



# European Scrutiny Committee

## Oral evidence: Retained EU law: the progress and mechanics of reform, HC 376

Wednesday 13 March 2024

Ordered by the House of Commons to be published on 13 March 2024.

[Watch the meeting](#)

Members present: Sir William Cash (Chair); Jon Cruddas; Richard Drax; Mr Marcus Fysh; Dame Andrea Jenkyns; Mr David Jones; Gavin Robinson and Greg Smith.

Questions 64 - 127

### Witnesses

I: Rt Hon Kemi Badenoch MP, Secretary of State for Business and Trade, Department for Business and Trade; Chris Carr, Director, Smarter Regulation Directorate, Department for Business and Trade; Gavin Lambert, Director General, Competition, Markets and Regulatory Reform Group, Department for Business and Trade.



## Examination of witnesses

Witnesses: Kemi Badenoch, Chris Carr and Gavin Lambert.

Q64 **Chair:** Good afternoon, Secretary of State. Thank you for appearing to give evidence today. You last appeared before us in June 2023 when we questioned you ahead of the return to the Commons of the Retained EU Law (Revocation and Reform) Bill. The proceedings on that Bill resulted in the report that we would like to discuss today. We will be questioning you on the progress you are making on the reform of retained EU law, which is a very important issue.

We explained to you our concerns regarding the type and pace of retained EU law reform by way of letter on 24 January. These concerns can be summarised as follows: an apparent change in the reasons for retained EU law reform; the absence of reforms for the period covered by your report; an incomplete picture of the policy areas covered; and a lack of clarity on the mechanics of retained EU law reform. I am sure you will come back to us on these points in due course.

For those watching at home, would you mind briefly explaining your ministerial responsibilities, including those relating to retained EU law and Brexit opportunities? You have two officials with you today: Chris Carr, who I have met before, and Gavin Lambert. Would you be kind enough to introduce yourselves and explain your responsibilities?

**Chris Carr:** Good afternoon, ladies and gentlemen. My name is Chris Carr. I am the director for smarter regulation in the Department for Business and Trade. My responsibilities include the overall monitoring of the Government's REUL reforms, along with the better regulation framework and our cross-cutting work on regulators.

**Gavin Lambert:** My name is Gavin Lambert. I am the director general for competition, markets and regulatory reform at the Department for Business and Trade. My portfolio includes Chris's work. I work in a job share with my colleague Caleb Deeks, who was at the last of these sessions last year. As well as the better regulation programme and the work on smarter regulation that Chris has talked about, I also cover work on labour markets, competition and corporate governance.

Q65 **Chair:** Secretary of State, how would you describe your overarching responsibilities in relation to the whole project of retained EU law?

**Kemi Badenoch:** As Secretary of State for Business and Trade, I look after industrial policy as well as related areas such as the Post Office and trade policy. I happen to look after the programme for retained EU law because this was something that travelled from the Brexit Opportunities Unit in the Cabinet Office when Jacob Rees-Mogg moved into BEIS. Because the work had already started there, it ended up staying in my Department.



## HOUSE OF COMMONS

We are now merging what my Department would be doing in terms of regulatory work with the work on Brexit opportunities because there is a significant overlap. I look after what we now call the smarter regulation programme, which takes into account the retained EU law reform work, which we brought in with the Act, as well as better regulation and the whole regulatory landscape.

**Chair:** You will appreciate from what we have said in the past that we are deeply concerned and even disturbed at the lack of co-ordination and coherence. In part, that may be an accident because you inherited something that, by some accounts, should be run by somebody with full authority within the Cabinet, of the nature of a tsar, in order to make sure everything is done across the board, and then the Cabinet Office should come in on that footing as well.

I appreciate that you are primarily responsible for business, trade, industry and so forth, but this retained EU law issue is absolutely fundamental to the future of post-Brexit Britain. It causes us concern that you have inherited something and the degree of co-ordination that is required does not seem to be producing the right results at the moment. Let us get into the questioning and we will find out the answers.

First of all, I am going to invite Andrea Jenkyns to open because she has an important question to ask about the laws.

**Q66 Dame Andrea Jenkyns:** Secretary of State, in June 2022, the retained EU law dashboard listed a total of 2,417 pieces of retained EU law. In January 2023, the Minister for Industry and Investment Security said, "I should be clear: at the moment, the figure we have identified and verified for EU law is 3,200 and we expect it to be 4,000". Today, the dashboard shows 6,757 pieces of assimilated law. Are you confident that the current total is accurate or should we expect a substantial increase further?

**Kemi Badenoch:** I am confident that the amount that we have given is what we have found. This is one of the things that I believe I said previously at this Select Committee and on the Floor of the House. It is a very dynamic process. We are continually finding new regulations. Because we had a hard deadline to get the Act through by 2023, we wanted to make sure we knew exactly what we were letting go of and what we were keeping.

The initial stock of EU law that we looked at was 55,000 pieces of law, of which these amounts—the 2,000, 4,000, et cetera—specifically pertain to the UK. We will continue to keep looking. There might be some things that end up having some impact, but it is reducing significantly.

**Q67 Dame Andrea Jenkyns:** Will it increase further?

**Kemi Badenoch:** So far it has. It is one of those unknown unknowns. It might do. I cannot imagine there will be much more. If you look at the amount that we are finding, it is reducing significantly with time. Since



## HOUSE OF COMMONS

the end of last year, it has not been that much. I would not be surprised if we continue to find new bits of retained EU law.

**Q68 Dame Andrea Jenkyns:** Minister, do people feel let down? It is nearly eight years since voting for Brexit and, as we have seen, nearly 7,000 pieces of EU law still govern their lives. When can we expect to be rid of these laws?

**Kemi Badenoch:** People do not feel let down. I say this as somebody who voted leave. The purpose of Brexit was to be able to forge our own future rather than specifically about where our regulations originated from. My view is that it is not whether or not law originated from the EU that makes it good or bad. It is whether it is something that we want on our statute books or not.

I have not had anyone writing to me saying, "We just want EU law gone". People make specific requests. Some of them pertain to retained EU law; some of them do not. We look at it on a needs basis rather than an origin basis.

**Q69 Dame Andrea Jenkyns:** I look at it from a constituency basis. I have a Brexit seat, and I have a lot of people asking why, eight years on, we are still being governed by the EU. They want confidence, Minister.

**Kemi Badenoch:** You can reassure them that we are not governed by the EU. There would have been laws that we put in place ourselves when we were in the EU, laws that we wanted. We are not going to get rid of them.

**Q70 Dame Andrea Jenkyns:** Can we have a timescale?

**Kemi Badenoch:** If I may, we are not going to get rid of the ones we want to keep. We have said we expect to remove or reform about half of them. If we are going to reform them, we cannot get rid of them, because then we would need to do new primary legislation.

Chris, you will probably remember exactly where we are in terms of the timetable. We did remove the most critical thing, which was the supremacy of EU law, by the end of 2023.

