



HOUSE OF LORDS

Industry and Regulators Committee

Corrected oral evidence: UK regulators

Tuesday 21 November 2023

11.30 am

Watch the meeting

Members present: Lord Hollick (The Chair); Lord Agnew of Oulton; Baroness Bowles of Berkhamsted; Lord Burns; Viscount Chandos; Lord Clement-Jones; Lord Cromwell; Lord Gilbert of Panteg; Baroness McGregor-Smith; Lord Reay; Baroness Taylor of Bolton.

Evidence Session No. 6

Heard in Public

Questions 49 – 58

Witness

[I](#): Dame Meg Hillier MP, Chair, Public Accounts Committee.

Examination of witness

Dame Meg Hillier MP.

Q49 The Chair: Good morning. Resuming the Industry and Regulators Committee inquiry into UK regulators, we are delighted to welcome Meg Hillier, who has, since 2015, been the chair of the Public Accounts Committee and is the MP for Hackney South and Shoreditch. Welcome to our deliberations today.

Your work encompasses looking at and considering the performance of regulators from time to time. It would be very interesting if you could tell us how much focus you have had on regulators over the last five to seven years. Is there much more that you would have wanted to do, had time and resources been available? To what extent have you found interaction with regulators to be a fruitful engagement? If you could give us a sense of all of that, that would be very helpful.

Dame Meg Hillier: Thank you, Lord Hollick and committee. It is a pleasure to be here and it is great to step back a bit from the day-to-day hurly-burly of the Public Accounts Committee and reflect on this. It really made me think that we have done quite a lot of sessions on regulators, sometimes individually and sometimes together. Sometimes it has come up as part of other work we have done, but it is a bit ad hoc. It often depends on the issue that has arisen. We have done work with the National Audit Office to look at things a bit more systematically, but there is a legitimate question to be asked about whether we are examining our regulators properly. A lot of it is ad hoc.

We did a lot around the EU exit, because suddenly regulators' remits were potentially changing quite dramatically as a result of that. We had one really good session, which I would urge you to have a look at, in the summer of 2019. We had three regulators in the room together and that was fascinating, hearing how they worked. In the room, you could really see the differences between those regulators.

The Chair: Which three were they?

Dame Meg Hillier: It was Ofcom, Ofwat and Ofgem, from memory. What was fascinating was that they were learning in the room from each other about things that they did not realise. For instance, they had different approaches to dealing with vulnerable customers and how they reported information publicly. We felt that was a really useful thing.

One of the things that I have tried to do since I have been chair of the committee is to have more follow-up, and this is a good example of where it is a challenge. Follow-up is challenging for lots of reasons, which I will not go into here, but a lot of it is about how we manage the data. At the moment, it is in an Excel spreadsheet, so there is a whole issue there to be dealt with by both Houses. We have those sessions and there are a lot of really good areas to follow up on. We have followed up a bit but, if we are looking at something more systematic, there is a lot of learning that can be done between and within regulators about things.

Of course, they have shared experiences around the EU exit, as they have all had to deal with different issues there. A number have had their remits altered for other reasons as well, and resources do not always follow the remit. There is a real issue about how the public are informed about the work that they do.

In fact, in other areas of our work, sometimes we have talked to a department and said, "We're not happy with the lack of transparency. Can we talk to you about what you should be reporting to Parliament and how frequently?" rather than allowing a department, or in this case a regulator, to decide what it thinks we want to hear. That has been more effective. A recent example is High Speed 2. That department worked with us to produce a report that we felt included the information that we and the taxpaying public would want to read and see reported regularly. Regulators could probably learn a bit from that.

We have done some really useful work, but we probably have not pulled it together enough. The question is whether we have a separate body to do that. I think there could be an argument for that. On the other hand, departmental Select Committees in the Commons and their equivalents in the Lords could be doing this more as their bread and butter, perhaps checking in on the regulator in their area of interest. Then the challenge would be how you draw it together, and certainly the Public Accounts Committee could have a role in that, and indeed so could Lords committees.

There is also an opportunity for an ad hoc committee to look at some of the issues that we have picked up about comparisons between regulators, how they work and what they could learn from each other, and then draw out some conclusions. Whether it would need to be a standing committee is a matter for discussion.

The Chair: Do you look to the NAO to help with work on regulators and their performance?

Dame Meg Hillier: Absolutely. Sometimes it will come out of its own schedule of work. At times, we have urged it to look at work we have done on waste issues. When you look at regulation, you find that it is not all done by regulators directly; it is often the law that requires the department or local government to do things. It will pick up our suggestions where it can, but without the National Audit Office we could not do our work.

I think some Members will be aware but, just to be clear, as the Public Accounts Committee we have first refusal on any National Audit Office piece of work that it presents to Parliament. We will either take that or discuss with a sister committee whether it would want to take that in lieu, because we have a busy schedule.

Without its expert input and its delving into the data, the numbers and the budgets, we would not be able to do the work that we do. Even a specialist on a committee would struggle, as one regulator alone can

absorb a lot of time. The NAO looking at it regularly is a really important and valuable resource to Parliament.

The Chair: Is there scope for something like the OBR, for instance—I know it is macroeconomic—to look at the impact on the economy? Is there scope there for getting more input to help you, and indeed us, to look more closely at the problems of regulation?

Dame Meg Hillier: I am concerned about having a separate body, though I am not fixed on any point of view on this. It has been, as I say, very useful food for thought for me today. The problem with having a separate body is that it can be seen as something separate and over there, and actually there is a benefit to looking at regulators across the board—what they do well and what they do not. You could then extend that potentially to regulatory burdens or benefits, depending on how you look at it. Some things might be both: a burden to a landlord might be a benefit to a tenant, for example. There is an important view of that.

