

# Environment, Food and Rural Affairs Committee

## Environmental Audit Committee

Oral evidence: Pre-appointment hearing—Office for  
Environmental Protection, HC 1042

Tuesday 15 December 2020

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Environment, Food and Rural Affairs Committee members present: Neil Parish (Chair); Ian Byrne; Geraint Davies; Rosie Duffield; Barry Gardiner; Dr Neil Hudson; Robbie Moore; Mrs Sheryll Murray.

Environmental Audit Committee members present: Philip Dunne (Chair); Duncan Baker; Barry Gardiner; Robert Goodwill; Marco Longhi; Caroline Lucas; Cherilyn Mackrory; Jerome Mayhew; Alex Sobel; Nadia Whittome.

Questions 1 to 38

Witness

[1](#): Dame Glenys Stacey, Chief Regulator, Ofqual.



## Examination of witness

Witness: Dame Glenys Stacey.

**Chair (Neil Parish):** Welcome to this joint meeting of the Environment, Food and Rural Affairs Committee and the Environmental Audit Committee. I am chairing for members of the EFRA Committee, and Philip Dunne is chairing for members of the Environmental Audit Committee. We will take alternate questions. Dame Glenys Stacey, are you there?

**Dame Glenys Stacey:** I certainly am, Chairman. Good afternoon.

**Chair (Neil Parish):** Are you happy for us to refer to you as Dame Glenys?

**Dame Glenys Stacey:** Absolutely.

Q1 **Chair (Neil Parish):** It saves saying such a mouthful every time. I very much welcome you to our sitting this afternoon. As a lady with such experience, you will not find the whole experience too awesome, I hope.

What motivated you to apply for this role?

**Dame Glenys Stacey:** I think that it is one of the most important jobs of our time, dealing with the most pressing issues of our time. I do not see how I would be anything other than desperately eager to apply for and to do this job. Indeed, I feel as though, in a way, my past 25 years of experience has been preparation for this role and has led me to this side of the table. I would simply love to develop and lead the OEP. It has a really significant job to do and will have a big chunky place in the environmental governance arrangements going forward. I just believe in it wholeheartedly, and wish to see it get off on the right foot and succeed.

Q2 **Chair (Neil Parish):** I have looked at your CV; you have had great roles across Government Departments and at Ofqual, and you were chief of the probation staff at one stage, so you have a great deal of experience. I had interesting discussions with you when you looked at how we could reduce the amount of regulation across the DEFRA brief, the Rural Payments Agency and agriculture payments.

Given your experience of looking at deregulation almost, do you think your experience will be useful when you set up the new Office for Environmental Protection to make sure there is enough regulation and enough system so that it is not over-regulated?

**Dame Glenys Stacey:** I have an unusual amount of experience in establishing, growing and developing independent public sector organisations, and you are right: that has included regulators and super-regulators. I hope that when I undertook and reported on the independent review of farm regulation, I was able to demonstrate the true breadth of understanding of regulation. I think too many people regard regulation as a set of rules and an enforcement policy with a big stick out straight away. Good regulation does not work like that. Good regulation is designed to



## HOUSE OF COMMONS

bring people into compliance. That is what you after: compliance and improvement. So I hope that these years of regulating in any which way to get to the right solution will pay dividends should I be lucky enough to get into this role.

- Q3 **Chair (Neil Parish):** You have a lot of experience. I always think that you are very quietly spoken, but I think that if you needed to use a big stick, you probably would be able to. This is a role where I suspect a big stick, metaphorically speaking, will be needed from time to time. Do you feel that you are more than capable of that?

**Dame Glenys Stacey:** I have a personal record of grim determination and independence. If you spoke with a chief exec on one exam board or another, you would find that to be so. My experience in regulation is that, yes, you need a good, clear enforcement policy and you need to be able to know how to deliver it without blinking. As I think Richard Macrory said to you last year, it is about having a smile and a big stick in the cupboard. In Ofqual, we tend to refer to this as a cup of tea meeting. One has a cup of tea with a chief exec, but we both know that that stick is in the cupboard—no doubt at all. *[Interruption.]*

**Chair (Neil Parish):** Dame Glenys, I am afraid the Division bell is calling, so we will stop briefly. I have one more question for you when I come back, and then I will hand over to Philip Dunne.

*Sitting suspended for a Division in the House.*

*On resuming—*

- Q4 **Chair (Neil Parish):** Welcome back to the joint meeting of the EFRA and Environmental Audit Committees. Dame Glenys, in your questionnaire, you mentioned that you were encouraged to apply by the Secretary of State. What form did that encouragement take?

**Dame Glenys Stacey:** I think I was encouraged to apply. I have spoken about regulation with the Secretary of State maybe half a dozen times over the last couple of years. I recollect that in the early part of this year—I am not sure when exactly—we had a telephone call. At the time he was concerned about the difference between licensing and permitting in a regulatory sense. He mentioned the OEP to me and said that I might be interested, but he also said that he would be looking for a wide range of candidates. I think I can assume that that was a hint that he would be interested in getting an application from me. There was no real need for the hint because nothing would have stopped me applying anyway. I declare that because, although I do not know if that was the purpose of the call, that exchange did happen.

- Q5 **Chair (Neil Parish):** So you were always keen to apply for this role. You did not have to be, if not coerced, then encouraged. You were very happy to apply for the role. Is that correct?

**Dame Glenys Stacey:** Absolutely so. You know of my keen interest in regulation and in the land and waters of this country. You know the work that I have put into looking at how agricultural land is overseen, for



## HOUSE OF COMMONS

example, and that is a great part—70% of our land use in the UK. I watched the progression of the legislation for this organisation very carefully. I have quite a keen interest in governance and how enabling statutes come into effect and are then acted upon. I have been watching and waiting, it is fair to say.

**Chair (Neil Parish):** Thank you very much. My questions are finished, so I will hand over to Philip.

Q6 **Chair (Philip Dunne):** Thank you very much, Neil. Dame Glenys, this is an unusual appointment in many respects. You are essentially taking over where the EU leave off. We have a supranational regulator at the moment, and you will become a regulator—in a more conventional, British sense—of what will essentially be the public sector's adherence to environmental law, rather than necessarily of individual actors within the economy.