**Q71 Chair:** Just before Chris comes in, if I may, you did mention 55,000 laws. I think you slightly misspoke there. I am not quite sure. I am not criticising. You may need to put the record straight, unless you meant 55,000.

**Kemi Badenoch:** I did mean 55,000.

**Chris Carr:** We did, Mr Chairman. That is the number of instruments on the EUR-Lex database that were copied across to legislation.gov.uk on Brexit day. Most of them are not applicable to the UK, which is why the amount of REUL is much smaller.

**Q72 Chair:** It is just simply that we want to differentiate between EU law as a



whole.

**Chris Carr:** That is right.

**Kemi Badenoch:** Yes.

**Chair:** By the way, just for the record, you may need to come back on—I know I am right because I checked EUR-Lex myself—the question of how many laws we have escaped by not being in the European Union. On a reasonable calculation, which is not precise, there are something like 7,500 laws that we have not had applied to us since we left the European Union.

We will move to Greg Smith. We have a slide system that is about to appear. There it is.

Q73 **Greg Smith:** It is a full Covid-era throwback. Secretary of State, as a Committee, as the Chairman has already said, we have concerns about how retained EU law reform is being co-ordinated across Government, not just within your Department but across Government, and the seemingly large variance in reforms that your recent report shows between those Departments, which we have taken the liberty of illustrating on the screens in front of you.

Clearly, there is always going to be a variance between Departments in terms of the amount of retained EU law because a Department like Defra is always going to have a lot of agricultural, chemical and water regulations in a way that others do not. How much cross-Government assessment is there of how significant the 71 in the Home Office are, for example? I know the Chair is going to come back to the impact of that retained EU law on some of the laws around immigration policy. How clear are the cross-Government analyses of the significance of those variances?

**Kemi Badenoch:** This would have been done right at the point when the dashboard was being put together. The Departments went through the list and explained whether this was something they wanted to keep, whether it was no longer necessary or whether it could be reformed.

The point that you made right at the beginning is absolutely correct. By their very nature, some Departments—you could look at things like the habitats regulations and so on; Defra is a classic example—have a large ratio compared to others. We are going via a demand-led approach in terms of what needs to be removed. What are people asking for? What are the innovations that business wants to look at? What are the things that are costing money? That determines the priority. What is feasible?

Overall, the thing that determines how much a Department is revoking is whether or not they believe this is something that is right for them and whether it is something Parliament wants. For my Department, for example, the biggest challenge I have in terms of reform is that previous Secretaries of State have said that there will not be any changes to



## HOUSE OF COMMONS

workers' rights, certainly in terms of a reduction in rights. If we make promises on the Floor of the House, it is important that we stick to them. That immediately reduces the scope of what can be done.

With Defra, similar commitments were made around environmental regulations. That explains why some Departments have a lot more. It is also about what Parliament wants to do in terms of reform as well, not just Government.

**Q74** **Greg Smith:** For clarity, the table or chart—call it what you will—on the screens at the moment is up to date as of Monday. This is existing non-reformed retained EU law by Department. If we can perhaps change the emphasis ever so slightly, in terms of retained EU law reform, the chart there is clearly showing that in many Departments not insignificant numbers are still on the statute book.

Why does your report not show any reforms having been completed during the last six-month period for the Home Office or the Department for Levelling Up, Housing and Communities? As that slide shows, those Departments still carry quite a lot of REUL.

**Kemi Badenoch:** This was one of the questions that I had previously. It all depends on the priorities of the Secretary of State for that Department. Sometimes things have been put through, but they have not passed the Floor of the House. Not everything goes through the SI programme.

For example, DLUHC put in nutrient neutrality via an amendment. That did not work. It was voted down. There will be reasons like that. We have some detail on DWP. Chris or Gavin, can you expand on what is happening with those Departments?

**Gavin Lambert:** I understand that within DWP there is work in train. It is proposing to consult on this during this year. The reforms are in hand, but they will take longer to come. Similarly, for the Treasury there are 809 pieces of REUL, a number of which were swept up as part of the Financial Services and Markets Act. That Act attained Royal Assent last year, but the relevant SIs will not be rolled out until this year. It is not that things have not been done—things are happening—but it takes longer to deliver some of those.

**Q75** **Greg Smith:** Secretary of State, as the member of the Cabinet ultimately responsible for the whole programme, even though a lot of it does not sit under your own direct decision-making, are you confident that every single Department across Government has a clear plan for the revocation of unnecessary retained EU law and assimilation into common law where you want to keep that regulation? What KPIs is your Department putting on other Departments, as the lead Department, to ensure that they are delivering it and that things are not being allowed to drift?

**Kemi Badenoch:** One of the things we need to ensure is that we are not using linear measurements. The number is not related to how well a



## HOUSE OF COMMONS

Department is doing. If a Department has said it is keeping some regulations, simply bringing out the numbers again is not going to change the end goal.

We have said that we are anticipating about 50% by the end of 2026. From my perspective, we are on track. I can only go by what Departments tell me, but things change. Regulations go to the House; they do not get passed. Departments might have different priorities in terms of which regulations they would prefer to look at or which reform programme is going to deliver.

In and of itself, the programme is not losing importance or priority. As you get to the end of a Parliament, there is a lot more stuff that needs to happen while the resource stays the same. I would point to the star chamber process that we have, where all the Departments come together.

Quite a lot of it is co-ordination between different Departments. I can give dashboards and have metrics, but I cannot make Departments do things that they do not want to do, in the same way that another Department cannot force me to reform something if I do not think it is right, unless it is escalated and a different decision is made by the centre or by No. 10.

In terms of where we think we can make differences, not everything is going to sit within the retained EU law programme. There will be some new things that occur that have nothing to do with retained EU law. Our aim, as much as possible, is to make the UK competitive. Getting rid of retained EU law is just one way of doing that. We have our better regulation programme and the work we are doing around regulators. Looking at all those things together shows the emphasis we are putting on this.

My job was to make sure the Bill got through the House. We have done that. We have gotten rid of the supremacy of EU law. We have until 2026 to continue removing the things we do not want. From my perspective, that is going well.

**Q76** **Greg Smith:** There is one final question from me. You mentioned the star chamber there. We are very familiar with star chambers around this horseshoe. What other official-level structures are in place? If I think back to my local government career, when I had a council cabinet job, the things I wanted delivered were on the top or the second item of every agenda in every meeting with those officials.

Is that happening across the whole Civil Service and across every Department? Are there structures in place at that official level to ensure that every Department is challenging retained EU law on a daily basis as opposed to saying, "We will think about that when the deadline comes in 2026"? Is that happening?



## HOUSE OF COMMONS

**Chris Carr:** Yes, it is. I run a cross-Whitehall board of officials, which meets monthly. My team engages on a daily basis with other Departments. We have just compiled a list of 200 pieces of REUL that are due for reform this year. We are working on a daily basis to help Departments get collective agreement to reforms that they can then announce.

