



Environment, Food and Rural Affairs Committee

Oral evidence: [Work of the Committee 2010–15](#),
HC 942

Wednesday 4 February 2015

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Members present: Miss Anne McIntosh (Chair); Richard Drax; Jim Fitzpatrick; Mrs Mary Glendon; Mrs Emma Lewell-Buck; Iain McKenzie; Sheryll Murray; Neil Parish; Roger Williams

Questions 81–165

Witnesses: **Sir Philip Dilley**, Chair, and **Dr Paul Leinster CBE**, Chief Executive, Environment Agency, gave evidence.

Q81 Chair: Good afternoon. Welcome, Sir Philip and Dr Leinster. This is a one-off evidence session. We are delighted that you are here before us both as the incoming Chair, Sir Philip, and as the current Chief Executive Officer. We will just look at your overall responsibilities and then we will hone in on one or two matters in more detail, if we may.

First of all, Sir Philip, many congratulations on taking up your responsibilities. Do you find that your position in the Environment Agency, as Chairman, is different from your previous roles? In what way are they different? How have you found your first few months in the position?

Sir Philip Dilley: It is different because my previous role, although it was called Chairman, was effectively Chairman and Chief Executive, so I was running the business. In the Environment Agency, it is a non-executive Chair, so it is running the board. In that sense it is substantially different. But the agency is of a size that is comparable with my last organisation, and a lot of the people in it have come from engineering and scientific backgrounds and, as I have discovered as I have travelled around a little bit, they are all incredibly enthusiastic to do the right thing to improve the environment. In that respect it is home from home. I am enjoying the position and I am finding that I can have some positive influence.

Q82 Chair: Dr Leinster, how would you describe the main achievements of the Environment Agency since 2010 in terms of your current responsibilities?

Dr Leinster: Though we clearly recognise that more needs to be done—and more always needs to be done—I believe that we have made good progress against the outcomes and objectives that we set out in the corporate plan that we agreed with Defra and that was signed off by the Secretary of State. As you know, it covers a wide range of issues from water quality to water resources, fisheries, biodiversity, navigation, the regulation of major industry, air emissions, waste management, illegal waste, and flood and coastal risk management. I will just highlight a couple of those, if I may. Through that period there was the drought in 2012 that we dealt with, and also a major coastal surge and then flooding in 2012—major incidents—and through 2013 and 2014.

In 2014, we saw the best ever bathing water quality results, with 414 of the 416 bathing waters meeting mandatory standards. Sea trout are back in the River Leven in Cumbria. They had been absent since the industrial revolution. The River Tyne is now a major salmon river and it is one of the most productive salmon rivers in England, having been heavily polluted. Now of the around 13,000 permits that we issue, 99.9% are being issued within the 13-week Penfold target. We have seen a net reduction in the number of illegal waste sites. In September 2014 there were just over 460, which is the lowest figure for four years. Following the damage caused to the flood risk protection during the storm and surge and floods in 2013-14, we restored protection to 200,000 households by the end of October from a standing start in April, which is in addition to the normal capital programme that we had. Over this period we have reduced flood risk to more than 165,000 households, which was the target within the corporate plan, and also to 240,000 hectares of farmland. Recently, at the end of last year, the PAC stated that we provided value for money in our flood risk management—both capital and maintenance work. In terms of changes that we have made to our organisation, we reduced our support and corporate service costs by more than 34% over the period and we moved from a national, regional and area structure to a national and area organisation, again delivering substantial savings. So, good progress, I think.

Q83 Chair: Excellent. If new activities like hydraulic fracturing for shale gas—as opposed to fracking for natural gas—were to take off, in addition to all your existing responsibilities, do you believe that you have the resources and personnel to do the job?

Dr Leinster: I think we do. I think we will be able to ramp up the resources that we need. For our regulated activities, we receive money from the people we regulate, through both permit applications and then subsistence charges for ongoing compliance work. If we can get the level of charges right, that will fund the resources that we need. The aim then is to make sure that we are properly predicting the level of work that is coming in and matching the resources with the workload.

Q84 Chair: That is very helpful; thank you. Sir Philip, how do you see your priorities for the work of the Environment Agency in the coming five years?

Sir Philip Dilley: There is a very broad range of activity, rather aligned to the answer that Paul gave to the first question, but there are really four principal areas of activity. The first and most extensive in terms of spend will be the work we do in the

flood and coastal risk management area. There, we have an undertaking from Government for a six-year investment programme, and an undertaking from us to the Government to deliver extra protection to 300,000 homes over that period. There is a very substantial amount of work to do there in addition to the ongoing maintenance to keep 97% of the assets in optimum condition throughout the period of time. That would be our single biggest activity. Aligned with that is the need to attract partnership funding to a committed degree—to 15% of the funding. Whilst that is a percentage that we are used to doing, because the investment programme is increasing, that does require more money than has previously been raised. There is quite an important focus to be had in the forthcoming period on how we attract and maintain partnership funding. That is really the first principal item.

The second one, which is more of a generalisation, is that we are going to need to maximise the outcomes in all the things we do with less funding in some of those things. I say “some” because some of the funding is ring-fenced and assured, while other parts of the funding are fee-related, meaning we can assume that they are ongoing at principally the same levels or inflation-proof levels. However, some parts of the funding will be reduced. In the areas of major industry regulation—water resource, waste management, the onshore oil and gas world and new nuclear—and in some of areas such as biodiversity and fisheries, we are going to look not at how we can do things by peddling harder, but at how we can do them slightly differently to get more efficiency from those activities. That is the second one.

Thirdly, I would pull out of that specifically the illegal waste site activity. They have been very prominent in the public world recently, but although there have been no more fires in 2014 than there were previously, it has become more of a public issue. Some 96% of the sites we regulate are either good or adequate. We are focusing in on the 4% and the illegal sites. I highlight that because there was more money made available from Government to look at those—an extra £5 million during the year—and there will be ongoing extra money in this coming year. We do not know where it heads after that, but that is a very important current activity.