How do you see your previous experience as a professional regulator, if I can call you that, having qualified through the law—your real profession—fitting you for this role to become the alternative to the EU?

**Dame Glenys Stacey:** You are right that it is a rather unusual organisation as a sort of super-regulator and expert scrutineer. We can look at my experience in, say, five roles over the past 25 years. I was founding chief executive of the Criminal Cases Review Commission—lots of lawyers in there. We were vested to start on 1 April, and with two staff, no agreed budget and no IT, we opened our doors for business three months later on 1 April.

I followed that by being first chief executive of the Greater Manchester Magistrates' Courts Committee, which was a merger of 10 different bodies. They were reluctant to merge, as it happened, but together as one organisation we were responsible for about 10% of the nation's criminal justice business in the magistrates' court. There were levels of complexity there.

I then became the first chief executive of Animal Health, now the Animal and Plant Health Agency. That was when it was coming out of the Department for Environment, Food and Rural Affairs to stand alone as an Executive agency. At the time, it had a strong and resilient cadre of vets and it had some administrative staff, but little else. It did not have any strategy or plan, or much by way of data. It certainly did not have a management cadre or leadership. I was developing that organisation as an Executive agency and getting it ready for its big strategic challenge, which was being prepared for up to 50 different exotic animal diseases that could outbreak at any time. I certainly enjoyed that. We were, of course, delivering and overseeing a large number of quite detailed European regulations then, mostly designed to make sure that the food on your plate is safe, but there was a wider range as well.

Perhaps two more recent experiences are particularly relevant in terms of independence. I became chief executive and chief regulator at Ofqual, back in 2011, when it was about a year old and pretty much in embryonic



form. It was struggling to settle its ways of working, even down to its individual job roles, and struggling to find its position on particular matters or really sort its relationships out with others. I led that organisation for five years and developed it. Ofqual is independent of Government—a non-ministerial public body, actually—and it must protect and sometimes really exert its independence to the full. I believe I led that organisation exceptionally well.

I then became Her Majesty's chief inspector of probation and shaped and developed that inspectorate to be able to provide the evidence that really showed how probation services were working at a national level. That involved collecting and analysing our data, so that we were able to advise Government firmly but fairly, in an evidenced way, about how probation services were working nationally, and to expose the fundamental flaws that were increasingly apparent in the delivery model at the time.

I suppose I have grown through a number of jobs. I understand regulation and growing organisations, I really understand independence and I understand how to interpret the law.

- Q7 **Chair (Philip Dunne):** You will be starting here in an interim capacity, because the legislation to establish the OEP will not have passed the House of Lords or received Royal Assent until some time in the spring. You have described how you set up previous regulators and inspectorates, which is clearly directly relevant. In the early days, before you have an infrastructure, I expect the demands on your time will be greater than once you are up and running. It depends how busy you get.

**Dame Glenys Stacey:** That is right.

- Q8 **Chair (Philip Dunne):** Do you have the capacity in those early months to put the resource into making sure this is properly staffed and will be up and running and functioning as soon as Royal Assent arrives?

**Dame Glenys Stacey:** Yes, you are right. My experience is that it is an all-consuming matter until vesting—in fact, until you are actually operating your main functions. If I am lucky enough to be appointed, there are commitments that I will drop. I stop being acting chief regulator at Ofqual at the end of the year in any event. That was my commitment until that point, and I am delivering on that.

I am a board member of the Centre for Data Ethics and Innovation, and I will resign from that. I sit on what is called a challenge panel for the Ministry of Justice and it is part of the governance overseeing the movement of probation services to a much better delivery model. It meets every six weeks for a couple of hours; I would like to keep that running. It runs out in April anyway, but I feel that I have a vested interest in that coming out right, and I hope that my contributions are appreciated.

The main focus will be OEP. The only other thing that I am being asked to consider now, as I leave Ofqual as chief regulator, is a strong urge that I should chair a sub-committee of the Ofqual board, which will hold responsibility for some of the technical detail of examinations in 2021.



## HOUSE OF COMMONS

That is probably going to be meeting about once a fortnight. So, once a fortnight a meeting for maybe two or three hours, and once every six weeks or so a Ministry of Justice meeting, but otherwise my time will be OEP's.

**Chair (Philip Dunne):** That is very helpful. Thank you very much. Because this is a joint hearing between two Committees, I am going to introduce our next questioner, and then she will hand back to Neil for the EFRA Committee members. The next up to ask questions is Caroline Lucas.

Q9 **Caroline Lucas:** I have two interrelated questions, Dame Glenys. You volunteered that you are not an environmentalist, and you said that you have so much to learn. My first question is: what do you see as particular gaps in your knowledge, and how will you address them? Secondly, I wonder whether you foresee any particular challenges around environmental regulation in particular. I wanted to pick up where the Chair of the EFRA Committee left off. You were explaining that the stick was in the cupboard but, if necessary, you would get it out. I guess that I am probably rather more eager to see the stick come out than perhaps the Chair of the EFRA Committee. I was little worried when I was looking at the report that you did on agriculture, when you talked about modern regulation, which seemed to be lot more about persuasion than about enforcement. Obviously, when it comes to environmental regulation, enforcement is really important. Could you answer those two related questions?

**Dame Glenys Stacey:** Gaps in my understanding—I feel that I know certainly enough about regulation, oversight, interpretation of the law, chairing boards, being a board member and about really understanding how to develop quite a complex organisation. I believe those are all beneficial qualities in terms of my being the Chair. I do understand quite a lot about agriculture and about what actually happens on the ground; I think that knowledge is extremely helpful. I am not naive about how things work in parts of the country.

My gaps, of course, are in relation to other aspects of this environmental brief. That is one of the many reasons why I so much want this job. I am experienced in a number of different areas, and I have always gone in not knowing—not knowing about animal health, the assessment of examinations and probation—and really throwing myself into learning. I will have a reading list over Christmas, if I am lucky to get this job. I will require coaching and I will be out there talking to environmental lawyers and other stakeholders. I will be taking every opportunity to learn from hopefully all the members who will be at the top of their game, and other staff as well. I will be making that commitment to get up to speed and to stay there.

Q10 **Caroline Lucas:** Could you say a little bit more about those stakeholders? Who do you foresee them to be?