The danger is that there might be a sense that other bits of the system think it is not their job to look at regulators. If you take any departmental Select Committee of the House of Commons, its knowledge of its sector and its department is valuable if you are looking at the role of the regulator in that area, so looking at what Ofwat or Ofgem do would be relevant to those Select Committees. There could be a danger that it would be seen as separate and different. That might just be about day-to-day protocols of working. It does not mean that you should not have a separate body, but there is a danger of it being pulled out.

On looking at the regulatory burden, there are various government initiatives already on that score. Again, if you take it separately from the day-to-day scrutiny of departments, you could end up potentially with a distance from the rationale behind why that regulatory set-up was put in place in the first place. I would be a bit concerned about having an OBR-style body but, again, I am not set in my views on this; I am persuadable.

Q50 Lord Clement-Jones: You have partly answered my first question, from your own experience, which was about what impact Parliament and the Government can have on regulators through scrutiny and accountability. Without putting words in your mouth, you have demonstrated that you think that you have made an impact on regulators and regulation. If you want to add anything to that, please do.

The second question is how systematic and continuous you think that is, rather than reactive. You have talked about the NAO, and the question in that context is whether there is a kind of rolling programme where you systematically go through the different regulators within your remit, and how successful that is.

Dame Meg Hillier: On the impact, I will add that there is a lot to do. The Government must respond, in the Treasury minutes, to reports produced

by the Public Accounts Committee. Every quarter or so the Treasury Officer of Accounts pulls together those responses from departments.

Across the board—I would not want to stray into Lords territory, but certainly in the Commons—I am not sure that we always follow up enough on those. We theoretically follow up, but it depends a bit on areas of particular interest to members of committees or chairs of committees. We need to be doing more of that, so that recommendations do not just sit there and not get acted on as much as they should.

We can also recommend things, of course, that effectively have a financial impact. That is a matter for government to then look at its funding of regulators or a regulator will have to look at how it can find savings. The impact of our work, I hope, is because people are thoughtful and listening to what we are saying, but if, when we make a big recommendation, there is not money or a political appetite for it outside of the regulator that might still be a challenge.

Lord Clement-Jones: Let me just interrupt you there. KPIs outside financial performance or whatever are not necessarily consistently looked at, so to speak.

Dame Meg Hillier: No. On a systematic approach, the National Audit Office has its own programme of work, as I say, and we can influence that. Any Member of Parliament, in either the Lords or the Commons, can ask for the National Audit Office to investigate or do a value-for-money study. It will look at things, and usually it is because things have arisen where it has seen problems.

The whole work on EU exit underlined that there is a lot of stress on regulators. They were going to have to take on a different remit. They would have to have people with different skills coming in and have to work out how to take certain EU regulations into their remit. That was quite systematic, because EU exit required a lot of detailed preparation across the board. We did a lot of work on that, not just with regulators.

Part of the remit of this committee is to look at whether there should be a more systematic approach, and we cannot say, hand on heart, that the Public Accounts Committee systematically looks at matters. It can be led by the desire of the chair or members, or by the NAO, and that is not necessarily systematic.

For instance, gambling has been in the news a lot recently. Sometimes that is attached, because we have had proposals for legislative change. The Gambling Commission is one that we looked at and it is a minnow in the regulatory field. It is very underfunded compared with other regulators with similar remits. Therefore, its remit is smaller than perhaps it might otherwise be. We have reported on that, but there will be only so many times you can go back and look at the same regulator. For example, we would look at the annual accounts of HMRC and DWP every year. We do not do a similar thing for our regulators.

Lord Clement-Jones: You are sitting in the chair and you determine the overall programme. How conscious are you of the importance of a rolling programme?

Dame Meg Hillier: I am very much conscious of that, but then we have to balance that with the ad hoc things that arise because of egregious issues in government. We have to follow the money, so there are certain departments that keep us very busy. Also, I have to manage members. We do two hearings a week when Parliament is in session. We think we have a lot of time but, if we did every regulator, every year, we would soon eat up that time. There is a gap there.

It is interesting that, under the Standing Orders, every departmental Select Committee is supposed to look at the annual report and accounts of its own department. Many do not. We cannot look at every set of annual reports and accounts, although we are the Public Accounts Committee. We pick on the most egregious ones, but we know that some of our sister committees will do that very thoroughly and others just do not.

If you leave it to departmental committees, the danger is that you end up with the predilection of particular members or the chair at the time shifting the focus to, quite rightly, very important issues, which might mean that regulation slips off the agenda. There is a bit of a gap.

Lord Clement-Jones: You have talked about other Select Committees. Given the central role of your committee, is there a role for you prompting other Select Committees to oversee more carefully or more consistently the performance of other regulators?

Dame Meg Hillier: Yes. Because the committee covers such a wide area of work, I do work hard with sister chairs to highlight work that we are doing and areas that they may want to pick up. We obviously have dialogue, but it tends to be a bit more that way simply because I am covering their remits all the time. Our remit is so broad.

Certainly, when you have a relationship with a chair who has been a chair for a while, you are able to very quickly alight on some issues that need that attention. Sometimes we will join forces and work together, because those committees will question Ministers and the Public Accounts Committee questions the accounting officer and their team, so we have a slightly different remit.

Each Select Committee, as members here will be aware, will jealously guard its independence, and quite rightly. It would be not right for me to instruct; I cannot do that to a chair. A reasonable discussion is had, but there are some chairs who say, "I've got my agenda already set for the year", and they would not have the capacity to take on more work.