The last one I would mention is the likelihood of some further organisational change. Paul has mentioned that we already have shrunk our corporate and support activity. We have already reshaped ourselves into a central and area or community-based organisation, but there are some things that will continue to exercise our minds. I believe that we should remain a national organisation delivering locally. Those two ends of our activity are really important. Indeed, the National Audit Office report that Dr Leinster mentioned did point out that one of the areas for potential improvement was better to connect with the community. The local activity is really crucial.

The other thing that is quite interesting and important here is to keep going down the path of looking at customer focus. Only this morning, in a meeting concerning the long-term investment strategy report, the farming community was saying that it was very enthusiastic to help in this area where public funds cannot be justified, but it wants the obstacles taken away. That was not focused at the Environment Agency alone by any means. When we can work with other agencies and public bodies to make the customer focus more attractive to the customer, especially in the Defra network, that will be a positive thing.

Q85 Chair: Thank you. Where are we, Dr Leinster, on the pilot projects? Thinking about cleaning the rivers, they were meant to be completed in October and it was extended, was it not?

Dr Leinster: Yes, it was. We extended the time because so many of the farmers and landowners with whom we wanted to engage were busy recovering during the first six months of the year. We extended the number of areas—we went from seven to nine—and we extended some of those areas. We come to an end of that programme in March and will then evaluate the findings.

Chair: Excellent news.

Q86 Roger Williams: Most public bodies like yourself prefer to be out of the headlines than in the headlines, because if you are in the headlines, it is usually for the wrong reasons. We heard a long list from Dr Leinster about the achievements that the Environment Agency has made over this period, but there have been some problems as well. What are the most important lessons that the Environment Agency has learned over this Parliament?

Dr Leinster: A number. The first for me is the importance of partnership working. Certainly, as we go forward, we need to work increasingly across the piece in partnership with local councils, trading standards, the police and HMRC. We need also to get the right balance between our capital and maintenance funding for flood risk management. Sir Philip mentioned the importance of being a national body that delivers locally. It was interesting in some of the discussions that were going on, and in some of the criticism that was around, that there was a difference between the criticism that came nationally and the criticism—or praise—that was coming locally. Again, we need to understand from that. Also, then, there is our clear role now as a delivery body, but also as an adviser to Government on technical and operational aspects so that we are able to inform legislation, guidance and policy as they develop it.

Q87 Mrs Lewell-Buck: As you are both aware, due to decreases in Defra's budget, there have been some overall job losses over the past year. I am just curious: what is your current staff quota at the moment?

Sir Philip Dilley: As of the end of last year, we were 10,300.

Q88 Mrs Lewell-Buck: How many job losses has that been, then?

Dr Leinster: As of March 2010, we were at 12,150. We have gone from 12,150 at 31 March 2010 down to 10,300 currently.

Q89 Mrs Lewell-Buck: How many of that is full time and part time? What is the split in the current 10,300?

Sir Philip Dilley: That is full-time equivalent.

Mrs Lewell-Buck: They are all full time.

Dr Leinster: No; it is full-time equivalents.

Sir Philip Dilley: There are more bodies, but this is the full-time activity.

Q90 Mrs Lewell-Buck: Do you have any further job losses planned?

Dr Leinster: None planned at the present time. We had the big change programme, as Sir Philip and I were outlining, which was the move from the national-regional-area structure to the national-area structure. The structural changes on that came to an end in December. We are now dealing with redeployees and our intent is that out of that major change we are able to find positions for all of the redeployees. We have been successful with about half so far, so the number of redeployees is just around 100 coming out of that change programme. We are seeking to minimise compulsory redundancies and so far, out of that change, we have not had to make any compulsory redundancies. That would be our intent. There has been some voluntary early release of people, but if we have the indicative budget that we have now continuing through next year—there might be some uncertainty around that—we can hold at these numbers.

Q91 Mrs Lewell-Buck: Just in terms of the operational reorganisation and the jobs that have been lost, what effect has that had on staff morale across the agency as a whole?

Sir Philip Dilley: I might answer that because one of my concerns on my arrival was exactly that. It was my expectation that morale would be somewhat depressed. I was, in a way, pleasantly surprised to discover that the process had been handled very transparently so that people knew what was going on. There was an ever-decreasing group of people who were at risk; there are now none. If one explains properly that to have an efficient organisation that is properly funded, there has to be a balance—it is rather like balancing a commercial organisation with an income stream—one can argue quite justifiably that we are a stronger and leaner organisation. Morale is quite high, I would say.

Q92 Sheryll Murray: We have mentioned employment figures, but that must have resulted not only in covering your budgetary costs, but perhaps also in creating some savings that could be invested in things like capital programmes. Could you give me any idea as to how much better investment you had—or how much more investment you had—as a result of the restructuring?

Dr Leinster: There are two aspects to that. The first one is that over the spending review period we were given a target to meet of 15% efficiency in our capital programme. We are on track to meet that by the end of March this year. That efficiency programme on capital is scrutinised by the Cabinet Office against agreed criteria, so it is an externally verified number. In terms of the move from three to two levels within the organisation, the business case was that we would deliver a £10 million saving through that move—that was an efficiency saving—and we are on track to meet that as well.

Q93 Sheryll Murray: Chairman, forgive me for lengthening this session, but could you tell me, perhaps, whether with better, more modern technology you were able to utilise technology better, so you did not need as many employees and staff?

Dr Leinster: Absolutely. One of the things that we do is to have continuous improvement. One of the bits that we did was to outsource our IT provision. We outsourced that to Capgemini. That was for a £20 million efficiency. One of the pathfinder projects that we did with the Government Digital Service was looking at waste registrations, and that has delivered efficiencies. People are able to go online and register. It is something that we continually do. Absolutely, we are looking at what our cost base is and seeking efficiencies across that whole cost base.

Q94 Sheryll Murray: Finally, some of that reduction in staff was through natural wastage, I am presuming.

Dr Leinster: Yes.

Sheryll Murray: Could you give me some idea as to how much was through natural wastage?

Dr Leinster: Our average turnover recently has been somewhere between 3.5% and 4% per annum.