**Greg Smith:** That is definitely happening in every Department.

**Chris Carr:** Yes, every Department is represented.

**Gavin Lambert:** As I understand it, this is the total picture of retained EU law that we are aware of as of 1 January this year. Of that, around a third has already been reformed or revoked. This is the baseline. The numbers there do not take out the things that we have already reformed and revoked from that picture. I may have misunderstood your interpretation of it, but this is not the retained EU law that is yet to be touched.

Q77 **Richard Drax:** We sometimes hear that there is a reluctance to dispose of EU law by officials in various Departments. Is that true? Why can we not turn all EU law into British law? Yes, we might want to keep some. If it becomes British law, without the EU name, it is our law. That is why we left the EU. Why can we not do that?

**Kemi Badenoch:** It is our law. That is something I can say that hopefully will provide some reassurance. That was the lift-and-shift that we did with the Withdrawal Act. We are the ones who choose to identify it as originating from the EU.

I am sure we had some examples, but, if it is something we want to keep, it is just UK law now. Naturally, we will just stop talking about this as retained EU law. It is just the law of our country. The big thing that really made the difference was removing the supremacy of the ECJ. That meant that European law still applied in the UK, and that stopped on 31 December.

In terms of whether officials stop reform from happening, at the end of the day, Ministers have to make decisions. There are always people who have different reasons. They will provide advice, but Ministers need to make that call. Yes, we might have officials saying, "We probably should not remove this" or, "We probably should". It is the Minister who takes the decision. I have not personally seen any obstruction from the Brexit opportunities or smarter regulation teams that are under me in terms of making sure we carry out this programme at the highest priority.

If there is anything that is slowing things down, it is the attention of Ministers and MPs being drawn to crises and, as we are in an election year, things that are more retail electorally. If I bring out a technical regulation, which is going to do something around the media industry, for example, that is not the sort of thing that catches fire. It is not doorstep





politics. Those sorts of things fall in salience, but the work that we are doing in terms of identifying is still going at pace, yes.

**Q78 Richard Drax:** On Defra, we have kept 1,900 laws. I would love to see that list. I really would, as would all our farmers in this country. I guarantee that at least half would release the farming community to get on now with what we all want, which is to produce food.

**Kemi Badenoch:** Yes, absolutely. You are right. I have a rural constituency as well. Farmers are often at loggerheads not with civil servants but with other vested interest groups pushing other regulations that they want as well. Quite often, it is farmers versus the environmental lobby. That is where the tension is, rather than between officials or Ministers.

Take nutrient neutrality, for example. As a Government, we think—this is why we put the amendment through—it is stopping us from building homes. The risk is quite low in terms of pollution, but that did not pass the House of Lords. I know we have colleagues on the Government side who are very nervous about anything that encourages housebuilding.

The EU retained law programme hits the natural tensions that we already have in Parliament about which reforms we want. We could spend more time on debates on this in the House so we can flush out what people really think, rather than leaving it in Departments. That will bring a little bit more clarity and transparency in terms of what we really want to reform rather than a big bucket that says “EU law” with specifics that are not that obvious.

**Q79 Chair:** Greg Smith asked a number of questions, and said I would come in on the Home Office front. I am going to do that very strongly. I am baffled as to why it appears—and I am open to correction, if you can make it clear that I am not correct, but I need to know the answer to this question—there have been no reforms within the framework of the Home Office to retained EU law.

This is incredibly important, because it relates to the competences under the existing consolidated treaties of asylum and immigration law. Anyone who looks at the consolidated treaties can look at the index and see the number of the laws relating to asylum and immigration that are embedded in the consolidated treaties. That is retained EU law.

I really want to have a straight answer to this one. I have made enquiries amongst Home Office Ministers and those associated with the law officers about this question. Can you give me a categorical assurance that the Home Office is making changes in these interdepartmental committee meetings that Mr Lambert and Mr Carr referred to? Do you have the Home Office sitting there?

For example, have they explained to you the connection between REUL and the part of the Rwanda judgment that caused so much of a problem for the Government? Are you aware that one of the claimant’s cases was



dismissed? Did you know about that? Did you know it was not a clean sweep? The President of the Supreme Court identified one claimant, an Iraqi, who was told that he would not be able to succeed in his claim.

The reason for it was very clear. It is set out in paragraph 144 of the judgment. It is about the principle of legality. It was a combination of an Immigration Act 2020 combined with retained EU law, the effect of which was, in summary, that the basis for his claim was undercut. Therefore, he had his case dismissed. Are you aware of that case?

**Kemi Badenoch:** No, I am not familiar with Home Office cases. I look purely at legislation, the dashboard, regulations and which areas—

Q80 **Chair:** In a way, you answered my question at the beginning. It is about the co-ordination of matters of this kind. Immigration issues are near the top of the political agenda, as far as I am concerned. I suspect members of this Committee would agree. As we speak, the Rwanda Bill is about to come back to the House of Commons next Monday. Is the law on immigration and asylum being treated seriously in the context of retained EU law?

You do not know the answer to the question that I put. I understand that it has not really become a major issue, and yet it became an issue for the Supreme Court in dismissing this claimant because the law was clear and unambiguous. The claimant did not have a leg to stand on, and therefore his case was dismissed.

Mr Carr, you speak to us about these co-ordinated meetings. Has the matter that I have raised been raised at those meetings, in all honesty?

**Chris Carr:** Do you mean that specific case?

**Chair:** Yes, I do.

**Chris Carr:** No, we have not gone into that sort of detail.

Q81 **Chair:** Does that not surprise you? After all, that was one of the most important Supreme Court judgments recently.

**Kemi Badenoch:** At the very first Cabinet committee meeting that I had on retained EU law, when we were deciding whether or not to use the schedule approach, one of the things the then Home Secretary talked about was how little retained EU law there was in the Home Office to begin with.

They would only be reforming about 40 or so things because historically this was an area that we guarded very carefully. My understanding would be that, if there are things on the books that are not being reformed, that is because the Home Office has chosen not to do so and it does not have any desire to make changes in this area.

While I am not familiar with the case, you wrote to me about this Rwanda judgment and I did investigate. What I was told was that the Supreme Court judgment in the Rwanda case focused in part on the interpretation



of immigration and social security co-ordination, which was in the EU (Withdrawal) Act 2020, and specifically whether that removed specific asylum-related EU-derived rights at the end of the transition period.

This was not about whether it was reformed but the application of the 2020 Act. It was a matter of law and policy. It was not one that we would have been looking at. We do not know about the case, but we would not have expected to have been looking at that specific case in those circumstances.

**Q82 Chair:** May I put it another way? Could you please go away after this meeting and write back to the Committee with a better explanation as to what the relationship is between retained EU law and Home Office legislation? We are going to get to the bottom of this one way or another.

Immigration and asylum issues are at the top of the political agenda for all parties. If there is law that is currently embedded in the consolidated treaties by way of statute, the supremacy of EU law has now been eliminated and we are free to make changes to those pieces of legislation.

I would like to have a letter from you clearly identifying what laws are still in place and the extent to which they impinge on current Home Office immigration and asylum policy. Have I made myself quite clear?

**Kemi Badenoch:** I am very happy to do that, but I suspect that the only satisfactory answer you will get will be from the Home Office.