We work at quite a pace. We will have one hearing on a subject, while other committees will have several on the same subject. If they did that on the regulator in their area, you can see how it could take up a lot of

their time, especially if they meet only once a week. Quite a lot of this is just about the resources of a committee and its members, and that is a boring but practical reality. We can wish for everything but, realistically, we do not want to overload committees that are already doing their own work.

Lord Clement-Jones: I have one final, very short question. Can those committees call upon the NAO?

Dame Meg Hillier: Absolutely. That is something that I have really been encouraging since I have been chair. I have reminded other committees about the work of the NAO and the support it can provide, because it is helpful if everyone has the right numbers in front of them; I am a great believer in that. They can also commission the NAO to do specific work to support them. There is obviously a limit to its resources, and some committees, such as the Treasury Committee, will have a team of specialists to a degree that perhaps other committees do not.

Q51 **Baroness Taylor of Bolton:** I just wanted to ask a follow-up on that around Select Committees deciding that they do not have time to look at what regulators are doing. Is there any scope for discussion at the Liaison Committee, where you have the chairs of all the committees together, about a theme that might be appropriate at any particular time? Are things like that ever discussed at the Liaison Committee?

Dame Meg Hillier: They are a bit, but it is a bit ad hoc when they get discussed. It is often because one thing has arisen in a particular committee, but it is a good suggestion and I will certainly take it back to Sir Bernard Jenkin, who chairs the Liaison Committee.

The challenge is that sometimes there is a tension, although it is not one that I have a problem with, when somebody is newly elected as chair of a committee and they have a remit. Sometimes they are elected on a remit, because we elect our chairs now. Chairs do not always realise, when they are elected, that they become a member of the Liaison Committee, and it is just another thing to worry about. The Liaison Committee has certainly grown in its remit and stature in recent years, but the danger is that it is just more overlay of work on a committee.

There is a potential gap to be filled to look at regulators but, as I say, you still need to keep that connection with the work of a sponsoring department. Otherwise, you could end up with a set of esoteric views and recommendations that perhaps do not appreciate the challenges in a department. You have to bridge that gap somehow.

Q52 **Lord Cromwell:** You have already answered comprehensively the question I was going to ask you, but I would like to make a couple of comments and ask you a related question.

First of all, I very much like the idea of your committee telling the regulator what you want to hear about, rather than being told what it wants you to hear about. As long as there is enough opportunity and space for it to speak truth to power, that is to be encouraged. I also very

much agree with your thinking about follow-up. Many people outside of this building say to me, "That was a very interesting report you did into X. What's happening now?"

I noticed that the word that has come up several times in each of your answers is "resources". There are 80 or more regulators out there. The whole systematic survey of all the regulators is, frankly, mission impossible. That starts leading us down the track of a regulator of regulators, which of course leads us back to that other thing beginning with R: resources. How do we square that circle? Is it simply down to what a previous witness called "moments of theatre", where we call a regulator in because an issue has blown up? Is there a solution and, if so, what is it?

Dame Meg Hillier: This is one of the reasons why I am very particular about follow-up. There is a big issue generally for Parliament, exactly as you say, about how we follow up and how we can prove that any legislation enacted and any inquiry recommendations are properly followed through over time, because some of them are not going to be quick results. It is within the realms of possibility that both Houses of Parliament could work together to find a solution. A bit of software would be a good start. It is not difficult to do, but it would need a bit of effort. That is one thing.

When you say 80, it reminds me that though we think we have done quite a lot on regulators, we tend to do the big ones, or ones where there has been a big policy change and where we are checking to see whether they can manage that policy change. In the committee, we do not look at the policy itself but at how it is being enacted and the money efficiency and effectiveness of it.

I have mused on this idea of a regulator of regulators—we could set up a kind of pyramid if we are not careful. One element is that we have to have really clear reporting, in very plain English, and there is a bigger role that Parliament could play in saying, "This is how we want information that is clear and transparent". We do a lot of work on whole of government accounts and we work very closely with the Treasury—people might find that odd, because we challenge spending—to say, "Present this in a way that we can understand and that the public and taxpayer can understand". That reaps dividends, and we need to be doing more of that.

That could then make it easier for regulators to learn from the investigation or inquiry into one regulator. For example, we are seeing Ofcom the week after next about online safety. Its remit has grown and it has also had to grow its staff, so we are looking at how well prepared it is for that. It is not going to be the only regulator to see a growth in remit and to expand. We will challenge it on whether it has expanded appropriately to deal with its new challenges and where the stresses are for it. Could it recruit everybody that it needed to? Where are the gaps? We would then like other regulators to learn from that.

I do not know whether there is a pool in the regulatory world for regulators to learn from that. While you might think and hope that a regulator would look at something, it might think that the topic is not in its area. Actually, the fact that it is a regulator means that it probably should be learning.

Lord Cromwell: I just want to add a small comment to that. Depending who is in the regulator, they tend to look at the things that they find interesting or they are knowledgeable on. Some of our work has exposed real skills gaps—for example, in financial engineering—where, and this goes back to resources, they cannot afford to have those sorts of people on their staff.

Dame Meg Hillier: The skills gap is a huge issue. We look a lot at data and IT skills. By expanding the remit of a body, suddenly you have to bring in a whole new group of people. That is, again, possibly where regulators could be working better together. Where they cannot always recruit the skills that they need directly, how do they bring people on within their organisation to adapt? We have raised the issue of skills a number of times in our inquiries into regulators.

Q53 **Baroness Bowles of Berkhamsted:** To some extent, I am probably going to be fishing in the same pond as everybody else. In your experience, how transparent are UK regulators about their own performance? Is it easy to tell when a regulator is performing well or badly? To what extent can metrics be used to judge their performance in addition to qualitative evidence? If so, have you any idea what those metrics could be?