Q95 Neil Parish: Afternoon, gentlemen. What is the Environment Agency's view of the risk of flooding and coastal erosion in England in the short and long term?

Sir Philip Dilley: If I could start with the long term, we have recently produced a report, which was published in December, on the long-term investment scenarios for this very issue of flooding and coastal risk management. That has been peer reviewed by some experts at Oxford and it is seen as a seminal piece of work. It is probably more advanced than any other public body in any other country has achieved. What it does is looks at all of the possible activity that can take place in components of England—divided into various parts—and looks at the beneficial return on investment for all those. By effectively increasing one's investment—in theory in the model—you can see what return you get for different levels of investment. There is, for the first time, an understanding of what the optimum investment ought to be in the very long term. That has guided the settlement that is now in place for the next six years, so we are very comfortable that we understand within that period of time what level of investment is needed, what the out-turn will be of that—a 5% reduction in risk of coastal flooding and river flooding—as well as the asset protection that I mentioned earlier. That is very certain.

If we did nothing, there would be a very serious deterioration in that protection, because assets deteriorate and climate change effects come into play. In answer to your question, we are very confident about that. You could always spend more and do more, and there has been some discussion with Defra about the spread of that investment over a period of time—it could be more front-end loaded or less—and there have been some adjustments made to that, but generally speaking we are very confident that the investment is at the right level.

Q96 Neil Parish: Even with the most optimum levels of investment, do you expect the numbers of properties at risk of flooding to increase or decrease over a period of time?

Sir Philip Dilley: The six-year spend commits to improve protection for 300,000 properties, which will be achievable, as I mentioned earlier, subject also to the partnership funding coming into the mix, but it is also true that at the end of that period there will still be something like 300 properties at fairly high risk—clearly, different properties. That is partly as a result of the deterioration of some assets that are not able to justify spend on them and partly due to climate change effects. We are moving forward very well in protecting more properties, but there will still be a significant number—and there will probably always be a tail however much you spend.

Q97 Neil Parish: On coastal erosion in particular, what is the relationship between yourselves and Natural England? I have part of the coastline on the south coast of Devon where a private scheme wants to protect that coastline, but Natural England is keener on retreating from it. I am keen that we keep the sea out. What is the relationship between the Environment Agency and Natural England over these schemes? Who has the ultimate say?

Dr Leinster: Coastal erosion is a local authority matter. Coastal flooding is an Environment Agency matter. When there is a mix, we have a—

Q98 Neil Parish: When does the erosion turn to flooding, then?

Dr Leinster: The place that you can see that discussed is within things called shoreline management plans. The majority of the shoreline management plans, of which there are a number around the coast, are now chaired by local authorities, and there will be a discussion within each shoreline management plan as to when a stretch is to do with erosion and when is it to do with flooding. I know that it can cause confusion, but if it is erosion, it is local authorities, and Natural England will then be discussing that with the local authorities.

Q99 Neil Parish: What is the Environment Agency's assessment of the Government's six-year capital investment programme? I also see that in the Budget the Chancellor said that if private companies and individuals wanted to make contributions to flood schemes, they would be tax-deductible. Have you noticed any increase in people coming forward to help to fund schemes?

Dr Leinster: Not yet.

Neil Parish: Perhaps it is early days yet.

Dr Leinster: It is for those future years, and also to see what has happened. Over the period of spending review 10, we have seen £140 million of partnership funding coming in. As Philip said, to deliver the programme over the next six years, we will have to raise in excess of £500 million to deliver protection to 300,000 properties. Quite a lot of that will either come from the local levy or local councils, but we are actively looking at how we can increase the money from private sources. In different places that has

happened. In Sandwich, as people will know, Pfizer has contributed to that. In other places—in Lincolnshire and up in Warrington—the water companies have contributed. In other places we have had contributions from supermarkets. Over the six-year period, we expect to see a 5% reduction in flood risk.

Q100 Neil Parish: Do you think the six-year capital investment programme of the Government is deliverable?

Dr Leinster: Yes. We work with our regional flood and coastal committees. We are in active discussion with the various flood and coastal committees. Those have representatives from the local councils on them. When it comes to voting on matters that are levies and things, it is just the local council representatives who vote on those aspects. We have both a bottom-up building-up of the programme—it is discussed locally and they agree it—and also a top-down prioritisation and then, coming out of that, we come to an agreed programme. We know what schemes we are talking about. We actively manage that through the process, because what you find is that maybe you will not get the partnership funding that you thought you would from one place but you do get partnership funding coming in from another. It is a dynamic, actively managed programme; it is not that everything that is known now will happen by that six-year programme. The vast majority of it will remain constant through that period, but there is some coming in and going out of some schemes. We are confident, just as we—

Q101 Neil Parish: So there is some flexibility there.

Dr Leinster: There is flexibility, just as in this Spending Review period we committed at the beginning to 145,000 houses being better protected, and then we got some additional money and added another 20,000 properties in. We delivered that. It is exactly the same sort of process, so we are confident.

Q102 Sheryll Murray: Following on from what you said about efficiency savings, Defra needs to make efficiency savings of at least 10% and to attract external contributions of about £600 million to deliver its six-year investment plan. What discussions have you had with Defra about how these requirements will be achieved?

Dr Leinster: The delivery of those falls squarely with us. In terms of the partnership funding, we have a number of engagement staff who are working with local communities, promoting the schemes and seeing how we can get that external funding in. In some places we have put people within councils to help them to deliver that. It is a very active piece of work. It requires a lot of discussion and a lot of promotion, but we believe that we can do that. On the 10% efficiency, again we are identifying the measures that we will put in place. The challenge is that that 10% efficiency is not just for those schemes within our direct delivery, but for the local authorities and other risk-management authorities. It is a 10% across all schemes. Influencing others to deliver 10% efficiency is a challenge that we are actively considering.

Q103 Sheryll Murray: I know that I have got the investment programme that you published on 1 December for the south-west. I presume the same plans were published for around the country.

Dr Leinster: Yes.

Q104 Sheryll Murray: Some of the schemes are identified as construction programmes and then we move to some that are development programmes. Are these the ones that you need to attract partnership funding for in order to implement?