**Q83 Chair:** This is exactly the point I made at the beginning. What is the co-ordination? Who is making the real decisions? If there is a reluctance in the Home Office to make the changes that are necessary, we demand to know why.

**Kemi Badenoch:** That is something we can ask, but the policy knowledge does not sit with us. We have to take their word for it. We are not experts in Home Office policy. If we end up doing this with this level of interrogation, we will not be able to look at the reforms in our own Department. We still have our own Department's work to carry out as well.

The fact that I am the one who has to answer all the questions on retained EU law takes the pressure off other Ministers because they think it is someone else's problem.

**Q84 Chair:** It should be on them as well as on you.

**Kemi Badenoch:** I am not the Prime Minister. All I can do is ask them questions and get an answer. I cannot make them do anything.

**Q85 Chair:** Secretary of State, I can tell you—I think people know this—I do not stop when I have got going on a subject to which I want an answer. I will leave it at that.

What I am saying to you is that this is a matter that needs to be clarified



and understood. We need to have an answer to the question. If in the Home Office there are people who are reluctant to make changes to immigration and asylum law in line with the requirements and the national interest of the United Kingdom in relation to this very highly charged issue of immigration and asylum, we want the answers and we want them set out clearly.

I do not care whether the letter is one page or five pages. I want it set out in a way that makes it absolutely clear what is going on. Have I made myself clear?

**Kemi Badenoch:** We can write to the Home Office and we can pass on what they tell us, but we cannot influence the content of that letter.

Q86 **Mr Jones:** Just briefly, Secretary of State, this responsibility resides with you as an accident of history. Your predecessor took it on after he moved to your Department because he had previously been dealing with it in the Cabinet Office. It seems to me you have enough on your plate generally, concluding free trade agreements and so on, which you are very heavily involved in, without dealing with this stuff.

We did suggest last time—you have touched on it today—that we might need a dedicated individual, preferably a Minister or a tsar, whose sole focus is on dealing with this issue on a cross-Departmental basis. In all fairness to you, it seems like this is a piece of work that you should not have been lumbered with. Has it ever been suggested that a dedicated Minister should take over this work?

**Kemi Badenoch:** Yes, it has. I suggested that it should not sit with the Department for Business and Trade, but I lost the argument with the Cabinet Office. I can understand this, but having somebody who voted leave looking after this shows people that this is not something that is being treated as a lower-order priority.

Q87 **Mr Jones:** Are there so few Ministers who voted leave?

**Kemi Badenoch:** I do not know, but certainly at the time that the Rees-Mogg change was made that was something that was raised. It also has to sit somewhere where it makes sense.

I did ask for a Minister. You may remember that the Earl of Minto was working solely on this. After the last reshuffle, the MoD lost a Defence Minister and it needed a Minister urgently. That is where he has gone.

We have a challenge in terms of the number of people who will do this. Not many people want to do it. That is outside my control. For now, it sits with me, Lord Johnson and Minister Hollinrake; it sits between the three of us.

Q88 **Mr Jones:** I was Minister of State at DExEU when this process began. We were at the start of this process of identifying retained EU law and deciding what we wanted to do with it. We had one very senior official whose sole responsibility was doing this. It is a matter of some concern



## HOUSE OF COMMONS

that that is no longer the case. Frankly, from the replies you have given today, it appears that Departments are making their own assessments as to whether or not they want to retain EU law, how much of it they want to retain and how quickly they are going to go about it.

Frankly, you are the fall guy, coming here today and having to answer questions to which you say in response, quite reasonably, "This is not my pigeon. It is the responsibility of the Home Office or whatever". To summarise, surely you could make representations to the centre that there should be a senior Minister whose sole and dedicated function is to deal with this issue of retained EU law on a cross-Departmental basis. I hope you would agree that that was a sensible approach?

**Kemi Badenoch:** That was certainly what we had previously. I do not see myself as the fall guy. I see this as a much bigger strategy. It is not just about EU law. It is about doing regulation better: smarter regulation, better regulation and looking at what the regulators are doing. It is not all about the legislation.

We have a team. It is not just Ministers who look at this. Chris and Gavin are running teams of people who are looking at this. I would love to have a Minister who was solely dedicated. This was something that was pointed out at the point of the reshuffle. Ministerial appointments are not within my gift.

**Mr Jones:** I understand that.

**Kemi Badenoch:** It would probably be better coming from you. From me it is shroud-waving, but the Committee making that point would be helpful.

**Mr Jones:** Are you inviting the Committee to make such a recommendation?

Q89 **Chair:** We are doing this, as it happens, with the very positive intention of obtaining clarity, coherence and co-ordination and having it focused with authority through the Cabinet in a manner that will produce the right results.

We need to move on from this subject at the moment, but there is also the question of economic law. I do not know whether any of you can answer this question, but is there any retained EU law in the field of economic law, such as used to be or is still contained in the Maastricht enactment, which went through all those years ago in the early 1990s? Every year we used to have a debate about what were called the Maastricht economic criteria.

I do not know—maybe you can tell me when you have investigated this; and this is an opportunity to raise the question—whether matters relating to the OBR, which are at the heart of economic decision-making at the moment, are connected in any shape or form with the economic criteria that were prescribed when we were still in the European Union.



## HOUSE OF COMMONS

I took quite a prominent part, shall we say, in the debates over Maastricht. I distinctly remember that year after year we used to have a debate on what was Section 5 of that Act. I just want to put this on the table. I would like a letter back on this issue as to whether or not any other matters of economic law that are derived from the EU are still on the statute book.

**Kemi Badenoch:** We can investigate that.

Q90 **Gavin Robinson:** It would be helpful, Daniel, if we could have the slides back up. Secretary of State, it is good to see you again. Secretary of State, you know this dashboard. You have seen it. Is that the sum total of the efforts of Whitehall?

**Kemi Badenoch:** Do you mean in terms of what we are reforming or what we found?

Q91 **Gavin Robinson:** It could be either. Can you explain what it is? Is it the sum total of Whitehall? Is it all Departments within Whitehall?

**Kemi Badenoch:** The last time we looked at this, this is what we discovered. This is not the list of reforms or revocations.

Q92 **Gavin Robinson:** Are there any glaring omissions, departmentally?

**Kemi Badenoch:** I would not be able to tell from that graph, if you mean looking at the graph specifically. If you mean generally, no. We have gone through the dashboard. It is public. We are always open to hearing about it, if there are things that people think we may have missed.

Q93 **Gavin Robinson:** There is no representation there of the Northern Ireland Office, the Scotland Office or the Wales Office. That is before you consider, outside of Whitehall, any of the devolved regions. I would be keen to hear from you, if you know, why that is the case. More importantly, could you give us an estimated volume of the assimilated laws that are in place across the devolved regions?

**Kemi Badenoch:** The reason why it is like this is because most legislation sits with the policy-making Department. In terms of retained EU law, you would not have a Scottish law that was made by the EU. It is a structural thing.