Dame Meg Hillier: It is very variable. I could refer you to a report that the Public Accounts Committee did on setting up arm's-length bodies. Regulators and arm's-length bodies are set up very variably and they report to their accountable department in different ways, so you do not always have the same baseline approach. Obviously, there will be differences between regulators, but the metrics are often very poor. We have asked them to do better on this; every report they publish should be clearer.

Look at company or accounts reporting. You have to report things there in a certain way. It is not beyond the wit of the system to suggest or request, or indeed require, that regulators report certain metrics in certain ways. Basic, statistically valid information would be a good start.

I have been on the Public Accounts Committee for 12 years and I have been chair for eight. Good infographics are a great way of explaining things to the public, and it is amazing to me how they can vary between organisations. There are a lot of simple things that could be done, without necessarily costing more. It would just make it much easier for the public and those being regulated to know what is going on.

Baroness Bowles of Berkhamsted: How could we get them to do that? Might that come within your remit? How could we get a little more insight

also into the Government's role in setting the framework, and maybe checking that it is up to date? A lot of these regulators have been around a long time and, as you have pointed out, they get bits added on, but how often can one do an overhaul and see whether the priorities are still right, rather than everything being additive?

Dame Meg Hillier: That would be a really important review point. There is supposed to be a review point now of arm's-length bodies, and so that would include some regulators—it depends on exactly how you define arm's-length bodies. There is a plan to go through that.

We had the Cabinet Office in on this, when we did a report on arm's-length bodies. There is a lack of consistency. Sometimes that can be for good reason, but very often it is not. It is simply that a Minister of the day, of any party, has set up something, and a department has gone ahead and delivered it, but they have not actually looked to see whether that was the right type of body to do the right work. You could cut across that for regulators.

On the information point, we made a recommendation in our reporting four years ago that each regulator, of the three that we looked at in that particular session, should report back to us on action it has taken to make its public information more accessible and engaging. They have reported back and said they are doing it, but, to be honest, we have not had the chance to go back and look again to see how well they have done that.

That goes back to the points raised by other members of the committee about follow-through. We have asked for it and they have said that they would do it, but then we need to hold them to account for that. That is the gap at the moment; we just do not have the capacity. Usually, it is me or a member with a particular interest—we try to specialise a bit when we follow through—writing a letter, but at the rate we are going, with two hearings a week when Parliament is in session, there is an awful lot of follow-through to do.

We were particularly recommending to three large regulators. There are lots of other lessons that could be learned there as well.

Baroness Bowles of Berkhamsted: Overall, does this mean that possibly we are going to have to have more parliamentary committees and more sub-committees, to be able to fit the question time in—if we have enough rooms for them to sit in, that is?

Dame Meg Hillier: We could look at how we increase productivity—which is the word of the moment in government—of committees too. You could just say that every committee has to have in the regulator in its area, but, if there are 80 regulators, there are a lot more regulators in some areas than in others. You also have local government regulating in some cases and departments themselves holding the regulations.

Even product safety is within a department rather than a spun-off, separate body at this point, and that is even dealing with fire safety. There is a big, growing remit in that case, but it is still within the department. There are lots of issues there about how and why you set up regulators in different ways.

Lots of regulators will escape scrutiny because nothing major has happened in their area. They probably should be held to account, because, in the end, they are championing the consumer, supporting good practice and, ultimately, spending taxpayers' money. They need to be looked at more systematically, but how do you do that? Whether there is an ad hoc body that calls all of them in once and then does it again, three or four years later, or whether it is done on a more regular basis, is a matter for discussion. Presumably one of the outcomes of this committee will look at that very question.

Baroness Bowles of Berkhamsted: Ultimately, if they improve their own reporting metrics, which somehow we force upon them, that is the first step along the way. You will still have to ask questions at some stage to make sure that the metrics are right, but possibly we should be more forceful about those metrics.

Dame Meg Hillier: A good regulator would see the value of putting its information out in a way that is digestible.

Sometimes, as a committee, we find that we have to hold the hand of a department, because of what Whitehall thinks are the right metrics. I remember when I was a Minister, years ago, I was responsible for identity cards. There had been a promise made on the Floor of the House by Charles Clarke, as the then Home Secretary, that he would report regularly to Parliament on identity cards, but they followed literally what he had said on the Floor of the House as the way of reporting. These figures were kind of meaningless. By the time I became the Minister, I said, "These figures don't really work", but, at that point, we were jumpy about changing the method of reporting, in case people suggested we were trying to fudge something or obfuscate, which we were not. I just said, "These don't really mean anything to anybody".

That was not his fault; it was not really anyone's fault. That is the problem. The system just threw up a tick-box requirement that Parliament is reported to, and actually it was not very useful and I felt that the wrong metrics were used. Ministers could learn from that; certainly, I have learned from that, having been a Minister, and others could too.

As committees, in the Lords or the Commons, we should be really quite clear. If a reporting mechanism is being suggested, especially if it is new, we should be getting in there and saying what it is we really want to see. We are the ones holding them to account, in the Lords or the Commons.

Q54 **Baroness Taylor of Bolton:** Can we roll back to the beginning and to the remit of regulators? We have heard the figure of 80 mentioned. They

are all very different. Is it your impression that regulators are very clear about what objectives they have been given? We heard from the previous witness that regulators should be given only four objectives because, otherwise, it muddies the waters of what priorities should be set. Do you have any comments or thoughts on that?