Dr Leinster: The development ones are more where we need to do further studies to work out what the optimum is. There will be a mix in both of them. Those in construction will also have partnership funding that we need to raise, while a number of them will have the partnership funding already in place. The development ones will be specific schemes for which we are not yet sure what the optimum solution is.

Q105 Sheryll Murray: Finally, will agricultural and sparsely-populated areas at high risk of flooding benefit from the Government's investment plan?

Sir Philip Dilley: Agricultural land does come into the calculation for optimum spend at a value that is set by Treasury—we are not able to change that—which does mean that some of the best agricultural land does attract direct investment from us. Parts of land that would otherwise not attract investment do also get protected, almost as a by-product of the investment schemes that we carry out. Something like 1.2 million hectares of agricultural land are at flood risk in England, but 84% of that land is in low-risk flood areas. Only 1% of grade 1 land is at very significant risk of flooding. It is quite a small amount. Last year—2013-14—as I say as a by-product, almost, of the schemes that we in any event carried out, we increased the protection of more than 84,000 hectares, of which 57,000 hectares were grades 1 and 2. People talk about us not caring about agricultural land. It is harder to get it into the analysis in a way that generates schemes, but many of the schemes we do carry out help it.

Q106 Chair: Dr Leinster, could I just press you a little bit on the partnership funding? How much has been leveraged in to date in total?

Dr Leinster: Over this period, about £140 million.

Q107 Chair: Do you think that you will be able to reach the £600 million-plus that we are looking at?

Dr Leinster: It is a challenge, but that is what we are aiming for, yes.

Q108 Chair: In conversations with insurance companies, they seem quite keen to be able to find a mechanism to invest. Is that something on your radar screen or would that fall to the Government?

Dr Leinster: It is not a conversation that I have had with them. Usually when I talk to the insurance companies, they talk about costing risk, not investing in reducing risk.

Chair: We can have a conversation later, perhaps.

Dr Leinster: Yes.

Q109 Chair: Is it a concern to the Environment Agency that the money for flood defences that we have just discussed is not ring-fenced at the level of the local authority spend?

Dr Leinster: That is a matter for the local authorities. They will be setting their priorities and it is for local authorities to find the money, if they think this is a priority.

Q110 Chair: Can I turn to fluvial and surface-water flooding and Sir Michael Pitt's recommendations? The Infrastructure Bill will enshrine in law that water companies are to be statutory consultees solely for the purpose of fracking. Would it not make sense to make water companies statutory consultees for all major developments, such as major housing developments and major highways? Do you have a view?

Dr Leinster: No.

Chair: A personal view? Sir Philip, be brave.

Sir Philip Dilley: We have a role in our consultee duty to look after, if I can put it as generally as that, the catchment areas. I am not quite sure what water companies would do beyond that.

Q111 Chair: If water companies are to step up to the plate to be partners in partnership funding, presumably it would help that they were statutory consultees as to what impact a particular flood defence would have on existing developments or new developments.

Dr Leinster: I am not sure a statutory consultee role would bring about a delivery role.

Q112 Chair: If you compare the role that you had at the Environment Agency before you became statutory consultees, to be fair, no one really paid much notice to what the Environment Agency said. When you became statutory consultees, it was very difficult. I would argue that water companies should have the same on that basis as well. You do not wish to express a view, so we will not press you, but do you think that the automatic right to connect to developments should be ended?

Dr Leinster: Again, these are policy matters.

Q113 Chair: All right. I will not press you on those.

Sir Philip, Lord Smith gave some very robust evidence to us in his last evidence session that really he felt that the main lesson he had learned from the winter floods was “to push as hard as we possibly can for keeping and increasing maintenance expenditure alongside capital expenditure, and making sure that Government is aware of the degree of priority that has to be given to that”. Do you agree that the Environment Agency continues to need to push as hard as it can to keep and maintain that level of expenditure on maintenance?

Sir Philip Dilley: Yes, I do. It is easy to carry out capital projects that have high visibility and high public benefit, but in the end they need to be maintained, as do the existing assets. That is much less glamorous in the public eye, but it is really important to do that. A terribly good example is the dredging that was carried out in Somerset, which was done on the basis that that would be publicly funded through the Environment Agency, but with would be a mechanism set up afterwards, which is in progress, I gather, to carry out the subsequent maintenance of that activity. Yes, it is very important.

Q114 Chair: But I understand that that has ground to a halt.

Sir Philip Dilley: I do not think that is right—I do not think it has ground to a halt—but it is not an Environment Agency duty to set it up.

Q115 Chair: That is fair enough. Do you believe, Sir Philip or Dr Leinster, that the Government have the message now, since the winter floods, particularly in Somerset and other areas, that maintenance is key to preventing future floods?

Dr Leinster: The conversations that we have had with Defra, and then that Defra has had with the Treasury, have resulted in an additional £35 million in the current year and then an additional £35 million, in addition to £5 million extra that had already been identified—so an additional £40 million—next year, which is revenue funding for maintenance. The importance of maintenance is recognised. It clearly will be one of the key discussion points we have and Defra has with Treasury through spending review 15. One of the other things that we would like to see in that space would be a multi-year agreement on maintenance funding. If we could get that, we could deliver greater efficiencies.

Q116 Roger Williams: In contrast to the capital funding, the maintenance funding has not been allocated beyond 2015-16. What impact does that have on future planning and certainty of the Environment Agency’s maintenance programme of work?

Sir Philip Dilley: The process is one that I gather my colleagues have experienced all along until now, so we are used to dealing with this lack of clarity in the future, but it would be exceedingly helpful if we could have an ongoing programme of investment and commitment to investment.

Q117 Roger Williams: You have already said about the work that you did in Somerset that there was maintenance work to follow it, but how can you say with certainty

that you are able to undertake that maintenance work if you do not have the money in the budget?