**Dame Glenys Stacey:** There has been quite a lot of work done on stakeholders and stakeholder mapping, I see, by DEFRA and PA



## HOUSE OF COMMONS

Consulting, and that is very helpful in itself. But starting at the very top, we have the wider public and future generations. That is what it is about, really.

Q11 **Caroline Lucas:** I meant in terms of who you would be learning from.

**Dame Glenys Stacey:** Oh, right. There are a number. There are some respectable environmental academics that I would like to engage with. There are good environmental lawyers at the Environmental Law Association, for example, or someone of the likes of Richard Macrory. I would expect to be able to develop good relations with them and to learn from them. Then there are a wider range of stakeholders that really are representative of points of view—ClientEarth, for example. There are a good number of them that I need to get out and meet and learn what their point of view is.

This organisation is unusual in so many ways, but it must engage purposefully and meaningfully. I never have an experience of doing that without learning. You always bring something—a nugget or two—back.

Q12 **Caroline Lucas:** I am mindful of the time. Very quickly, maybe you could just answer on the persuasion versus enforcement point.

**Dame Glenys Stacey:** Yes, I can. I can see where you are coming from. I keep saying this, but this is such an unusual organisation. It is modelled on the European arrangements, of course. What we do know is that the way that works is that you are having conversations meanwhile to make things happen. Nine times out of 10, that will work.

Let me explain a general philosophy about enforcement to see whether you would recognise it. Enforcement is really about ensuring compliance and stopping non-compliance. It can be really expensive and time-consuming for a small organisation. What you want people to know is that you can do it—that you are a credible threat, basically. You need to be able to know how you are going to do it.

You need to be able to state in your enforcement policy enough for people to know that you know how you are going to do it, and they will recognise when they are on that enforcement path, if you like. Then, when you should enforce because something serious has happened that simply should not be ignored, you really need to get on and do it—no doubt at all. But I still maintain that initially your approach is to seek compliance. If your big stick is in the cupboard and you can show you can whack it, you are much more likely to get that compliance.

**Chair (Neil Parish):** I will move on to question 4—Sheryll Murray and Neil Hudson. Over to you, Sheryll.

Q13 **Mrs Murray:** Dame Glenys, thank you for giving your time to come here to speak to us today. Could you give us your vision of the OEP's role? As this is a very new organisation that you are hoping to chair, have you planned any growing demand on your time, as it gets up and running? Philip mentioned the interim period, but as it starts to get legs and get up



## HOUSE OF COMMONS

and running, do you envisage that it will have a far greater demand on your time?

**Dame Glenys Stacey:** On the vision, first of all, there is no doubt at all that there are many people who have very high hopes for this organisation—we have seen that in spades—but there are also many who are fearful that it is not going to be the watchdog that everyone wants it to be. They fear it is just going to be some sort of lapdog, and that it will be constrained and meek and not become the watchdog they so wish it to be.

My vision for the OEP is that it will be that watchdog in every sense. Under my leadership, it would always do the right thing. I have never in all of my known career done anything other than the right thing, even when it has been extremely difficult, so I hope that over time we will dispel or dissipate any determined or jaundiced views—understandable fears, really—about what we might be.

As to how to how I see it, it is going to be an intelligent organisation, isn't it? It needs a lot of intellectual heft. It needs to form opinions that are evidence-based and that are reasoned and compelling. It does need to be imaginative, I think. The powers are the powers—we have got what we have got—and for each issue we look at, we will have to think through what is the right approach, across a broad range of things. We will definitely need, and we will work at, constructive and engaging relationships with an unusually wide number of people and types of organisation.

I promise you we will be well governed. I have a keen interest in and experience of governance. I want to see a strong board, for example, with people at the top of their game appointed to it. I want to see the governance from that for the whole organisation.

Lastly, I would say that this organisation should not be too big and cumbersome. Once they get big, they get more difficult to lead and it is difficult to be sure about what I am doing in every nook and cranny. It need not be too small either. If I have my way, it will be just the right size. That is how I see it.

As to the growing demands on my time, I should stress that the two things I am keeping on my time—the work I do for the Ministry of Justice and the work I have been asked to do for Ofqual—are both time-limited. The Justice work ends in April and Ofqual's brief should end by the year end, if not before.

My experience of these sorts of jobs is that it is demanding to begin with to get them up and running, and then it goes through stress points when you are producing a big report or when an unexpected issue arises. Those leading the organisations have to be responsive to that. That is where your leaders need to be present, not absent, and I quite appreciate that. I will have a good amount of time.

I should say that the job was advertised as two days a week, but I will be surprised if it fits into that.

**Mrs Murray:** I included my supplementary in the original question, so I have finished, but I think Dr Hudson had some supplementaries.

- Q14 **Dr Hudson:** Thank you, Dame Glenys, for being before us today. The OEP will monitor progress in the improvement of the natural environment and see how that relates to the Government's environmental improvement plans and targets. In a couple of your previous answers, you mentioned agriculture and said that much of the land in the UK is devoted to it. I just want to see what your thoughts are on the overlap between environment and agriculture, especially now that the Agriculture Bill is an Act and landowners and farmers will be rewarded for how they look after the land. Environmental outcomes are a key part of that, with the environmental land management scheme. I just wanted your thoughts on the overlap and the interdependence, if you like, between agriculture and the environment.

**Dame Glenys Stacey:** Two things immediately spring to mind, but do let me know if I am on the wrong tack. First, of course we absolutely have a keen interest in the environmental land management system. We know that farming has to adopt wholesale more sustainable farming approaches to deliver the objectives we all have for the environment. For that to happen, as I stressed in my review of farm regulation, the right incentives need to be there. It is all in the detail, so I am afraid we will be knocking on that door pretty quickly and trying to see how the detail is shaping up. That is not clear at the moment. A lot hangs on getting that detail right.

Secondly, I think people who do not see agriculture and the environment in one and the same space perhaps need to think a little bit more deeply. For example, in Neil Parish's part of the world—forgive me—there are an awful lot of slurry tanks that have had their day and are leaking. That is affecting the water supply, and in Neil's part of the world there is an awful lot of water to affect.

It concerns me greatly that this sort of difficulty lies there unattended, in effect. There will be reasons why the farmer cannot go out and buy those smart new slurry tanks, but it is not good enough in terms of the environment that some farming practices that are disreputable, really, are allowed to continue on such a scale.