Dame Meg Hillier: It depends on the regulator. I would be hesitant to boil it down to four issues. Look at, for instance, Ofcom, which has had a huge growth in remit, as I mentioned. It is going to have to look at the different areas of its new responsibility differently. It is already evident, from the evidence we have had from it, that it will be looking at the new online regulation differently from how it looks at, for instance, TV advertising. It is going to have to cut according to what it has to do.

I mentioned gambling and gambling regulation. The Gambling Commission is very small in comparison. It depends how far you extend the role of regulator. We have looked at so many and I am hesitating to know which one to highlight. We have looked at school inspections, where some of the inspectors are also regulators. There are different legal remits. It is hard to pin it down to four particular areas.

For me, the key thing is that they are clear in their own governance about what their role is, and, if they are asked by politicians to extend it—sometimes government pushes things on a regulator—clear about what they can and cannot do and what would be considered overreach. Of course, you could potentially get overreach the other way, but regulators are usually governed quite tightly, so that their rules and remit are fairly clear. But if they are asked to extend their remit, they need to be clear that they have the resources to deliver that. It is always a challenge, particularly in the current funding climate, to ensure that they have the money to do what they need to do.

I would be hesitant to boil it down to four things but, as I was saying, transparency is key. It is also essential that they know their remit, what they should be looking at and the frequency with which they need to deal with things; that they have the metrics to identify problems being thrown up, so that they can go in and do a deeper dive on something; and that they can use intelligently the data and metrics that they have to do their work well, rather than just doing a tick-box exercise.

I am not specifically saying that anyone is doing a tick-box exercise, but that is something they need to be really clear about. They have to think of the consumer—I suppose that is a better summary of the heart of it. Every day, are the things that they are doing actually helping consumers and, if so, how? That is perhaps a good way of helping them keep on-mission.

Baroness Taylor of Bolton: So you do not have the impression that they have mission creep and are wanting to interfere in other areas.

Dame Meg Hillier: No, not so much. Usually, it is the other way: that they are getting more responsibilities through statute or because the

world is changing. Then, the challenge is how they get the resources to deliver on that. It is probably more that way.

Again, it depends on what you call a regulator. I have come across examples, in smaller bodies particularly, where someone becomes a chair of something and then decides to go a bit freelance. Is that independence or is that taking themselves outside of the remit? It can be a difficult judgment. Ministers usually do not like it so much, and often Parliament does. That is not so much about regulators. The regulators are usually set up on a much tighter set of rules as to what they are there to do.

Baroness Taylor of Bolton: When we were looking at the Office for Students, we certainly got the impression that the priorities were very often decided in response to ministerial statements and concern in the newspapers—the *Daily Mail* or whatever—rather than by looking back to its original purpose.

Dame Meg Hillier: It worries me when that happens. A good regulator should be clear about its mission and not be swayed by whatever is in the public domain. I did not come prepared to give of examples of where that has happened.

I have been a trustee of things and a school governor. If you are a charity trustee, you know what your remit is and the remit of the charity, and you do not stray beyond that. If you consider it, you have to have a proper governance process for that. It worries me if people sway in the wind with what is in the news. It suggests that their foundational rules and structures were not set up properly. That can happen when things are set up in a hurry. Whitehall should be a brake on Ministers just announcing things without having a proper remit behind it. In most cases, regulators should know their remit and should be clear about that.

Lord Cromwell: I am sure we would all be keen on clear objectives in individual segments, but I am sure that you would intuitively agree that, the more objectives you add on, the more chance you have of them being in conflict. In the water industry, having cheap, available, clean water versus having major investment in environmental protection is potentially a conflict. The idea of limiting them to four was to try to preserve a lower level of conflict between objectives. You must run into this all the time, I imagine.

Dame Meg Hillier: Absolutely. We have looked at Ofwat, which is coming in again next week, and so we know that that is a challenge. That is why you want a good, strong, independent team in a regulator, to push back a bit against the system. They are there for a reason; they are experts. A good regulator should be pushing.

If I was a Minister, I would not have a problem with a regulator pushing back and saying, "Minister, you're asking me to do the impossible. I'm going to have too many things; they're going to compete with each other". Then you would have to hope that the Government and Whitehall

listen to that advice. The worst thing is to have something that is trying to please everybody and does not do anything very well.

As the list of objectives gets longer, there is a risk that you end up focusing on what is in the news rather than on what we in the committee sometimes call the “dull but worthy” stuff that is vital to the day-to-day running of whatever the area is, or indeed the country. Rather than having a focus on something that has kicked off in the news, they need to be really focused, have their head down and get on with it.

I remember talking to a former Permanent Secretary, when we were having some political challenges just over a year ago, and asking, “What do you do in a department when this sort of thing is going on?” They said, “When these spitballs of distraction are going off, you’ve got to get your team focused on what their day-to-day job is, because the day-to-day job of Whitehall still continues”. That is quite a good way of describing what regulators should be doing. They have their day-to-day job to do, regardless of spitballs of distraction. They may have to pick up on some of the outfalls of those spitballs of distraction, because things will kick off, but they do not stop doing the day job.

Lord Cromwell: That is compounded by politicians who pay a lot of attention to those spitballs and who will add an objective based specifically on them. The regulator then has to balance that up with the others.

Dame Meg Hillier: Obviously, Ministers and Governments are elected to make those decisions but, again, it is worth looking at our report on setting up arm’s-length bodies. We see that decisions made in a hurry can often be repented at leisure. It takes government a very long time to unwind something once it is in the system. It is essential to get the decision right in the first place.

I am a great advocate of slow politics, which is making sensible decisions for 20 or 30 years’ time. We all, whatever our role in politics, are dealing with a problem today, next week and next year—and Ministers in particular. I absolutely have sympathy for the ministerial position when something kicks off, but we must not stop dealing with the long-term approach. That is where regulators actually have quite an important role, just to hold steady, whatever else is going on, and keep on their core mission.