Sir Philip Dilley: In that particular case, we have set it up such that it is a local responsibility to carry out that maintenance. There is nevertheless a very substantial maintenance programme that we do need to continue to carry out to keep all our assets in optimum condition. There is a target of 97% in optimum condition at any one time—that is very important. At one point, I had some ambition to challenge this and endeavour to get the barrier between investment and maintenance if not taken away, then made a little bit more porous, but I gather it is pretty much embedded in Treasury rules and it is not one that I have endeavoured to explore.

Q118 Roger Williams: The question I would like to ask, really, is: is maintaining flood defences to a minimum level a false economy, in a way? Will that inevitably lead to faster deterioration and more maintenance costs?

Dr Leinster: We maintain to a target level. We have an unfortunate use of terms sometimes, which then causes a level of confusion. We maintain the assets so that 97% of those assets, certainly in high-risk systems, are at target condition. The reason it is 97% is that you will always have some deterioration that you then need to correct on an ongoing basis. The money that we have is sufficient to maintain those assets at target condition. There are some words that we then use for some lower-consequence systems, where we talk about “minimum needs”, but that should not be confused with, “We do not have sufficient money to maintain the majority of the assets that we have”.

Q119 Roger Williams: Defra has told us that the six-year capital funding programme will “help maintain assets and reduce ongoing maintenance costs”. Do you agree? What impact do you expect the capital funding to have on long-term maintenance costs?

Dr Leinster: As you build assets, a requirement of that will be that you have to maintain them. The more assets you have, the more maintenance you are building into the process. But there is a difference between the maintenance that you might need for a barrier such as the Thames Barrier or the Hull Barrier, where it is a mechanical and electrical structure that needs routine ongoing maintenance, and, in other places, for a wall that you build that might need replacing in 50 years’ time, when it becomes quite complicated to work out what you need to do when. One of the reasons why Defra most probably said that the capital programme helps with the maintenance work is that at some stage an asset will need to be replaced. You will then replace an old asset that you had to maintain with a new asset that will then need less maintenance. The inter-relationship between new capital, something that is called capital maintenance, and maintenance is sometimes tricky.

Q120 Roger Williams: Can I ask, then, with the level of capital expenditure that you anticipate, do you anticipate a reduction in the maintenance spend?

Dr Leinster: No. We are building more assets, and because we are building more assets, we will need continuing maintenance. For some sorts of assets that we have, there

is a need for continuing maintenance. We have in a number of places grass embankments. Part of the flood risk management that we do will be dredging. Some of it is weed clearance. There will be an annual programme that needs to be carried out to keep those sorts of assets in condition, too.

Q121 Roger Williams: Sir Philip, I was told somewhere along the line that Arup is the John Lewis of the engineering world. Is that the philosophy and type of approach that you would like to introduce into the Environment Agency?

Sir Philip Dilley: That reference probably is to the ownership structure. The shares of Arup are put into trusts whose beneficiaries are the employees, so it is an employee-owned firm, although the equity is not in the employees' hands. What that does mean is that despite its size—it is about 12,000 people spread around the world—there is a family feel to the business, and people care about the business and act in a way that is maybe slightly different than pure profit for shareholder-driven organisations. In some ways, the Environment Agency is already like that. Whether we could ever foresee new structures that change the way it operates—it is currently an arm's length non-departmental body, as you know—it would be interesting to explore at some point, but it is not on the agenda at the moment.

Q122 Chair: Just on the maintenance and dredging point, was there a delay in bringing the pump from Holland to Somerset because of which budget it was coming out of—capital or maintenance?

Dr Leinster: No.

Q123 Chair: That is folklore, is it?

Dr Leinster: Yes. We were just trying to get pumps from wherever we could bring them in.

Q124 Richard Drax: Dredging, gentlemen. First, can I quickly ask you: what influence does Natural England have over where you dredge and do not dredge? Do you consult it every time you decide to dredge somewhere, or do you just go on and do that?

Dr Leinster: There are certain rules that we follow. It would depend on the particular habitat that we were talking about. For most, we would consult it.

Q125 Richard Drax: So you look at the history of the river, how it flows and where it has been.

Dr Leinster: Yes. What species are there, what the habitat is, what the impact is and what time of year it is. All those factors come into account when you are deciding what maintenance work you will carry out.

Q126 Richard Drax: And also you take into account the effect on the farmer if you do not dredge that river for the benefit of wildlife that has suddenly appeared because it has flooded.

Dr Leinster: We take into account the impact that flooding might have in that area, yes. For example, looking at the work that we did in Somerset, what we did there was to make sure that we had what we called an environmental clerk of works, who was on hand to be able to make decisions as we were going along. We also had a number of gangs working at the same time so that if we were not able to work in a particular spot because there were questions or there was an issue, we were able to work in other areas.

Q127 Richard Drax: The only reason I mentioned it is because there were so many issues after all the flooding where the river had not been dredged historically, for whatever reason—normally because of legislation—and I am just wondering, when you do or do not dredge, whether you talk to everyone and look at the whole length of the river to make sure that the farmer is not flooded out and then loses his land to some environmental or wildlife body or designation.

Dr Leinster: I am not aware of that happening.

Q128 Richard Drax: Good. That is excellent. You were given £70 million, apparently, for asset management work over the next two years. In particular, you were given £10 million to dredge 270 locations. How many of those locations have you dredged?

Dr Leinster: In our plan for this year, 2014-15, we had identified before we got the additional money dredging at about 250 locations. That would be part of our ongoing work. Following the additional funding, we are now going to be dredging in around 440 locations. The latest information that I have is that we are on target to do that work by the end of March. The only reason that we would not is if suddenly we get adverse weather conditions that mean that we cannot get access.

Q129 Richard Drax: What work have you done to improve engagement and transparency with communities so far as maintenance plans and dredging are concerned?

Dr Leinster: In each area we have discussions with local partners about the proposed maintenance. We talk to the farming community, to the IDBs and the river trusts, and to local councils and landowners. We then publish our programme on gov.uk. You can go on to gov.uk, put in a postcode and see what our maintenance programme is for that postcode area.

Q130 Richard Drax: On that point, have you finalised your 2015-16 programme for maintenance?