The two things are completely connected. Agriculture happens on land, but it affects water. It is so critical.

- Q15 **Dr Hudson:** Thank you; that is very helpful. You have said that you will be knocking on the door of that, so can I ask—then I'll be done, Neil—whether you are optimistic that the ELM scheme can work? Will the OEP be looking directly at how that is implemented and put into practice with your auditor's role?

**Dame Glenys Stacey:** We will be interested in how it is planned to work. As I say, the detail is not really there yet, but we have got to know that it



## HOUSE OF COMMONS

will sufficiently incentivise farms and that it will incentivise them to do the right things. Obviously, a wide range of public goods is proposed, as I understand it, and I have a keen interest in a lot of them but not all of them. Although I see the benefit of a stone wall, I am not sure how that is contributing to the objectives of my organisation, should I be leading it, but a good number of those objectives do.

To take a simple thing, we want farmers to plant more trees, but presumably we want them to plant the right trees in the right places. What is so fascinating about it is all the detail, but we would want to be satisfied overall that it will achieve as intended and that it is sufficiently joined up. I do not know yet whether it is sufficiently joined up, but I have not looked at the scheme of late, so it may well have developed since I was looking at it last year.

**Dr Hudson:** So it is on your radar. Thank you.

- Q16 **Chair (Neil Parish):** Just before we leave this question, Dame Glenys, as the ELM scheme is rolled out, I think some of the payments towards farming could be targeted very much towards cleaning up and some of the environmental solutions you talk about. Hopefully we will be able to use some carrots as well as sticks to get this right. I think your involvement on how ELM works will be useful, if only indirectly. I put that to you gently.

**Dame Glenys Stacey:** Thank you. It does chime with something I have been thinking about. This organisation obviously reports to Parliament and I will be brought to account at these Committees, which I would welcome, but we also have a good deal of common interest in what is to be achieved here. I appreciate that.

- Q17 **Chair (Philip Dunne):** I will just butt in on that point before question 5. That raises a really interesting challenge for the OEP on the extent to which, when someone notifies a problem, you seek to intervene directly or you intervene through the public sector body that has responsibility for delivery. As I understand it, the latter is your role, rather than the former.

**Dame Glenys Stacey:** That is right. We are looking to hold public bodies and Government to account for the proper application of environmental law. Experienced regulators tend to look at the issue they are facing—whatever it is—and get their thinking caps on and work out the best way to deal with it. That is the way good, fluid, responsive regulators work. So if there is a public body that one can nail down, that is fine, but if there is not, you are looking at other ways. For example, some sort of review of the application of environmental law in relation to a particular area would perhaps at least shine a light. It really depends on the nature of the problem, your powers and how these two things sit to get you to the right solution.

**Chair (Philip Dunne):** Thank you. I do not want to encroach on Alex Sobel's line of questioning, which is related.



**Q18 Alex Sobel:** Dame Glenys, I have spent over two years asking Ministers and Secretaries of State what will happen after the end of the transition period, which is now just 16 days away. One of the big challenges for you is that, initially, we were promised that the OEP—when I first started asking questions, it was not even called the OEP—would be in place at the end of the transition period, the Environment Bill would be passed in plenty of time, your appointment would be completed, the infrastructure would be built and so on.

Then it became that there would have to be a short period of interim arrangements—that is what Thérèse Coffey told me when she was the Minister—and now we are just a few days away and you are not in place, the interim arrangements are not in place and I do not think we even have a budget. We then need to look forward to the actual OEP starting.

Answer for me some questions about two of the challenges. First, how are you going to handle the challenge of hitting the ground running from 1 January? How are you going to have the interim arrangements in place? How are you going to manage them?

Secondly, we have been promised by George Eustice, the current Secretary of State, that it would be in place by July. Both Michael Gove and George Eustice promised us a world-class regulator. How are we going to get from where we are now to a world-class regulator by July 2021?

**Dame Glenys Stacey:** I understand your frustration. An interim Environmental Government Secretariat is now proposed to bridge the gap, isn't it? I think George Eustice wrote to the Environment, Food and Rural Affairs Committee with that. I should say, first, that while I really appreciate the willingness of the individuals involved to do that, it would not have been my preferred option at all. I argued at interview for the establishment of this as a proper shadow body to enable us to really crack on with the necessary recruitment and so on. That has not proved possible and time is against us, so we are left with this non-statutory arrangement. That is what we have.

One of the silver linings is that this secretariat is 18 people. Looking at the details, there are, I think, about half a dozen environmental analysts there who have come over from the Natural Capital Committee. I am very interested in that team of people, and their knowledge, capabilities and understanding. It is the sort of niche expertise that we really need.

What am I going to do? I am going to get in there as soon as I can. I am going to get an interim CEO of the right calibre, experience and standing by 1 February. I am very clear about that. Then that CEO and I will steer the secretariat, pending the appointment of other board members. That recruitment is now under way—and of course recruitment of the OEP's own staff. We will want to stand on our own two feet at the first opportunity,

In the memo that came to you, the Secretary of State suggested that this interim secretariat would do a number of things. First, it would receive and



## HOUSE OF COMMONS

validate complaints—not deal with complaints, which would not be appropriate. I think the validation receipt is fine, but I will want to have that overseen. I want the tone and tenor of our exchanges with all people to be to my liking.

It was also suggested in the letter that the secretariat would go on and draft some documents, including perhaps a first stab at OEP strategy. That will not be happening. That is the responsibility of the OEP's board, and is subject to consultation as well. I have my own notions as to how strategy should be developed, and it will not be by a secretariat acting on the OEP's behalf, but obviously the chief exec and I can get the early work done ready for our first board meeting.

I suppose, in short, I will be doing all that I can to get this organisation up and running so that it is ready upon vesting, which I think is late April, to take work by early July. I have experience of that, having set up new organisations before, and I am very happy to talk to you in more detail about what is involved there if you wish. To sum up, it is not satisfactory. It is where we are. I want that Bill enacted more than anything and to be able to crack on.

**Alex Sobel:** I will let others follow up, because I know we are behind time already.

Q19 **Robbie Moore:** My question is on co-operation. The OEP will need to co-operate with its counterparts in Scotland and Wales, as well as the Environment Agency and other regulatory bodies across England. What experience do you have of establishing and maintaining those sorts of links? I would be grateful if you could provide some examples.