Q94 **Gavin Robinson:** The purpose of this, as you know, is to publish, following endeavours, what assimilated EU laws are being retained within this country and whether there have been efforts to reform them or not. How on earth are you or His Majesty's Government keeping a handle on the laws that apply within the United Kingdom and the distinctions between them?

How can we publicly discern that, when Scotland has a very principled position to say that it will legislate in keeping with EU law, where that arises? What disharmony will that create on either side of Hadrian's Wall as a result of the legislative challenges between Scotland and England? Of what benefit is a graphic like that when it takes no account of the



## HOUSE OF COMMONS

differing contexts throughout the United Kingdom?

**Kemi Badenoch:** The reason why we would not cover those specific issues is because those are the responsibilities of the devolved Administrations. They do not sit with me.

Q95 **Gavin Robinson:** I am sorry. Most of this information does not sit with you.

**Kemi Badenoch:** No, this information sits with me.

Q96 **Gavin Robinson:** It sits with you on behalf of the Government. The UK Government have devolved responsibilities and English responsibilities, from your perspective. Government is a national endeavour, which includes reserved issues and UK-wide issues.

Again, what utility does this have when it does not demonstrate in any way the disapplication of EU law in the devolved regions, the material considerations within the devolved regions or how they interact with England?

**Kemi Badenoch:** A lot of this work is done at official level, so I am happy for Chris to provide some of the detail of how we co-ordinate that.

**Chris Carr:** The first thing to say is that the reason that the territorial offices do not appear on this chart is because they do not own any retained EU law. There is retained EU law owned by the devolved Administrations. As the Secretary of State has said, what they wish to do with it is up to them. My programme focuses on UK rule and does not attempt to reform or track reforms in the devolved Administrations.

Having said that, we do maintain a regular dialogue with the devolved Administrations. My team talks to them on a weekly basis so we know their views on retained EU law reform. When we are delivering or encouraging Departments to deliver UK-wide reforms, they are very interested in the impact that those will have on their domains.

Q97 **Gavin Robinson:** Practically, can you consider the utility or the benefit of having the devolved Administrations and regions represented in this dashboard in that way so it is clear and demonstrable where the issues lie within this United Kingdom?

**Chris Carr:** I see. If I have understood the question correctly, it is, "Could we add figures or items to the dashboard for devolved retained EU law?" If I may, I will write to the Committee on that matter. I am very happy to consider that.

Q98 **Gavin Robinson:** That is a practical question, which I ask of you respectfully. Secretary of State, you are a Conservative and Unionist Minister within a Conservative and Unionist Government that represents the entirety of the United Kingdom. Within that umbrella there is devolution—there is no doubt about that—but you are part of a Government that brought forward a referendum that attached to the



## HOUSE OF COMMONS

entirety of this United Kingdom, which was passed by the entirety of this United Kingdom and for which there remains a responsibility.

Politically, can you see that there is a sincere absence of information? When we consider the entirety of this endeavour, would it be useful to have representation from the devolved Administrations?

**Kemi Badenoch:** Yes, it would be useful to see what they are doing. Across the board, in all the areas I cover, I try to make sure we do not seem to be interfering in what the devolved Administrations are doing until it is very significant.

Probably the best example I have is on the equality side with Section 35 in Scotland. It is that level of threshold. Beyond the usual partnering and working together on something like this, very sensitively we would not want to look like we were making them do things that were not their idea. If it is providing information and collating it on their behalf, that is something we can do for the next report.

Q99 **Gavin Robinson:** I would encourage you to do so and not to see this through the prism of what you tell the devolved Administrations to do. You will recall the exchanges that we had back in June of last year about the obligations you are under in line with the UK Internal Market Act, the Office for the Internal Market and the requirements that rest within your Department to ensure you are continually testing and probing to see whether there is regulatory divergence and how you address that.

We know Scotland's position. Scotland is going to do whatever Europe does. How this materially impacts not just your Department but, through the Office for the Internal Market, every other Department, for which, perhaps reluctantly, you hold this co-ordination role, is crucially important. That is before it becomes, as you say, on the equalities side so significant that it politically cannot be avoided.

That is daily interference and divergence from legislation, which will cause material impact on trade within this United Kingdom. You are the Secretary of State for Business and Trade. That is something that is much more than just being concerned about whether you can or cannot tell a devolved Administration what to do. I do not know whether you accept that, whether you see that as a challenge or whether that is something you are going to have to consider.

**Kemi Badenoch:** When we have the next report and we put the data to the side, we can have that conversation. You have made a very correct point about what the SNP-led Government would want to do. We have only just got Stormont up and running. This is not an area on which Northern Ireland has been able to do very much. Quite a lot of the areas on the Wales side are not devolved, but they have often said that this is something that they want us to look at and do in co-operation with them. For the areas that are reserved, they would be captured within that.

If it is about delineating where there is divergence, that is something that is going to happen irrespective of whether we are looking at retained EU





## HOUSE OF COMMONS

law. If I look at the issues that my Department has covered, such as the deposit return scheme or the extended producer responsibility, the divergence is not always at a legislative level. It is often in terms of policy and implementation. It is not always around EU law, as I have just said.

There is a lot that we can do in terms of highlighting that, but there is a structural challenge with devolution around where to start and where to stop.

**Q100 Gavin Robinson:** Respectfully, that is disappointing. Our discord back in June last year was that you were bringing forward a change as to how we were going to deal with retained EU law. You had scheduled laws for which you could not indicate whether there had been a UK internal market assessment, and yet that responsibility falls at your feet. That is your job. I am concerned about that.

You mentioned Stormont just being restored. I would encourage you to read the *Safeguarding the Union* document and understand the additional responsibilities that rest not only on your Department but, through your Department, on all Whitehall Departments to be continually assessing the UK internal market and the impact of potential divergence.

This is not about what there should be and what you do thereafter. It is about what there could be and what you do to avoid that. That is crucially important. The fact I am saying that rather than you is a further cause for concern. I would just say this to you, Secretary of State: as I and my colleagues, irrespective of their political outlook, are interested in the health of our UK internal market, those are important pillars that you need to consider.

**Kemi Badenoch:** They are being considered. One of the points I made last time was that the scheduled approach brought a lot more transparency in terms of seeing exactly which regulations were or were not going to be impacted under the previous style.

That is one of the things that we have done that has been very helpful for everyone to see, including the devolved Administrations.

**Chair:** Before we get to the next question, what is becoming apparent is the discomfort, to which David Jones referred earlier, of you having to do something that straddles many other Government Departments and the devolved Administrations.

I urge you to go back to the Prime Minister and say to him, "We have been through this. We had some questions that were difficult to answer because we need to have some clarity in this very important mission of getting EU law off the statute book as and when it is essential to do so in the national interest".

I am quite sure you are not paid according to the number of Departments you co-ordinate.