Dr Leinster: We are still in final discussions. We had some additional money released through the autumn statement. We have gone back out to the regional flood and coastal committees. Those discussions have just finished. There was a discussion at the board last week on both the capital and revenue allocations because of the additional

money that was coming out, to look at what that would enable us to do. We will finalise that and hopefully the Chairman and I and the lead board member will be able to sign that off this month.

Q131 Richard Drax: Can we move to water abstraction? Which key decisions need to be made before draft legislation is published for abstraction reform, which I think you feel is needed, early in the next Parliament?

Dr Leinster: I do not think any further decisions have to be made. It is a policy matter and we are involved in some of the technical and operational aspects of that, but it will be for Defra to decide when to come forward with legislation. As you know, there was a consultation last year, which closed in March. They have been thinking about it and we have been inputting into that work.

Q132 Richard Drax: I have got here that you previously told this Committee that putting changes in place by the mid-2020s would be a good time to be prepared for future pressures on water supply.

Dr Leinster: There is a programme of work that gets implemented all the way through. For example, one of the areas that we are particularly interested in is dealing with unsustainable abstractions. We have a programme of work looking at those. We have dealt with more than 120 unsustainable abstractions throughout this current period. One of the big changes that came in with the Floods and Water Management Act was that water company-unsustainable abstractions are now dealt with through the price-review mechanism—the five-yearly asset-management planning that the water companies do. That is how we are going to deal with water company-unsustainable abstractions, which puts that on a more sure footing going forward. We have got this programme, which will continue through the next spending review period, to deal with unsustainable abstractions in the here and now. I do not think that dealing with abstraction reform is a once and for all. There is a programme of work that needs to be implemented, and we are getting on with addressing some of the environmental impacts that we are seeing now.

Q133 Richard Drax: What conversations are you having with Defra about the reform of the abstraction regime in England?

Dr Leinster: Continuing and active. We are providing the technical advice on that, as I say, on an ongoing basis. We have staff going in there all the time.

Q134 Richard Drax: How is that progressing?

Dr Leinster: The decision will be what the policy is and what the legislation is. They need to take all those discussions and then bring that through into legislation.

Q135 Richard Drax: The boot is on Defra's foot, is what you are saying.

Dr Leinster: This is for Defra to decide, yes.

Q136 Jim Fitzpatrick: Good afternoon, gentlemen. Could I first move on to shale gas and fracking? Following last week's Infrastructure Bill debate and the amendments, I have two questions to start with, if I may. If you will forgive me, I will read them to make sure I get them correct for the Committee. After the amendments, what impact does the agency consider that the prohibition of fracking in all groundwater source protection zones will have on water quality and on the feasibility of shale gas extraction? The second part of this question is: approximately how much of England is covered by groundwater source protection zones?

Sir Philip Dilley: I should start by saying that the proposed amendment is going through Parliament. We may get to comment on it, but we have to act on the current legislation at any given time, so we are not considering it in any application that we might be considering right now. It is worth me saying what we do right now. We already, as the Environment Agency, would not consider issuing a permit in protection zone 1—the highest level of protection zone. We do not do that. In the other protection zones, 2 and 3, we would consider those—

Jim Fitzpatrick: There are three categories.

Sir Philip Dilley: There are three categories. They are to do with if there were a pollution incident, how quickly would that pollution get into the source. What we do at the moment is to consider any other applications that would take place in zones outside zone 1 on a site-by-site basis. We would look at that properly. Indeed, the applications that we have so far considered are not in protection zones, so it has not come up as an issue.

In all cases, our role is to protect the environment from damage caused by fracking activity, and there are really three risks broadly attached to that. One is the drilling fluids and chemicals that might be used in those drilling fluids. We have established a list of what is not acceptable, and some of those materials that are unacceptable are used routinely in America, so we have a more stringent policy than in the US. We would be concerned about the disposal of waste, some of which would be potentially naturally occurring radioactive waste. That is already covered by quite strong legislation and we are very comfortable that that can be handled properly. The third area is to do with the flaring of gases, which in general we would not allow, although we are allowing it in limited amounts for the exploratory activity. If one day that turns into a production activity, we would not allow the flaring of gases. In answer to your question, we would not ask for any further legislation to be confident that these activities can be done properly and to safeguard the community and the environment.

Q137 Jim Fitzpatrick: Have you looked at the potential reserves? Notwithstanding your comments a moment ago, Sir Philip, that there are no applications where there are protection zones at present, have you looked at the potential fracking areas and whether some of those would come into conflict with protection zones?

Sir Philip Dilley: Not precisely, but what I can say is that special protection zone 1 covers 1.8% of England. That part would, on our list, already be banned. All the protection zones cover 20% of England. What I have not been able to do—we probably

could if we took some time—is to overlay the special protection zones with the potential licence zones that are prepared by DECC.

Q138 Jim Fitzpatrick: Logically, if one was a shale gas company, that would be the last place one would go; if it was going to be additionally complicated, you would go elsewhere. If 80% of England is not covered and there are reserves, that would be where they would want to drill in the first instance.

Sir Philip Dilley: That would make sense.

Q139 Jim Fitzpatrick: I would have thought so. You have answered the second part of the question I was going to ask, which was whether any previous applications would have been impacted by the amendments last week. That does not figure.

Sir Philip Dilley: The answer is no.

Q140 Jim Fitzpatrick: Do you think enough is being done to allay public concerns about fracking?

Sir Philip Dilley: The risks I have mentioned are relatively easily avoided or mitigated by doing things competently. A competent well construction—an integral well construction—will prevent the contamination of aquifers by drilling fluids, for example. I mentioned the open-flaring issue, which also creates pollutants and greenhouse effects. Those two activities are relatively easily moderated. There are other consequences of fracking that are not in our domain. We do not look after, for example, noise impact, which has come up recently, I believe, in the current planning applications. We would not get involved, for example, in potential seismic activity; that is for DECC to look after. There are other activities, but the ones that we control we are very comfortable that we can properly manage.