**Dame Glenys Stacey:** I have plenty of experience of working alongside other regulators and of establishing and maintaining quite sophisticated relationships with other bodies. I can give some examples. I currently regulate qualifications in England. There are fellow regulators in Wales, Scotland and Northern Ireland, and we have good working relationships. We four regulators meet on Friday evening to reflect on the week, so we are very close. We have formal working relationships between the organisations as well. We exchange ideas, approaches that have worked, and our understanding of those that we regulate. Those relationships are pretty essential. They will be for the OEP, because the environment does not stop at borders.

When it comes to relationships with other bodies, it will be interesting. If you take something such as the Environment Agency or Natural England, we will have to have construct relationships. We have a lot of things in common in terms of what we are trying to achieve, but we will also be holding the Environment Agency to account.

Thinking about that, it is very much like my relationship with exam boards at the moment. Over the years, I have worked with exam boards to deliver significant reforms to GCSEs, AS-levels and A-levels, working very closely in programme management arrangements. I have also overseen

their awarding of qualifications, controlling grade inflation and, indeed, taking enforcement proceedings by fining them—getting the big stick out as well. These relationships have a duality about them. I feel there is quite a lot resting on the leadership and on personal attributes on both sides, but there are models for it, and I have experience of it.

- Q20 **Robbie Moore:** I have a quick follow-up. Particularly when we are looking at counterparts in Wales and Scotland, I suspect there may be challenging circumstances where objectives are slightly different, given the nature of the devolved nations. As the regulatory body that is overseeing all that with SEPA, which is the equivalent of the Environment Agency in Scotland, how do you deal with making any recommendation to the Government in Westminster?

**Dame Glenys Stacey:** Again, I draw on the experience that I have now. Obviously, the policy positions are different across Wales, Northern Ireland and Scotland in relation to qualifications and examinations at the moment—I am sure we have all seen that. It is a deeply political area, as indeed this will be.

How do we deal with that? We keep abreast of each other. We exchange information that is not in the public domain, with our common interests at heart. We identify where we differ—we tend to map that out carefully, so that we know where we are on the same territory and where we differ. When decisions are to be made, timely information is really important. We need to exchange it ahead of time. When a decision is different from what we would have wished for, we know what the rationale is in each jurisdiction. It is partly about mapping and seeing areas of similarity and areas of difference. Frankly, it is also about the responsible behaviour of fellow regulators.

- Q21 **Geraint Davies:** Dame Glenys, you will probably know that there are differences in environmental approach in Wales, Scotland and England—for example, on plastic bags. Wales is looking at a new clear air Act, which may have different specifications. We are also in a situation in which the internal market Bill may give England the lead on this.

Meanwhile, we might have a deal whereby we are required to keep up not only with the EU's current standards, but with any future standards. What sorts of links do you have, or would you build, with Scotland, Wales and Northern Ireland, as well as with the Environment Agency? If it was appropriate, how would you keep up with the EU? Obviously, I appreciate that that would not be the case if we have no deal. What are your thoughts?

**Dame Glenys Stacey:** Yes, it is a very uncertain time, isn't it? Again, I go back to my past experience. The Criminal Cases Review Commission was responsible for cases in Northern Ireland as well as in England. Animal Health had a more limited remit; it did not get into Scotland, but it nevertheless had connections with policy making there. HMI Probation was responsible for inspecting in Wales, and for inspecting youth justice services in Wales, where there were different arrangements and expectations, and I have to say they were of a pretty good standard.



## HOUSE OF COMMONS

My approach to these things is to invest in them. I get out to see the policy makers in those jurisdictions. I do my level best understand their expectations, their policy thinking and how they differ, and to respect that. That is democracy—that is right. It is incumbent upon an organisation like the OEP to understand those differences and respect them and do its best to work collaboratively alongside them. It is about investment.

- Q22 **Geraint Davies:** Would you see it as your role to look across the waterfront and perhaps look at good ideas with a view to sharing best practice? By way of example, in Wales we introduced a levy on plastic bags that was later successfully taken on in England. Will you be looking at that across the board?

Secondly, the Environment Agency has the power to give recommendations on flood risk management where there is a flood risk, but local authorities can ignore that. If there was a systemic problem with that sort of thing, would you be prepared to step in and speak out and say that people should take more notice of the Environment Agency if it is giving rise to public risk?

**Dame Glenys Stacey:** Absolutely. We have a number of tools in the toolbag to enable us to do that. Certainly, if we regard that issue as serious, as it sounds it is, we would absolutely be there speaking out.

- Q23 **Geraint Davies:** And cherry-picking best practice? Is that something you would be interested in, looking at where things are working?

**Dame Glenys Stacey:** Absolutely so. I am just trying to think of examples. In Ofqual, for example, when looking at assessment of A-level qualifications, we purposely looked at about six or eight different international comparisons to see how our A-levels stacked up, because there was a view that they did not stack up very well. In fact, it was an immensely interesting piece of work, and in general they did stack up well.

When we were looking to change the way we assess science practical work, we looked far and wide at how it was done—as far as Hong Kong, in fact. We chased down the expertise and the good practice and learned from it. Of course, every country is different, and context matters, but we would be foolish to think that the environment stops at our border.

**Chair (Neil Parish):** Over to you, Philip.

**Chair (Philip Dunne):** Nadia Whittome has the next question from the Environmental Audit Committee.

- Q24 **Nadia Whittome:** Geraint has already touched on my question. Dame Glenys, I have a couple of questions about responsiveness to different nations, communities and regions more broadly. First, what is your vision for public engagement, and what previous experience can you draw on to ensure that the OEP is accessible to the public and is responsive to local needs? Secondly, what do you perceive as the accountability of the OEP to Parliament and the public, and how have you demonstrated your commitment to transparency and scrutiny in the past?



## HOUSE OF COMMONS

**Dame Glenys Stacey:** You ask first for an example of how I approach public engagement. The most recent example was as interim chief regulator at Ofqual, where we have been making an enormously difficult decision about where standards are to be set for the summer 2021 GCSE, AS and A-levels examinations. There is no right answer.

