and contain prices for as long as they can, but as the inflation figures are showing that is starting to give in some areas. It comes down to the point that a moment comes when a supplier will not replace a flock to lay eggs unless they can be given a particular price in a contract, and that tends to flush out the position. We are seeing this in a lot of sectors. They are hugely turbulent times. We will see it as well with people growing winter wheat and their discussions and negotiations with



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the millers. There will be a moment of truth where people need to recognise the prevailing realities and reach a conclusion. By and large that is happening, but that is not to say that there are not some circumstances where some people may choose to exit or feel that they have no alternative but to.

**Chair:** Colleagues, Secretary of State and Mr Hill, thank you for joining us today. We have reached 4.15 pm.