Q141 Jim Fitzpatrick: You are engaging with the public in Lancashire to explain your role. One assumes that that is offering some public reassurance about environmental protections. Should you be doing more of that? Do you think that is a role that you can fulfil? Is that somebody else's role? Should the exploration companies or other Government agencies be dealing with that? There is a lot of concern out there in the media. I am just curious as to how you think you fit into the mix in terms of reassuring the public should we decide to go ahead with these.

Sir Philip Dilley: In the public eye, it is going to be difficult for explanations by the companies to be reassuring, because the public will say, “They would say that, wouldn't they?”

Jim Fitzpatrick: Yes.

Sir Philip Dilley: I do think we have a part to play. We could easily help by giving to the public the kind of reassurance I have just given you, in a very brief way, but there is little point in doing that right now until the spectrum of what is going on is established.

We can reinforce our part, but there are other things in question. It needs to be explained in a total picture and we can deliver only part of it.

Q142 Jim Fitzpatrick: And what has been your experience in Lancashire?

Dr Leinster: If I can just explain what we have done up there, when we are consulting about a permit before we issue it, we do two rounds of public consultation. What we have also done up in Lancashire just now is developed something called the Lancashire Shale Gas Forum, which has on it ourselves, the six local authorities, DECC, HSE and Public Health England. That has recently been extended to include Cheshire and Greater Manchester. We are using partner events through that network to talk to the public. We have also used local print and broadcast media. We have carried out surgeries in which we have put staff in to help to explain all the aspects—both our own and others. We have done some of those with the HSE so that we could explain that. We engage with local MPs and continue to keep them informed. We use social media around those sites. In the autumn statement as well, we were awarded an additional £1.5 million for engagement work, and we are currently in discussion with DECC and other partners as to what the nature, the scale and the scope of that would be.

Jim Fitzpatrick: How to spend it.

Dr Leinster: How to spend it to most benefit.

Q143 Jim Fitzpatrick: Have you had feedback from what you have been doing in Lancashire so far in terms of the public coming forward? Are the people who are engaging those who are hostile, curious or just generally interested? Have you a sense of how well that is going and how it is going down?

Dr Leinster: It is all of the above, as with all these things.

Q144 Chair: Before we leave fracking, can I just put my constituency hat on? If the clause was to go through in its present form, whereby drilling would be banned in a national park, can you confirm that there would be no lateral underground drilling under the national park as well as from the top down from the national park? This is quite important.

Sir Philip Dilley: This would depend on what the terms of the ban meant.

Q145 Chair: Who will advise us what the terms of the ban mean?

Dr Leinster: Government. That would be under the licensing from DECC. We would need to understand from DECC what the extent of the licensed area was and whether that extends underneath, as you say.

Q146 Chair: Could local people insist and intervene to say that it should not be under? It sounds too good to be true to say that a company is not going to be allowed to drill in a national park, but it makes a complete mockery of that if they are going to be allowed to

drill under the national park. Is what you are saying that it will depend on the licence application individually?

Dr Leinster: No, I think there will be guidance that will specify what is meant by not drilling in national parks, if that is what eventually comes through. That will be guidance that is given to us that we will then define; it will not be something that we would define on our own.

Q147 Chair: Who is the regulator of last resort? Is it DECC? Is it the Environment Agency? Is it the Health and Safety Executive? There seem to be an awful lot of bodies involved and a number of stalls under which an application can fall. Who is the regulator of last resort?

Sir Philip Dilley: There is no single regulator of last resort. Each activity is covered by one or another regulator. The Health and Safety Executive is also involved. Depending on the activity or the breach, the particular regulator would have to take action.

Q148 Chair: Would it be of concern if the waste water was to be carried from a particular well head at a depth of less than two metres over a distance of 15 miles? Would you monitor that? You would not leave it to the self-monitoring or self-regulation of the company concerned.

Dr Leinster: We would have to, as we would in all cases, assess the particulars and decide whether the mitigation measures were appropriate for the risk.

Q149 Chair: Would that be part of a licence application?

Dr Leinster: In that situation, yes, because it would be part of the dealing with the waste.

Q150 Chair: There is a rumour going round that under TTIP, the Transatlantic Trade and Investment Partnership—the free-trade area between here and the US—a US company could elect to go for the lighter-touch US regulation rather than the standard UK regulation.

Dr Leinster: No.

Chair: That would not happen.

Dr Leinster: No.

Q151 Jim Fitzpatrick: Can we just turn to industrial emissions? The agency's role is to regulate industrial emissions. Can you perhaps just briefly describe that role and what the biggest challenges are in terms of protecting air quality and the environment from industrial emissions?

Sir Philip Dilley: Our role relates to ensuring that the emissions meet certain standards—set largely these days by European legislation—for various gases, such as sulphur dioxide and various nitrous oxides. That is the scope of the role. It is only on

industrial plants; it is not on emissions such as vehicular emissions. As I say, it is set by that. Local authorities cover most of the emissions from things that we do not cover. In total, for Britain, there are effectively two sets of bodies that do that.

Dr Leinster: If I can build on that, local authorities have a requirement to carry out an assessment. Currently, 220 authorities across England have air quality management areas. We work with those local authorities to see whether emissions from the processes we regulate are contributing to a breach of any air quality objectives within that area. If they are, we would work with them. That is the process that we use. They are in the lead and we work with them.

Q152 Jim Fitzpatrick: What is the biggest challenge at the moment? Is there one?

Dr Leinster: Most probably it would still be around particulates from some of the steel works.

Q153 Jim Fitzpatrick: There was some European Union legislation proposed that has been withdrawn. What impact has that had? Is that significant? Does that leave a gap, or were they intending to intensify the regulatory regime? What happened to those proposals?

Dr Leinster: The immediate regulations that we are dealing with just now are the Integrated Pollution Prevention and Control Directive translated into the Industrial Emissions Directive, and we are now implementing the requirements of the Industrial Emissions Directive. This other piece of work was looking at ceiling limits, mainly for 2020 and 2030, so any delay within that process is not having an impact on our immediate work. We keep a look at that just to make sure that things are going in the right direction, but we are relatively confident that the processes we regulate would be able to meet the 2020 dates, and 2030 is quite a long way out.