An exceptional thing happened in summer 2020—where do we go from there? Rather than getting into a huddle and just talking to ourselves, we have in fact participated in discussions with 74 different organisations, including representatives of higher education, further education, industry, schools, colleges, school leaders and teachers. We have also run separate focus groups for parents and, indeed, for students. It has been enormously helpful to have that engagement.

Not only that, but when people have presented ideas to us that at first blush appeared to be not necessarily workable or the right answer, we have not dismissed them. We have worked those ideas up with them to the best they can be, and then evaluated them. In other words, we have truly engaged, in the real sense of the word, and it makes a big difference in honing our thinking. So, I do think that public engagement—you know, we would ignore that at our peril.

When it comes to accounting to Parliament and the public, in this organisation—the OEP—we have to report to Parliament annually in our accounts and annual report, don't we? Indeed, we have to specify in them—helpfully—whether we have had enough money and whether we have been resourced adequately. So, that is a good opportunity for us to come clean on any of that.

We also publish other reports to Parliament, for example on our monitoring of the Government's progress on the 25-year plan, or on our monitoring of environmental law. So we have got opportunities to report. Of course, we will also be very happy to appear before Select Committees. That is a very important mechanism for accountability in Parliament, and I would welcome those opportunities.

Then, lastly, as an organisation we will wish to be transparent. Now, there is a debate to be had with our board about what we mean by that, but there are minimum requirements. So, if I am writing a formal letter to a Secretary of State, it will be published, for example. If we are concluding an inquiry or coming to a decision, we will publish. And we will have our own website and we will make sure that it is well populated.

There are other dimensions to transparency that I could go into, but I have just given you a flavour. I do think that this organisation needs to be unusually transparent, actually, to maintain credibility.

- Q25 **Nadia Whittome:** On the point about about funding and budgeting that you raise, how will you safeguard the budget of the OEP? Tony Juniper has been heroic in speaking out against the cuts to Natural England, but that has had very little effect on the Government. What would you do in the same situation?



## HOUSE OF COMMONS

**Dame Glenys Stacey:** I have had experience in the past of not being funded appropriately, and I can draw upon that. Obviously, your first stance is proper discussions with officials and their Ministers, and then the Secretary of State. It does help if you have very good business cases to support that. And if you are not seen to be generally profligate in the way that you use money—use money responsibly—then you have got a better chance of getting what you need.

If those discussions don't let ideas prevail, then we have to escalate our concerns, don't we? That is the only way we can do it. And that would be escalating initially to the Select Committee. We would be coming to the Select Committee to explain that we are not able to deliver our remit properly because of a funding constraint. And then lastly, of course, we would publish that as a statement in our annual report.

Q26 **Geraint Davies:** Leading straight on from that, the public need to have confidence that the Office for Environmental Protection is completely independent and is willing to speak out strongly where there are failures. I have a particular interest in air quality, for instance, and there is a court case going on at the moment. We know that about 64,000 people a year are dying prematurely because of air quality issues.

You have touched upon this point by saying that you will write and publish letters, you will go to Select Committees and you will produce an annual report. But will you not only speak out to say where the Government have not reached the mark to save lives and protect the environment but be regularly out there in the media criticising? Or will it be a much more softly, softly approach in the corridors of Parliament?

**Dame Glenys Stacey:** There is room for both; you need both. You need a pincer movement. So, yes, all that soft influence is so terribly important and can make a difference, especially if it has got an evidence base behind it. But equally this organisation needs a voice. The power of voice is very important, especially when most of what you are trying to achieve is not achieved by enforcement proceedings. So, the voice will be important.

I can demonstrate an example of that in HMI Probation. I was the voice of probation. There is no doubt at all that it was voiceless as a service until the inspectorate appointed the chief inspector, who understood the power of it. I don't think we will be like wallflowers; we will be out there making our stances known.

Q27 **Geraint Davies:** Scientific evidence is emerging about air quality. For example, we hear from Harvard and the Max Planck Institute that between 8% and 14% of covid deaths are linked to air pollution. If the Government are doing nothing very much about that and aren't taking strong action in the post-covid era by reducing traffic emissions in urban environments, particularly among poorer communities who are being killed more, are you willing to speak out with the evidence and say more should be done or not?

**Dame Glenys Stacey:** I think our role would be to say what our position was on it. If what was happening was not in compliance with



## HOUSE OF COMMONS

environmental law or meant that the Government was unlikely to reach its targets, we would be on very strong grounds to speak out and say this won't do.

That aside, as I said earlier, we need to use our wide range of powers intelligently, to find what is the best way in which to raise this issue and get exposure on it. That might be, for example, by conducting a review of the application of environmental law in relation to air quality. Then we would have a considered report that was evidence-based and there for everyone to see, and for a Select Committee to scrutinise as well.

- Q28 **Geraint Davies:** That is helpful. Obviously, you have experience as a lawyer, but if you found that the Environment Act did not have sufficient legal teeth to enforce minimum standards—PM 2.5 from the smaller particulates, for instance—and that was causing big problems with public health, and you didn't have tools other than talking about it, would you be prepared to make recommendations that there should be changes in legislation to gauge the powers, to enforce the standards and to save people's lives?

**Dame Glenys Stacey:** My understanding—*[Inaudible.]*

- Q29 **Geraint Davies:** Are you willing to make recommendations about possible changes to increase the power to enforce the standards?

**Dame Glenys Stacey:** *[Inaudible.]*

- Q30 **Geraint Davies:** I will take that as a yes.

**Dame Glenys Stacey:** It is absolutely the statutory obligation of this organisation to review the implementation of environmental law and to make proposals where environmental law should be improved. That is my understanding of the legislation and why would we not do that? That is a core requirement, if you like. I do not see how it would be credible if you did not exercise those functions—not at all.

- Q31 **Geraint Davies:** I will leave it there, unless you want to add anything else on how you would amplify your view. Not particularly?

**Dame Glenys Stacey:** Not at the moment, thank you. I am slightly aware that I am speaking without a board and much of this we would need to agree as a board.

- Q32 **Chair (Neil Parish):** A supplementary from me. ClientEarth has managed to take the Government to the European court at least twice, if not three times, where the court has found the Government lacking. Some of the environmental groups are concerned. Will you have enough teeth? Will you be able to hold the Government to account? I do not expect you to be able to fine the Government, but no longer will that be possible. We need to be reassured that you feel that the Office for Environmental Protection, the way it is set up, and you as an independent chair and a lawyer will be able to hold the Government to account. Are you confident of that, Dame Glenys?