Maybe they have to have a difficult conversation with a Minister, saying, “If you are going to ask me to deal with this issue, there will be a challenge elsewhere”. They may not win out on that argument, but they have a duty to make that point because they have a proper, strong regulatory role to play. Regulators are not usually set up for idle reasons. They were set up for a reason in the first place. If something has changed, you can drop things off and bring new things in, but they need to have the rigor, competence and confidence to stick to their core responsibilities.

Lord Cromwell: We are going to stray into the five-year electoral cycle, so I am stopping.

Dame Meg Hillier: Yes, that rather cuts across my slow politics argument, I fear.

Q55 **Lord Burns:** Can I press just a little further on this issue of the independence of regulators? Do you have a view on the extent to which regulators increasingly seem to be expected to make decisions on politically contentious topics? We have the particular issue with Ofwat. There is now a debate going on around whether there has been too much focus on prices and not enough on the amount of investment that is taking place.

Dame Meg Hillier: Anything is political, is it not? If you are looking, in Ofwat's case, at prices, sewage or water leakage, these are all political issues, and that has massively risen up the agenda in recent years. Inevitably, regulators will deal with political issues. This goes back to my point that they need to know what their core responsibility is. Sometimes, their core responsibilities were not set up well and are in tension with each other.

It is interesting. In my time in Parliament and in government, I saw that Ministers can have quite a lot of sway. As a Minister, I always valued the person who would push back and challenge and question when you were making a suggestion or discussing a future policy move, because that is how you test and make sure that you are not setting up something to fail.

It is inevitable that regulators will get into that area of political tension. They just need to be clear about what their role and mission is. Again, that goes back to the definition of what they were put there to do in the first place, so that has to be well laid out.

Lord Burns: That was, in a sense, my question. Should the remits be clearer about how this type of issue is resolved? I had experience of working in the water industry. It is a very difficult decision for a regulator to take a 20-year view as to prices versus investment. At its heart, it is very much a political issue. The question then is how that enters the remit. How does that enter the process by which those issues are resolved?

Dame Meg Hillier: It is a really good question and one that is difficult to answer. You could argue that, in some cases, some things should be more a ministerial decision than that of the regulator, but you would have to unpick quite a lot to change Ofwat now and do that. I am always hesitant about rearranging furniture, because that can be very diverting and not necessarily achieve anything. That is, again, about regulators changing.

I remember the old ICSTIS, which some of you may remember. It was the telephone regulatory body, which was set up originally to deal with certain services, shall I say, on the telephone. As time wore on, lots of

people used these high-cost telephone lines to make money—a hotel faxing you a map would cost a lot of money, and those sorts of things. It broadened its remit massively and ended up dealing with some quite interesting areas, which were perhaps not so highly political as the cost of your water. Nevertheless, that is the challenge.

There is no easy answer, Lord Burns, to your question. Things that did not seem very political once become more political. Look at gangmasters regulation. That came off because of an issue at the time. I do not know which Minister designed that one, but it seems to have been designed with a very close remit, as a light-touch regulator but managing to deliver what it was set up to do.

Lord Burns: Do you have a view about the impact of the appointment process for senior regulatory staff and board members on the independence of regulators?

Dame Meg Hillier: Absolutely. I am quite trenchant on this issue. I was once, a long time ago, a Nolan-appointed independent assessor for health appointments, so I have been on that side of the table, and I have been a Minister. A number of Select Committees in Parliament recruit certain roles, so I appoint the C&AG and the chair of the National Audit Office, and the chair of the Public Administration and Constitutional Affairs Committee appoints the head of the Electoral Commission, for example. Some of us are sitting on different sides of that table.

My view is that you should have a strong, independent public appointments process. I would urge this of any party: avoid political interference, because it can weaken the position. I have no problem with people with a political background getting public appointments, because it would cut out quite a lot of talented people otherwise, but they should not get an appointment just because of a political background.

Ministers have a role. I have heard this over the years from good Ministers, who I have faith in, of all parties. You need to appoint the right person for the job. It is not down to any political persuasion or because you are trying to drive a political agenda. You have to have real confidence as a Minister to do that. I am very clear that that is what needs to happen.

If you look at the public appointments lists, often the independent member is very close to the current party in government. It is a sadness to me that that has happened. I would say the same to my own party. If we were to be in government again at any point, we should be really careful not to do that. It is a mistake to do that.

Lord Burns: Should Parliament have greater oversight of appointments, in order to ensure greater independence? I have been on both sides of this regulatory fence over the last 20 years and know that quite a lot of appointments have to go to Ministers for approval—the decision is taken but you have to seek approval. I have seen an increasing pattern of Ministers refusing to agree to them. Should they be required to explain

why they are turning them down and should Parliament have some role here, in deciding whether the reasons are reasonable?

Dame Meg Hillier: It is a good suggestion. If someone has gone through an independent process, properly formulated and properly done, why you are turning them down is important. I do not want to reveal secrets of my own selection process, but sometimes you are reliant on a head-hunter to pass that on to the candidates. Often, head-hunters are not keen to do that, because they do not want to upset someone who might be a future cash cow for them, but it is really important to be robust about that.

The interesting thing about parliamentary oversight is that we have these confirmatory hearings in Parliament, but of course there is no veto by committees. That is an important role. It is interesting that some of us make public appointments through our roles as chairs of different committees. That is not often known out there. It is quite time consuming, and, again, we have a resource issue here. In the Commons, you have the Executive and then you have the rest of us holding the Executive to account. For those of us in committees, that takes up a chunk of our time. There is a danger that you stretch the legislature and the scrutiny function too thin if you load more on to Parliament.