Q154 Chair: Could I just ask about the waste and air quality packages being withdrawn? Do you have a view on what the implications will be?

Dr Leinster: At this stage, for our immediate work programmes, it does not have an impact, but we will continue to review it. I know that industry was concerned about some of the withdrawal, certainly on the waste ones.

Q155 Chair: Do you think there is more that, as a country, we—yourselves working with your counterparts; the Government working with their counterparts; water companies and others working with their counterparts; and waste management companies as well—can do in terms of intervention at the earliest possible stage in the European Union?

Dr Leinster: If I could just outline how we engage, we engage in support of Defra—we provide technical support across all the areas that Defra is talking to the Commission about within our remit—and then there are two other European groupings that we are a member of. One is the heads of national environment agencies. We will be discussing this at the next meeting of that group, which is in April. I chair the better

regulation group for heads of European environment agencies. Then there is another grouping, which is called IMPEL, which is the regulators—it is more at the senior practitioner level—across the European Union. In that we share best practice. It is currently an ex-Environment Agency person who chairs the IMPEL network as well. We use those two mechanisms to advise and engage with the Commission, and to work out what best practice is across the member states.

Q156 Chair: This was possibly before you became Chief Executive, but the Nitrates Directive took its level of nitrate particles to avoid a blue baby. There had not been a blue baby anywhere in Europe for 500 years. Does that not prove that the scientific levels should be more realistically set for many of the European directives?

Dr Leinster: European directives are signed up to by the member states.

Chair: But on the evidence of science.

Dr Leinster: Yes.

Q157 Mrs Glendon: Could I just ask about inland fisheries? Are the current regulations relating to migratory and freshwater fish stocks strong enough to limit fishing capacity to a sustainable level?

Dr Leinster: We believe they are. As most will know, there has been a sharp decline in eels and there has been a decline in salmon, certainly in the southern rivers, but we think the legislation is okay. We are trying to understand whether there are other factors that could be having an impact on those stocks. In various places, not only do we regulate recreational fishing, but we also, for migratory fish, regulate net fisheries and other commercial fisheries. We review those net orders on a periodic basis. We have just reviewed the net orders in the north-east and we believe we have the powers that enable us to do that.

Q158 Mrs Glendon: What work does the Environment Agency carry out to combat illegal or unreported fishing?

Dr Leinster: We do quite a bit. There are two bits, again, on illegal fishing. There would be illegal recreational fishing. We have bailiffs who go around and check licences, and then we will take people through revenue recovery processes. We take people to court for fishing without a fishing licence. Then there is poaching. We have around 50 FTEs who are dealing with illegal fishing. They are warranted—they carry warrant cards and they have special powers—and we do anti-poaching activities.

Q159 Mrs Glendon: Is the agency winning?

Dr Leinster: It is always difficult with crime. We catch people and we take them to court—there have been a number of recent cases that we have taken—but bad people always find a way of trying to make easy money, and they do, both with elvers and also with migratory fish.

Q160 Roger Williams: In my constituency, we have the Wye and the Usk, which have historically been very fine salmon and trout rivers. We have got the Wye & Usk Foundation, which has been improving the environment and access to spawning beds, but we still do not have those runs of fish that we would like to attract fishermen into the constituency.

Chair: Can we keep it very brief? We are going to be interrupted.

Roger Williams: You say you have regulation on the nets. Have you got the figures of the fish caught by the nets?

Dr Leinster: Yes.

Roger Williams: It is believed that the nets are the things that are stopping these fish runs up the rivers.

Dr Leinster: There are ongoing discussions between netsmen and the rod and line.

Q161 Mrs Glendon: What impact will the Government's decision to delay the planned 2015-16 transfer of the EA's navigations to the Canal and River Trust have on the agency's budgets and work programmes?

Sir Philip Dilley: We collect money from boat licences. It is £6 million a year, and that is not sufficient to fund all the work attached to those waterways. This is the nub of the issue that is preventing them being transferred, because they would need to be transferred with a sum of money to cover that shortfall over a period of time. The principal effect on the agency is that it causes uncertainty for those staff that would transfer with the assets. Other than that, we continue doing what we usually do until such time as the situation changes.

Q162 Mrs Glendon: What assurances have you had from the Government on funding for navigations while it does remain under your control?

Dr Leinster: In terms of the funding from the Government, we get some money for capital, because we own and operate a number of assets and locks up the Thames, for example, and also on the Nene. That comes out of grant in aid. All grant in aid is under pressure, so navigation funding is under pressure.

Sir Philip Dilley: But it is not a ring-fenced sum, is it?

Dr Leinster: No. It is not ring-fenced.

Q163 Chair: Sir Philip, we look forward to your years in office. When you appeared before the Committee at the pre-scrutiny hearing you indicated that you would possibly still carry on as a consultant to a number of companies, and potentially Arup as well. Is that still the case?

Sir Philip Dilley: Yes, I am still a consultant to Arup.

Q164 Chair: Does it have any activities in the areas in which you, as Chairman, are now acting as regulator?

Sir Philip Dilley: The only one—and possibly the one you are inferring—is that Arup did the environmental study for Cuadrilla for its potential fracking activity. That was under my chairmanship; I was not directly involved myself. I have thought about that quite extensively. I clearly have no direct involvement in the decisions of the Environment Agency on whether to issue a permit, so I see no conflict in reality.

Q165 Chair: And just give us an assurance that you are no longer involved in that kind of activity while you are—

Sir Philip Dilley: That is correct. I am no longer involved.

Chair: That is very helpful to know. We wish you every success.

As this is probably the last time that you, Dr Leinster, will appear before the Committee in this Parliament, can I just thank you for the excellent co-operation that we have enjoyed and the knowledge of yours of which we have had the benefit for the years that you have been at the Environment Agency? Having visited the ongoing reservoir in the Pickering pilot scheme, I am very grateful to the Environment Agency for what you are doing locally with the partnership that you have brought together there. Thank you both very much indeed for being with us and for the excellent co-operation that we have enjoyed. Thank you.