## HOUSE OF COMMONS

**Dame Glenys Stacey:** As a regulator, you always look for the widest gamut of powers, of course you do. We do not have the widest gamut, but what we have is enough, no doubt at all. The legislation is liveable with and if we live it to the full we will hold Government to account, and we will do it without fear or favour.

**Chair (Neil Parish):** I thank you very much for that, because you are now on record that you will hold the Government to account with no fear nor favour. So thank you very much for that very direct answer.

**Chair (Philip Dunne):** You have just heard, Dame Glenys, the interest of Geraint Davies in air quality. I have a particular interest in water quality and your next questioner has a particular interest in soil quality.

Q33 **Mr Goodwill:** Dame Glenys, I would like to question you a little bit more on the budget. Nadia started to ask you a little about that. Two core factors will determine what the budget is and whether you need to play hardball with the Treasury or the Secretary of State at Defra. The first would be the head count at the organisation. I have seen various estimates of between 60 and 120 people. What sort of head count do you think you would need to deliver what you have to deliver? Or is that still to be decided?

**Dame Glenys Stacey:** Like you, I have seen a good number of different estimates for this, from 50, 60, 80, 100, 120 to 150. It is just not possible to say at this stage, is it, realistically? It depends in large part on complaints volumes, for example—we can speculate about that—and also the number of those complaints that are judged by us to be serious.

It also depends in part on our ways of working, so we may have constructive relationships with a good range of experts who we do not routinely and regularly employ but resort to. It is hard to say, but you are going to press me on it, so what I would say is that I have not taken this job—I have not been offered it yet—but I am not sitting at this side of the table without having thought of that and had a candid discussion with the Secretary of State about the minimum resources required, because I want this organisation to succeed.

My understanding is that the budget bid for 2021-22 is not agreed yet. Indeed, I do not think any of the Defra agencies have their budgets agreed yet. Looking at the overall figure, it looks to me that if 70% to 75% of it were on staff cost, which is about what I would expect for this organisation, it would enable me to employ over that year 80 to 85 people in good grades. It is very grade dependent, of course. This is an organisation that needs some intellectual heft, so I expect the grades to represent that.

I have said to the Secretary of State that in order to get this off the ground straightaway, I would want at least 50 staff. Organisations need to develop and manage at a manageable rate. They need their jobs designed and then others to come. I see this as a staged process. I am hoping that it does not need to be above about 100 people, because organisations tend to change in their nature when they get above about 100 to 120



people. I prefer organisations that are more tightly knit, but if it is needed, I will bid for it.

- Q34 **Mr Goodwill:** I think the other factor that will affect your budget would be how active a litigator you are. You will know, as a lawyer, how expensive they can be to employ. I know that some other organisations, such as the RSPCA, have been criticised for their more active prosecution policy, going for high-profile cases. What percentage of your budget do you think might be needed for litigation? Will you use that big stick that you keep in the cupboard quite regularly, or will you see that as a last resort?

**Dame Glenys Stacey:** That is inherently impossible to answer, isn't it? We don't know how many complaints there will be. We don't know what our definition of seriousness is yet. We don't know how many will meet that definition. Most important of all, we don't know, although we can speculate, how many of those we will resolve without having to resort to enforcement at all. But I do know, from speaking with Richard Macrory, that it looks like about nine out of 10 cases that are with Europe tend to be settled without any need for enforcement proceedings. I am hopeful that as we shadow those arrangements for the OEP, we will be able to have the same sort of rate of success. The cost of external legal advice will certainly be a line in the budget at the OEP.

- Q35 **Mr Goodwill:** On another topic, it is not yet decided whether Northern Ireland will be under the wing of this new organisation. If it is, how will you be able to accommodate that? Would you need meetings in Ulster? That brings a slightly different dimension to your operation.

**Dame Glenys Stacey:** It does. I have worked at various models over the past 25 years. I had one model where I had an office in Northern Ireland, regulating vocational and technical qualifications there. It was not straightforward. You have a small number of staff and you want to keep them fully occupied and involved in the organisation as a whole and that distance makes it difficult.

At the Criminal Cases Review Commission, I ran a model, which I thought worked well, where we made every effort—I must have gone over there six times a year, to meet the people I needed to meet. We also had a Northern Ireland representative on our board, to bring that perspective in. We have to work at it and decide the best model, but there are options and there will be a commitment to getting the right model and making it work.

- Q36 **Dr Hudson:** Dame Glenys, forgive me for, as a vet, focusing on your clinical analogy in your questionnaire. You said in the questionnaire that the OEP should cut the umbilical cord from Defra and the interim secretariat as quickly as possible. From your previous answers, it sounds like you would be putting the clamps on the cord fairly quickly. How will you work with the interim secretariat in the period before the Environment Bill gains Royal Assent?

**Dame Glenys Stacey:** I hope I didn't offend you by using that analogy.

**Dr Hudson:** Not at all.

**Dame Glenys Stacey:** I just think it makes sense. I was in a similar position with the Criminal Cases Review Commission with a small secretariat. I was eager, even though they were lovely people, to see them out the door. You want your organisation to be independent and to be seen to be so.

However, they are going to bring value to us in a number of ways. So as I have said, there are six people—although I might have the number a bit wrong—a team of environmental analysts, who have come from the National Capital Committee with a good amount of valuable experience and expertise, and they have brought the datasets with them. We can get cracking on that—see how that is working and if anything else is required.

We do have a small team that are willing to at least validate and receive complaints. Again, I think that that does need to be done, although I will want oversight of that.

Then, the interim chief executive and I need to agree what else this secretariat would need to do. There, I am very conscious that, for example, we have a large recruitment demand; in my experience, there are eight or 10 things you need to do to set up an organisation, and recruitment can be very absorbing of time, but is so important. The secretariat could at least help us in making arrangements for that; it is quite labour intensive in that regard.

I would be keen to see the secretariat working with us constructively and doing things that I regard as not impinging on our independence, or impinging, in any way, on decision making that should be the responsibility of OEP.