Having a proper process is the key to getting the right appointment. There can be a danger that, in a room in Parliament, people who have not necessarily seen the whole process in place can make a judgment on someone sat in front of them in a committee, which might not be as fair or robust. While it is important that senior public servants can speak in public and defend their organisation in public, there are some who might be brilliantly technically expert in their area but perhaps not great public performers. We have to bear that in mind.

There are a lot of variables, but the role that Parliament currently plays—certainly at the Commons end, as I cannot speak so much for the Lords—seems to strike the right balance around those in the big, key positions who will have to explain themselves to the public who are going to be paying their salary and watching their work.

Q56 Lord Gilbert of Panteg: Thank you very much for your evidence so far; it has been very interesting. I want to take it back to where we started. We talked a little bit about overlap and underlap between regulators. It seems to me there are three areas where there could be greater co-operation between regulators to avoid this overlap.

You spoke about regulators learning from each other, and described a situation where they learned from each other in a committee session. What are your reflections on how good they are at that bit of it?

The second area is co-ordinating their work programmes, so that they avoid duplicating requests for information to the industry, where an industry has several regulators it needs to deal with.

The third area is really interesting. We touched on this area around skills.

Regardless of whether they are working together, is there an argument for expert skill centres to be set up to provide that resource to all of the regulators in a space? That might enable the regulators, with Treasury permission, to pay higher salaries to a team of really high-quality individuals who can take on the businesses that are going to try to poach them. Is that kind of approach to creating technical centres something you have seen? If not, would you encourage it?

Dame Meg Hillier: Let me take this in order. On learning from each other, there is still a lot of room for improvement, and I think they would probably acknowledge that. It is fascinating. There is learning going on between certain regulators at a senior but not top level, but the top-level people were not meeting regularly. Any organisation, corporate or public, ought to be looking at best practice and learning from that. You would hope that, in governance, some of that would come through anyway. We have made some very clear recommendations about learning from each other, including developing common principles on approaches to methodology, their effectiveness, their impact on consumers and so on. I hope that that is bedding in.

On overlap, quite often regulators are at the end of the line on this. A party will be elected and there will be a manifesto commitment to do something. Because of my role on the Public Accounts Committee, I often know what government is already doing. When someone suggests something to me, I say, "Do you want to know what government's already going in this area?" Very often, there is a very long list. That is often about the policy-making in Whitehall and, sometimes, let us be honest, about political manifestos—it is a good headline but then you have to deliver on it. We need to be really clear that that overlapping is often a result of that end, rather than regulators. Once they have their remit, they have their remit.

Maybe this is where an overarching body looking at regulation and at the burden of regulation would have a role. If you have information being asked for but presented in different ways to different regulators, that is a burden on whoever is having to present it. If you have regulators asking for the same information but for different reasons, could there not be one portal or place where that is held so that it could be verified and checked and you do not have to keep reporting it in? There is a potential issue there. Again, it is about regulators learning from each other. On the ground, there may be some issues, but most of that comes upstream in the design.

On skills, I had not thought about having a central body as a repository of resource. On the Public Accounts Committee—and I speak for the committee on this—we are very clear that we do not have a hair-shirt approach to salaries. Sometimes this approach of pegging it to the salary of the Prime Minister means that you just do not get the right people. We do not want to see a golden escalator of pay, where everyone thinks they should be paid more, and we are very clear about that. But sometimes the way that organisations get around it is by employing very expensive

consultants, and we do not think that that is a good idea. It is better to pay someone the rate for the job and it can be better value for money. We look at it through that lens.

If you look at the Financial Conduct Authority and other very specialist regulators, you find that they pay people on a completely different pay scale from other regulators and other bits of the public sector. There would be a challenge if you had a pool of lawyers or people with specialist skills in data or methodology, because there would be such a competition for them. I cannot see, practically, how that would work, but I am open to suggestion. I had not really thought about it before.

Lord Gilbert of Panteg: We had an interesting witness last week. She was talking about the energy sector and described five or six regulators and bodies that it had to engage with on some energy projects. The situation she described is that they all had roughly the same skill sets in-house and tended to poach from each other a bit. Could those bodies work together across the board in order to pool the talent? Does each of those bodies need this team of experts?

Dame Meg Hillier: This is something that should be thrown to regulators to look at. In the local government sector, local authorities have combined authorities now, and so you have the tri-boroughs in west London combining payroll and those sort of issues. This is what I would call the bread and butter of looking at your bottom line and asking, "Where can we make savings that don't impact on what makes us special and different or the front-line services?" That is just bread and butter common sense when you are looking at the finances. Given the financial situation, if regulators are not already looking at that, they probably should be.

Lord Gilbert of Panteg: I am encouraged by what you say about paying the salaries. It seems to me that that is really important.

Dame Meg Hillier: We are really clear on the committee, since I have been on it, that you have to pay people a rate for the job. Some rates are eye-watering for our constituents—I represent a borough where one in two children live in poverty—but failure is very costly too. "Spend to save" is perhaps a bit too generous a way of describing it, but sometimes you have to spend to get the right person in.

The other challenge, of course, is holding on to people. If you do not pay the rate for the job, they will just move somewhere else, and then you get that churn, which is no good for delivery.

Q57 **Baroness McGregor-Smith:** Moving back to the big subject of skills within regulators and the skills that we need for the future, my question is in two parts. The first is about how AI and automation could really support the huge amount of information that every regulator has to produce. You talked earlier, for example, about how best to use infographics. How could you put best practice with automation through the whole system?