**Kemi Badenoch:** No, sadly not.

**Chair:** I am coming back to the question that David Jones raised just now. I do not want to have to repeat myself again. I have said it now in three sessions. Can we not have a clear decision, by a machinery of Government written answer, if that is what is required, to sort out the relationship, take some of the burden off you and give it to somebody who can be dedicated to doing the job? That person could perhaps work with the same people but on a more focused basis so you do not have to be thinking about this when you are flying abroad and you can get on with the job of international trade and the rest of it.

We need to get somebody else to take over. I know Lord Dominic Johnson has taken a great interest in this.

**Kemi Badenoch:** Yes.

Q101 **Chair:** I can only say that somebody needs to be given this job, with sufficient seniority and attendance at the Cabinet, to make sure it does work and works properly. You can see from the Committee's questions that we are dissatisfied, at the moment, with the manner in which this has been constructed, with the consequence that there is an incoherence in the outcome, which is not in the national interest.

It can be sorted out, and you have a few months to sort it out. Could you please take that back wherever it belongs and get that question sorted? It is not specifically, as David Jones made clear, an attack on you.

**Kemi Badenoch:** No, I do not perceive it as that at all.

**Chair:** It is a serious question of how to arrive at the best outcome in the national interest. At the moment we are not happy, as you can imagine.

Q102 **Jon Cruddas:** Good afternoon everybody. I want to raise a question about a subset of retained EU law—let us call it British law—which is the assimilated law that derives from EU legislation adopted for non-economic purposes, such as the protection of fundamental rights. How do the smarter regulation principles apply to the reform of this body of law that strays beyond the economic issues of regulation?

**Kemi Badenoch:** Are you talking about the ECHR?

Q103 **Jon Cruddas:** I mean, for example, the Charter of Fundamental Rights, which codified the rights and principles that now apply as retained EU law. What is the overarching approach to that, which strays beyond the question of economic regulation?

**Kemi Badenoch:** It was certainly before my time, but, under previous Secretaries of State in this role, parameters were given about what we were seeking to do. The example I gave earlier was about environmental protections and workers' protections. We were seeking to make the economy primarily more competitive, but, in areas where we felt that we wanted to do things differently, we wanted to provide an opportunity to



## HOUSE OF COMMONS

do so. They do fall mainly in the economic space. Take product safety, for example. Do we want a UKCA marking?

I might need some examples. I have not seen an example of something like a right that we decided we did not want to have. When I am asked about these things, I quite often remind people that, when we were in the EU, we were making some of these laws. Just because it happened while we were in the EU does not mean we want to get rid of it.

This should be demand-led. It should be individuals or businesses saying, "This is a problem", rather than something where Ministers decide, "I do not like this particular thing. I am going to get rid of it". That gives you a very loose summary of how we are going about the reform programme.

Q104 **Jon Cruddas:** I take that. I agree with a lot of it. It is just that nowhere in this debate have I seen some strategic approach to some of the civil, political and social rights that are not covered in the environmental protections, the economic rights or the workers' rights. I just wondered whether this fits the overarching strategy in terms of what is now British law.

**Kemi Badenoch:** Fundamentally, it will be because they are not contentious. The areas that are contentious tend to sit outside what was retained EU law or what is happening with the ECHR in terms of refugee and asylum policy. A lot of it goes well beyond Europe, with refugee conventions, et cetera.

I have always started from the perspective of, "What is it that people want to see?" I have not had representations in the social space, as you have described.

Q105 **Jon Cruddas:** We can take from that that there is no demand-led approach to these forms of social, political and civil rights.

**Kemi Badenoch:** Certainly not from what has been on the dashboard, no. We have put it all out there. What do people want? What do people not want? We have had lots of suggestions. There are things we are looking at, such as novel food. Much of that divergence, as the Chair said, will happen anyway simply because they will continue to regulate and legislate. I would need an example to get into the specifics, but nothing comes to mind.

**Jon Cruddas:** It is not on your radar. That is fine.

**Chair:** Just before I move on to David Jones, I have one other further pointer to the direction in which the Committee is moving on this subject.

We could spend a lot of time on the origins of EU law. We have mentioned in the past VoteWatch and the work done by Simon Hix and his department at the London School of Economics over the years. There is in fact evidence that it was done by consensus, for the most part, because they did not want to row. When they went into the room they



## HOUSE OF COMMONS

knew perfectly well that there would be a majority vote if there was one, one way or another, so it would be better to arrive at consensus. That does not necessarily at all make for good law, and I say “at all”.

**Kemi Badenoch:** It sounds like Parliament.

**Chair:** There are differences. European Council meetings take place behind closed doors, without even a transcript, which is how these things were put through, and using consensus rather than majority vote, for the most part. On the other hand, the manner in which we make laws, as we are doing this afternoon, is fully transparent and democratic.

**Kemi Badenoch:** With records and transcripts, yes.

**Chair:** There is a difference. Therefore, it is not unreasonable for people to wonder why we are hanging on to laws that were made in a manner that lacked the full democratic legitimacy that our system, now we have left the European Union, can have. I leave that on the table because that is something to bear in mind when considering what you get rid of and what you do not. Some of it was passed because they did not want to row, to put it bluntly.

I am now going to pass over to David Jones and ask him to get on to another very important part of our inquiry.

Q106 **Mr Jones:** As a visual aid, Secretary of State, we will need another slide, please. You will recall that, on the publication of your report, the Chair wrote to you on behalf of the Committee expressing disappointment at the level of reform or revocation of retained EU law that had happened over the last six months of 2023.

Your report contains a table 2, which indicates that the Government have made a decision to assimilate around 44%, or around 3,000 individual pieces, of EU law permanently. It then gives a tally of the individual pieces of EU law that have been removed or reformed. In the second half of 2023, after the enactment of the REUL Act, 125 pieces of retained EU law were revoked and 22 were reformed.

The Chair wrote to you, and I will quote what he said: “Of those reforms that have been undertaken during the reporting period”—that is the last six months of 2023—“of 26 statutory instruments, only two are worthy of note: the first on wine marketing and the second on working time calculations. The remainder relate almost exclusively to the correction of technical errors, consolidations and restatements. For a six-month period, this is simply not good enough”. The two pieces of retained EU law that I have mentioned were in fact identified by you in your report as key reforms. That was the way that you put it.

On page 16, we see the start of a table. This is the second page of that table. It says, “The tables below include details of the SIs made by the end of 2023 which revoked or reformed REUL, amended or restated REUL, or made amendments consequential on the REUL Act”. Do you



## HOUSE OF COMMONS

accept that the reforms and revocations in the second half of 2023 simply fell short and that not enough was done?

**Kemi Badenoch:** This is one of those areas where we are looking at what the problem that we are trying to solve is. It is not about the number; it is about the impact. It goes back to the fundamental point that has underpinned all of this: there is quite a lot of retained EU law that people want to keep. It is not about making sure we get rid of 80% or 90%. It is about getting rid of what we do not want and keeping what we do.

When you look at it from that perspective, it is not disappointing. The ones that will be game-changing will take time. They will need parliamentary debates because it is not as straightforward as the Government saying, "We are going to get rid of this and we are going to get rid of that". In this programme, most of the time has been spent on the Bill. As a mechanism for legislative reform, it is moving quite quickly, given that none of these are economic priorities for any particular interest group.