**Q37 Barry Gardiner:** I am the sweeper, to use a football analogy; I am going to try to clarify a few things.

First, you said nothing would have stopped you from applying, but in your written submission, you said, of the Secretary of State mentioning it to you, “I thought nothing of it at the time”. Either you are desperate to apply or you thought no more about it when asked; I don’t see how it could be both.

Secondly, I was surprised that you didn’t provide an example of where you had tried the tea-and-sympathy approach, but then actually got the big stick out of the cupboard and used it. I think it would be helpful for the Committee to see what your flexion points are there, and when you switch from offering the tea and biscuits to applying the screws.

Thirdly, you spoke about the interplay between doing the right thing and having the appropriate powers to do the right thing. Under your terms of reference, the failures of environmental law “will no longer be considered through the European enforcement processes and instead the new body will engage with public authorities”—it says—“to reach a solution”.

I really want to tease out what your interpretation of “to reach a solution”



## HOUSE OF COMMONS

is. How do you see those powers, in black and white? As a lawyer, you will understand better than most people that the significance of non-regression clauses in the current debate is going to be a huge feature of this first phase of the OEP's work. I want to know what your interpretation of non-regression clauses is. Is it something that means you move to a lowest common denominator or is it a way in which you engage together to improve environmental outcomes?

Finally, I wanted to probe your understanding of the precautionary principle. Again, this is going to be critical to you in enforcement. Under the Japanese treaty, the precautionary principle is applied where appropriate, but certainly in many of the other treaties, it is applied—

**Chair (Neil Parish):** Barry, sorry to interrupt you. You really must give Dame Glenys a chance to answer some of your questions and then you can come back again, but we are beginning to run short of time. That is a barrage of questions, even if she has a very good memory. Over to you, Dame Glenys.

**Barry Gardiner:** Has she got a pen and paper?

**Dame Glenys Stacey:** I have a pen and paper; not very high tech, but it does the business.

You are very good sweeper, Mr Gardiner. I'll start with the first one: "I thought nothing of it at the time"—I could have expressed that better. I did not mean to imply by that that I was not interested. What I meant to imply by that was that I did not take it as a statement from a Secretary of State, saying, "Glenys, we'd really love to have an application from you".

I did not interpret it in that way. I just put it to one side. Secretaries of State, in my experience, do this all the time. They ask a wide range of people, so I did not read into that that I had any greater prospect of getting it.

**Barry Gardiner:** Fair dos.

**Dame Glenys Stacey:** On tea and sympathy, I will take an exam board example. Normally in an ordinary summer, certainly in years gone by, we used to have a lot of grade inflation, which was hard to explain and undermined public confidence in examinations. Over a period of years Ofqual quietly got a grip on that. It is quite technically challenging, but ultimately you can be taken to the wire. You might find in a particular qualification—GCSE geography, for example—that one exam board has proposals for grade boundaries that will just take the qualification one or two percentage points above where it had been.

There is a courtly dance played there in very short order, which does start with a cup of tea and the chance for the exam board to reflect, overnight normally. Mostly that works, but there have been occasions when I have got ready to direct, because I have the power to direct, and lawyers have drafted—it is quite a task—the direction overnight, while exam boards are reflecting on whether or not they are going to do it. I have got to the point



## HOUSE OF COMMONS

of showing an exam board that direction and giving them the ultimate option. There is nothing wrong with wielding the stick when you need to do it; indeed, there can be a quiet pleasure in it when you know you are in the right.

Your next question was on powers to do the right thing and reach a solution, and what a solution is. Here I will benefit from the experience of others more closely involved in environmental work, but the solution is really bringing the organisation into compliance. To take a specific example that might happen, we might be very interested in the Environment Agency's inspections around rivers and farms. The Environment Agency might tell us that it is very difficult when they do not have much money, and all the rest of it. What we want to see is compliance. The solution that we are looking for is a sufficient amount of inspection, which would presumably then lead that body to enforcement. The solutions are different for each situation, and we will have to look across the breadth of the legislation to see what the right tools are to make sure that we get the solution.

Non-regression is a very interesting question. I have not yet been able to find a definition of what it is. I have not found a statement of what it is; it may well be there, and I have not looked in the right places. There will be an interesting legal debate about it, I feel. Does it mean that on balance there is no regression, but one can lower a standard in one place, increase a standard in another, and somehow call that "non-regression", or are we saying—a much more hard-edged approach—that there should be no change in any respect but for the better? The honest answer is that I do not know yet, but I have it on my radar and I will need assistance from specialist lawyers on it.

I am very curious about the precautionary principle. From what I have read of it, it is mentioned in the odd judgment very loosely by the judiciary. I call it "to be on the safe side". That is how it translates in common parlance: "It might not happen, but to be on the safe side we'll do this." I am afraid that I do not have a more sophisticated way of explaining the principle than that at the moment, but remember that one of the joys of this job for me is to learn.

**Barry Gardiner:** Thank you for making your run down the wing.

**Chair (Neil Parish):** Barry, you are content?

**Barry Gardiner:** I have finished my questioning. Thank you, Chair.

**Chair (Neil Parish):** Dame Glenys, you covered question No. 11 when you described how much time you will spend working on this brief. If we choose to appoint you, we have every confidence that you will put in the necessary time to make the job absolutely work. I do not think that was ever in question. On behalf of the EFRA Committee, thank you very much for your straightforward, clear and concise answers.

After your departure, we will deliberate on our decision, but before we do



## HOUSE OF COMMONS

so, Philip Dunne, Chair of the Environmental Audit Committee, will say a few words on behalf of that Committee.

**Dame Glenys Stacey:** Thank you, Chair.

Q38 **Chair (Philip Dunne):** Thank you, Dame Glenys. You have been put through a much longer hearing than you had anticipated, in part thanks to the exigencies of our voting system but also because of the interest that members of both Committees had in what you had to say. We thank you very much for your time, and we wish you well.

**Dame Glenys Stacey:** In turn, may I express my deep thanks to members of both Committees for their keen and persistent interest in the legislation as it has been shaped? I truly appreciate that.

**Chair (Neil Parish):** Again, we thank you, Dame Glenys. We will deliberate and you will hear quite quickly. If you get the job, I am sure that both Select Committees and others will have you back in before them quite regularly. If you get the job, we wish you great good fortune. We better park it at that. Thank you.

**Dame Glenys Stacey:** Thank you very much. Good evening.