Secondly, as a different part to my question, even if we do all that, how do we make sure that, when needing to give unhelpful news to government, they are actually able to do so? In some cases, they do it well, but there are a whole range of areas where they are not heard. Is there more that could be done to support them in that?

Dame Meg Hillier: That is a very good question. Let me take the AI first. Absolutely, there are opportunities here. The AI summit was quite a useful contributor to the beginnings of the thinking on this. We have looked a lot at digital transformation across Whitehall as a whole, and there is an awful lot of work to be done there. There is also a big role for AI to take out the grind and potentially mine the information that those regulators need. This could be a great cost saving.

There always has to be a balance. As a committee, we have looked at algorithms more than AI and at how to ensure there is no bias built into those algorithms. In our recent inquiries we have made a number of recommendations to different bodies, such as the DWP, including to please check that the algorithm is not having a perverse impact on a particular ethnic group and that you are screening out any of that. There is a lot of opportunity and there is potential risk, but, if well-managed, it could be really beneficial. However, you need that human interaction with AI to make sure that you are getting results.

As for giving bad news to government, again, this fascinates and worries me. There is a danger that, if you are seen as a troublemaker in the sector, you might not get that next public appointment or it might be a problem. This is why you need really strong and independent people in these roles, who do not have a fear of giving bad news to government. To go back to when I was a Minister, I was only a junior Minister but I would say to my officials, "If something bad happens, tell me quickly, because then we can work out what to do. I don't need you to wait to get the full, detailed answer on everything, because I need to know".

Things go wrong. If 90% of things go well 90% of the time, we are doing pretty well—I can tell you that when I was a Minister in the Home Office it was not quite as high as that. It is really important. You have to have a system that values that honest, candid feedback, and the bad news too. I think of responsible Ministers and Prime Ministers I have known over the years. They would want to know things that are going wrong. Hiding it is not helping anybody, but I can see where the political pressures will be on people.

There are periods when you are implementing a new manifesto because we have a new Government, or at the end of a Parliament when a Government are trying to deliver things. I have been at the sharp end of trying to deliver big projects that you need to get across the line. One bit of you does not want to hear the bad news; on the other hand, if you do not hear the bad news, it is going to be a challenge.

Bad news often comes with a price tag. If there is a problem, sometimes that is the regulator or whoever it is coming and asking a Minister for

money, which is very challenging. Maybe I am an old-fashioned politician, but I think that telling truth to power is what public servants are there for, whether they are a regulator or in Whitehall. We need to accept that that is an important part of their role and welcome it.

Q58 The Chair: There is a cohort of people who are strong and independent, and may be well versed in the affairs of the particular entity. They are called non-executive directors. Most departments have some non-executive directors, and indeed so do most regulators. Do you ever hear from these people?

Dame Meg Hillier: It is interesting. I have been looking into non-executive directors. For example, we had Sir Jon Thompson in last week on HS2. He was the chair and is now the executive chair. For certain projects, we will bring them in, because we think that they have an independent voice. You are right: a good non-executive is really critical. A good non-executive body is absolutely critical, because they have that level of independence and can be really honest about something and bring the perspectives of whichever sector they come from. Of course, with regulators, it may well be the sector that they are regulating, but there are others who have come from outside that sector.

It is also quite a good move that we have good non-executive directors now in government departments. I know that many Permanent Secretaries really welcome the non-executive directors.

The Chair: Do you call them in front of your committee?

Dame Meg Hillier: No, not so much, or not the ones from departments, because it is the accounting officer who is responsible. They will often bring their finance director, but it will be them and their operative team who are dealing with the issue on the ground. For instance, the chair of the body that now deals with government digital issues has appeared in front of us. We do that where we think it is appropriate, but we do not bring in the non-executives from departments.

We do not usually bring in the non-executives from regulators. Usually, if it is anyone, it would be the chair. That would often be because it is new or something very big has happened, and sometimes it is about the chair and the chief executive presenting a united front. We obviously choose our witnesses. I am open to having non-executives as witnesses, but I am sure that you will appreciate that we have a lot of things to juggle—sometimes space alone impacts the number of witnesses we have.

It is not our priority, because the priority is the accounting officer. It is their constitutional responsibility to report to the Public Accounts Committee. It is our constitutional responsibility to have them come and be as honest with us as they are able.

The Chair: You made a point earlier about having a model reporting system from regulators, and possibly from departments, about their relationship with regulators. Most of the information comes in huge volumes—the summaries run to *War and Peace* length. We have heard

very little—in fact, I would say nothing—from non-executives. Maybe the model report ought to include a report from them about what they are doing and what the issues are. They are a paid resource, and many of them are very experienced. I am sure that giving them the opportunity and the responsibility to speak out would be helpful.

Dame Meg Hillier: That would be an excellent idea. You talk about the large volumes. One thing that we push as a committee is plain English and short summaries. There are back documents, but the reports and accounts for government departments and the whole of government accounts have improved, partly because we have pushed to make them digestible. Something can be complicated but still presented clearly.

Frankly, we are a bridge between the taxpaying public and Whitehall. The taxpaying public should not need us as a bridge. Obviously it is our job, but they should be able to access information that is clear and easy to understand, as far as possible, without too many barriers.

The Chair: We say amen to that. Thank you very much indeed for joining us. It has been very helpful.

Dame Meg Hillier: I want to recommend the National Audit Office report of May 2021, *Principles of Effective Regulation*? I am sure it is in your evidence pack but, if not, that is a really good resource, showing what the National Audit Office is trying to do to bring some of these issues together. That is something we have used on my committee.

The Chair: Thank you very much.