These are just things that we are looking at, analysing and deciding, on merit, on a case-by-case basis, whether we want to keep or reform.

Q107 **Mr Jones:** Table 2 of your report makes clear that you intend to revoke or remove 35% of retained EU law and you intend to reform around 15%. That decision has already been made. You know what you want to do. You know the course that you are charting. If we are talking about 50%, which by my calculations is what 35% and 15% add up to, you have over 3,000 individual pieces of retained EU law that are going to have to be dealt with. At the rate that you have achieved so far, that is going to take many years.

Do you anticipate an acceleration in the first half of 2024, for example? If so, what sort of acceleration do you anticipate there will be?

**Kemi Badenoch:** This is not a linear process.

**Mr Jones:** I know. You have explained that.

**Kemi Badenoch:** The one thing that we have to remember is that we spent the second half of 2023 removing supremacy of EU law across the board. That is not something we can show in numbers. These are the lists of regulations. That in itself was a huge piece of work. It is said in a sentence, but it was a huge piece of work. That is how we should look at what happened towards the back end of 2023.

By the end of 2024, we should have done another 500 or so. But the six-month reporting timeline is an arbitrary timeline. Six months is just halfway in between. It does not necessarily indicate how much is going to get done over the entire period. It is something that we can use as a check-in point. The fundamental point about the 2023 work is that this was about removing the supremacy of EU law. That is not insignificant.



## HOUSE OF COMMONS

Q108 **Mr Jones:** You anticipate that by the end of June a lot more will have been revoked or reformed.

**Kemi Badenoch:** Certainly by the end of 2024, yes. We will see where we get to by June. This is not up to me. This is up to Parliament. It is up to timetabling. These decisions are made by MPs as well. If this were just me erasing things from the statute book, it would be quite different. We need to make sure that we do this via the process.

Q109 **Mr Jones:** Of course, you are also relying on other Departments, are you not?

**Kemi Badenoch:** Yes, that would always have been the case, irrespective of whether we have a tsar. We do not take other Departments' policy work away from them.

Q110 **Mr Jones:** I understand. I am sorry to sound as if I am obsessed with the notion, but, if there were to be someone with oversight of the entire process, that person would be able to co-ordinate and drive all the Departments to proceed as quickly as possible with the exercise that you are responsible for at the moment.

**Kemi Badenoch:** I suspect you would be asking them the same questions that you are asking me now. Until the end of 2023, we did have someone doing that. We did have the Earl of Minto, who was a very senior corporate executive and who was in the House of Lords, solely looking at this. He was driving that. There is not going to be anything pacier than that, unless you are volunteering to be a tsar. I am very happy to propose that. It was something that you suggested previously.

Q111 **Mr Jones:** I do not think we did. The point is that your ambition is clearly, on the face of your report, to deal with over 3,000 individual pieces of law.

**Kemi Badenoch:** Yes, that is the ambition.

Q112 **Mr Jones:** At the current rate, that will take an awfully long time. It is going to have to be accelerated very considerably.

**Chair:** If you are only looking at 500 by the end of 2024, that is not a drop in the ocean but a minimal amount.

**Gavin Lambert:** As of 1 January, we had already revoked or reformed around 2,300 of the total quantum of REUL.

Q113 **Mr Jones:** I am talking about the statutory instrument process, which is what is set out in the table that we are looking at here.

**Gavin Lambert:** You will correct me if I am wrong, Chris, but of the 6,757 total, we have already revoked and reformed just about 33% of that. Our ambition is to get to just over 50% by June 2026. We have done around two-thirds of that already. The challenge remaining is big, but I am not sure it is perhaps quite as pessimistic.



## HOUSE OF COMMONS

Q114 **Mr Jones:** What is your best estimate of how long this entire process will take, Mr Lambert?

**Gavin Lambert:** We are currently working to the 2026 deadline

Q115 **Mr Jones:** Do you still think that is achievable?

**Gavin Lambert:** With a fair wind, yes. To the Secretary of State's point, we are reliant on colleagues around Whitehall finding the time to do this, prioritising it and making it happen, but that is our assessment at the moment on the pipeline of plans that the Departments are giving us.

Q116 **Mr Jones:** It is a bit worrying to hear you say they will have to find the time to do it. Somebody surely should be telling them they have to find the time to do it.

**Gavin Lambert:** We are all conscious that priorities do change. Unexpected events happen, do they not?

**Mr Jones:** You are still confident that the 2026 deadline can be hit.

Q117 **Chair:** We are also going to come in a moment to the question of the role of organisations such as Hogan Lovells and what they are recommending. I think I am right in saying that we have never had an answer to the question that we put about the terms of reference for Hogan Lovells. Is that right?

We are slightly puzzled as to what they have been doing and on what basis they were instructed for £4 million, as I understand it. I would just remind you to get that information to us. If they were given that external job, other people could be given a similar opportunity to help to accelerate the process. That is really what I am driving at.

If, at the same time, you were to give Lord Johnson, for example, the opportunity to have that job specifically as a tsar to help drive the issue forward, you might make more progress.

I take your point that there are circumstances in which some issues, as a matter of qualitative effect, are more important than others. If you have not done the job of identifying what is to be done in the manner in which I am suggesting, with a tsar driving it, we are going to find, as David Jones and others have indicated, that the job is not going to be done as quickly, efficiently or comprehensively as it could be.

That is our concern because it is a matter of national interest. Laws are not just sitting on the statute book. Many members of the Civil Service sit at desks and process, individually, day by day, the legislation that is on the statute book. That is what they are there for, to a very great extent. We need some acceleration; we need some concentration; we need a better outcome. That is really what we are driving at. We are concerned that by the end of June 2024 enough progress will not have been made at current rates. That is the point.



## HOUSE OF COMMONS

**Kemi Badenoch:** We can say a bit more about Hogan Lovells. Chris, you can describe exactly what we have asked them to do. I was told that the contract is on Contracts Finder on GOV.UK, but you can describe the work in terms of the terms of reference.

**Chris Carr:** We asked Hogan Lovells primarily to work with us and with the National Archives on the dump of legislative data from EUR-Lex to make sure we had not missed any significant pieces of REUL. When we hired them, we had already done a couple of iterations with Departments, which had proactively identified the REUL that they knew about inside their Departments. As we now know, there were thousands of pieces of REUL that were not initially identified by Departments. That has come through the work of Hogan Lovells. They are still completing the final trawl through the layers of information in EUR-Lex.

We are confident, as the Secretary of State said earlier, that we have identified all the significant pieces. There are an awful lot of very small instruments that amended one particular thing at one particular time, which may or may not have any ongoing legal effect. That is why the Secretary of State says that we do not expect to find very many more pieces, but that is the final stage of their work.

Q118 **Chair:** Are we going to have that presented to us?

**Chris Carr:** Yes. When they have finished, we will certainly put that in the next REUL report.

Q119 **Chair:** Have they asked for more money since they originally agreed £4 million?

**Chris Carr:** No. They are well within budget.

Q120 **Mr Fysh:** In your letter of 24 January, you talked a lot about the potential for Acts of Parliament to be used to deal with some of the assimilated law that has been built up in terms of its reform. I was just wondering whether you were able to give us an update on what the programme is and what has been achieved in terms of Acts of Parliament other than the Financial Services and Market Act and the revocation and reform Act itself to do this.

**Kemi Badenoch:** The Procurement Act is another one that carried quite a lot of reforms. I cannot remember exactly the full name of the data protection Act, but that is another one that reforms and revokes things. Just by the sheer process of legislating, we are doing what we want. I do not have a full list.

**Gavin Lambert:** It is the Digital Markets, Competition and Consumers Bill.

**Kemi Badenoch:** Yes. This is how we are just regulating differently from the way that the EU does. The way that we look at subsidy is now different from what the EU is doing. There will be many other examples





## HOUSE OF COMMONS

as and when we pick up different bits of legislation, sometimes in very unexpected places.

Q121 **Mr Fysh:** Would you be able to incorporate this information in your six-monthly reports so we can keep a track of—

**Kemi Badenoch:** Where primary legislation is doing some of this work, yes.

**Mr Fysh:** That is good.

Q122 **Chair:** Have you made any assessment of the value of the retained EU law process and projects so far in relation to, as you said earlier, competitiveness and things like that? It may be that you do not necessarily have that answer. I am interested to know whether Mr Carr has formed a judgment about the extent to which the process has produced beneficial results.

**Chris Carr:** Of course, I am going to say that the process has produced beneficial results.

**Chair:** That does not necessarily convince me.

**Chris Carr:** The question is, "What is our counterfactual?" If we did not have a retained EU law programme and we did not have a Retained EU Law Act with the powers to amend retained EU law more easily, I am sure some of these reforms would have happened anyway.

What the Retained EU Law Act gives us is a set of tools to do things with statutory instruments that were not previously available. A number of these reforms would have required primary legislation. Without any quantitative analysis, it is quite easy to claim that the process has delivered benefits because we have been able to do things we would not have been able to do nearly as quickly.

**Chair:** Good. That is interesting.

Q123 **Richard Drax:** When does the Government's contract with the law firm Hogan Lovells expire? Does the Government Legal Department have enough resource to continue to work on the legal aspects of the reform project on its own?

**Kemi Badenoch:** I do not have that information. I do not know when exactly it expires.

**Chris Carr:** I do not know exactly either.

**Gavin Lambert:** Is it March?

**Kemi Badenoch:** It is March.

**Gavin Lambert:** Yes, I thought it was the end of March in this financial year. Let us come back to you on that.



## HOUSE OF COMMONS

Q124 **Chair:** Is that the end of March this year or next year?

**Chris Carr:** I do not think it is this year.

**Gavin Lambert:** I may have got that wrong.

**Chris Carr:** We can confirm.

**Gavin Lambert:** We can write to the Committee with the exact details.

Q125 **Richard Drax:** When it goes, will the Government have enough resource to continue to work on this?

**Kemi Badenoch:** Yes. What Hogan Lovells is doing is more the finding rather than the reform. They are not doing the reforming, which is the key area that we are interested in. I am always very suspicious about getting law firms in and paying them lots of money. My instinctive suspicion is that we will not always do things in the best way if we outsource. Having it in-house, in my view, keeps more eyes on the ball.

It is not a purely legal process as well. Sometimes you want to hear from businesses, whether it is farmers, builders, entrepreneurs or [people who are constructing. They will tell us more, to be perfectly honest, than lawyers will. Lawyers can help us solve the legal problem, but in terms of reform, I would start with businesses.

We have roundtables. We work with representative organisations like the Federation of Small Businesses and the chambers of commerce. We constantly tell them, "Tell us what your members are saying that they need. Can we use this programme to help them solve problems?" That is my preferred approach than getting more lawyers in.

Q126 **Richard Drax:** We will welcome the expiry of this.

**Kemi Badenoch:** Yes, probably.

Q127 **Chair:** I would slightly question this approach, if I may, for various good reasons. Quite often, there are vested interests involved when you go out to trade organisations and ask them about this. They have got used to dealing with the things that they have used to, but those things will not necessarily be done on the most efficient basis, in the national interest.

There is this quality question. I am glad that Mr Lambert is nodding, as you are. It is not just something that is done for the sake of it. It has an objective. You have made this point over and over again. Qualitatively, there are a lot of vested interests, whether it is in relation to particular trade organisations or in particular fields of endeavour, research and things like that.

The combination of changing laws on the scale that we are talking about, in the light of how they came to be made in the first place, is a very important part of the freedoms that we get from governing ourselves. Therefore, it is beneficial to the country to know that the legislation is consistent with national interests. That is the key question here.



## HOUSE OF COMMONS

If I could put it to you in a nutshell, will the next parliamentary report include a more sectoral analysis of assimilated law reform, which has been informed by the current approaches of regulators to their respective sectors? We want really to see impetus. We would like to see more coherence.

As you gather, we also believe there is a very strong case, even at this rather late stage in the cycle of this Parliament, for a driving force encapsulated by a tsar, whoever it happens to be, to take some of the burden off your shoulders personally in order to accelerate the process with the very able assistance that I am sure you have around the table, which I am addressing at the moment.

Can we make more progress more quickly, more efficiently and more coherently? That is really our message. We will report in due course. If you would like to comment on what I have just said, we will then bring the session to a close.

**Kemi Badenoch:** Thank you very much, Chair. You make a really good point about vested interests. It is true that just looking at it from a demand-led perspective will mean that vested interests will try to request changes that are to their benefit. The corollary is that there are always other vested interests who have different opinions. It is our job to arbitrate, first of all. Law firms are also a vested interest. They love regulation and they will always find a way to make more of it.

To your broader point about the coherence of what we are doing, we will try to bring that out a bit more in the next report. My vision of coherence was about smarter regulation. Brexit was not an end in itself. It was something that was supposed to deliver a change, not just a change in the statute book but a change in culture and a change in how we think about what is right for the country. We did not want to be in a form of stasis where everything is too difficult and the EU will not let us and so on. Quite a lot of the bad legislation is homegrown. We need to do better on the culture side as well as the legislative side.

Those are some of the things that are not necessarily apparent but bring together the coherence that you are looking for: smarter regulation, the pillars of better regulation and what the regulators are doing, particularly Ofwat and Ofgem. All our constituents write to us about how their policies are impacting them. Bringing all of that together will help highlight how the EU retained law programme is working to help improve the entire statutory landscape.

**Chair:** Lastly, do not forget the points we have made about the Home Office and the question of economic law. I want a report, please, on those two issues to find out for sure whether the matter is being properly looked at or whether, on the other hand, there are good reasons why nothing has been done on that front, as far as we can ascertain. If you could do that, that would be more than helpful to our final report.

Thank you very much for coming. We have had an interesting dialogue



HOUSE OF COMMONS

and we look forward to hearing from you again.