

Environmental Audit Committee

Oral evidence: [The Government's Environmental Policy](#), HC 544

Wednesday, 1 November 2017

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Members present: Mary Creagh (Chair); Geraint Davies; Caroline Lucas; Kerry McCarthy; Anna McMorris; John McNally; Dr Matthew Offord; Joan Ryan; Alex Sobel.

Questions 1 - 130

Witness

I: Rt Hon Michael Gove MP, Secretary of State, Department for Environment, Food and Rural Affairs

Examination of witness

Witnesses: Rt Hon Michael Gove MP

Q1 **Chair:** We welcome the Secretary of State for his first session with us. You are very welcome, Secretary of State. You have been busy in the Lords this morning.

I want to kick off, if I may, by asking you about the commission-like body you announced to their Lordships this morning. This Committee has been very clear that there is a series of environmental risks when we leave the European Union. You mentioned setting up a commission-like body this morning. Is this not just going to be a poor man's commission, a pale imitation of what we have now? Can you expand a little bit on what you think its powers and role will be?

Michael Gove: Yes. It is fair to say that in the questions from their Lordships I was struck by the power of the case put by Lord Rooker that reflected things I had heard from a variety of environmental organisations and third parties so far. It was not a formal announcement. It was an expression of agreement with the case that Lord Rooker was putting forward.

Let me say just a wee bit more. The case had been well made that unless you have some means of holding Governments and other public bodies to account there is always the danger that environmental damage can be generated or inflicted without an appropriate means of ensuring that, in the broadest sense, justice can be done. When those who are careless about environmental protection or enhancement generate that damage, unless there is some check on the way in which Government or public bodies might operate, we do not get the environmental protection we should. The point was well made that while we are in the European Union British politicians and others have played a significant role in generating new forms of protection, from the Birds and Habitats Directive. It is also the case that those directives have been supported by the work of the Commission and the ECJ. If it were the case that any individual member state Government, or any other public body, were to behave in a way that was inconsistent with the principles that lay behind that directive there was always the possibility of a reasoned opinion being issued, infraction proceedings following and fines being generated.

Outside the European Union the question is what replaces the Commission, how do we have the ECJ as a role replicated. This is an absolutely important question. My thinking is that we should consult on what type of body it is believed would be appropriate to replace the role that the Commission and the Court have played. Of course, one of the reasons why, in the Prime Minister's words, Britain has never been entirely comfortable within the European Union is that we have different legal traditions. There are different principles, different common law principles, that govern how the law operates in the UK and, as it

happens, in the Republic of Ireland that are different from the way in which the law operates within the EU. The need for a body or bodies has been clearly identified. In fact, when I gave a speech to the WWF on my hopes for a green Brexit I said then that I felt new institutions would probably be required post-Brexit, particularly to safeguard the environment.

Q2 Chair: We have recommended an environmental protection agency. Is that the sort of body you are thinking? Would this body have the power to fine Government?

Michael Gove: Potentially, yes. The most important thing though is, having recognised there is a gap, we should then try to ensure we consult as widely as possible on what the nature of any new body will be. It would be wrong for me to say that it should take precisely this shape. It is right we should take some time to reflect on what other countries provide for the appropriate level of protection to the environment and what the right balance is between ensuring people continue to have recourse to the courts through judicial review, continuing to ensure that bodies like this Select Committee can play a role, but also recognising that you may well need an agency, a body, a commission that has the power potentially to fine or otherwise hold Government to account and certainly to hold public bodies other than Government to account.

There is a legitimate question as to whether or not fining would be the right way of securing compliance. My view is it is better to have that debate with lots of different parties involved rather than me rushing into that gap with a readymade recipe.

Q3 Chair: You mentioned judicial review in your answer. In February 2017 the Ministry of Justice tried to introduce changes that would have made the cost of taking environmental legal action unpredictable and removing the cap on costs that are defined under the Aarhus Convention. Those proposals were ditched, but not as a result of your Department making a fuss about them but because of a judicial review by environmental NGOs who said this would have a chilling effect on access to environmental justice. How can we be sure that you, and your successors in Government, will not make judicial review prohibitively expensive? What is to stop the MoJ coming forward with similar proposals in the future?

Michael Gove: In that case the judges did. It is always the case, of course, in a democracy that any Government Department, under a party of whatever colour, might bring forward proposals you or I might think were ill advised or wrong. The doctrine of judicial review and the principle of judicial reviews are assertive, quite rightly, and an act of judiciary ensures that if Government is acting ultra vires or beyond their appropriate remits that they are put back in their box. One of the reasons why I think there should be a commission or body of the kind we have been discussing is because judicial review—while it is a very good thing, and the Aarhus principles are a very good way of ensuring people have access to environmental justice—on its own I suspect will probably not be enough.

There is one other thing I should say as well that one weakness in environmental protection is, as I understand it and I am not a lawyer, that the EU itself cannot be judicially reviewed. If one looks at the operation of the common fisheries policy, for example, it has been the case we have been consistently over-fishing in European waters. Things have improved over time but the agreement member states make and that the Commission and the Council are responsible for, which is the common fisheries policy, nobody can take that to court. The ECJ cannot investigate or be petitioned to do that. What we could have is a system of environmental protection in the UK that is stronger and more effective than that of the EU because the Government could be held to account in a way that the EU itself currently cannot.

Q4 Chair: One of our concerns as a committee is about the adoption of EU law as it stands on exit day. Would this body oversee all UK environmental law or only EU retained environmental law?

Michael Gove: I would envisage it should oversee all environmental law. I want to stress this is, at this stage, an identification of a genuine problem by others. I am very grateful to green NGOs and, indeed, parliamentarians for drawing attention to this gap. I acknowledge it exists and believe we should fill it. I am genuinely open-minded about how we do that. I had hoped to bring forward some thoughts but I do not believe Government—certainly not my Department, let alone myself—have all the answers, quite the opposite.

Q5 Chair: No, quite the opposite. What timescale do you envisage for consulting on and establishing such a body?

Michael Gove: Ideally what we would do is have that consultation and conversation during the time we are still in the European Union. I would not want to get ahead of myself. I admire the sense of urgency your questioning brings to this process. Certainly it is something which is a hugely important issue. However, I must stress that at this stage we are in the business of properly assessing the strength of these arguments and thinking hard about how to respond. Therefore I could not say anything definitive about a timescale because our thinking has not yet reached that point.

Q6 Chair: It may not be in place on exit day?

Michael Gove: I would hope it would but, again, at this stage I would not want to get ahead of myself and nor would I want to pre-empt the conversations we would need to have.

Q7 Chair: You are intending to consult on and possibly establish this new environmental body, which may or may not have powers to fine Government, in the next 16 months, is that correct?

Michael Gove: I intend to start the conversation and, indeed, we are having it now. As you were quite right to acknowledge, when there are so many institutions, organisations and individuals who have a view on this it would be wrong for me to attempt to pre-empt the conclusion of that debate.

Q8 **Chair:** We have had the Cabinet Office Minister, Chris Skidmore, saying 20 new public bodies would have to be created to deal with Brexit enforcement. Can you tell the Committee how many of those will be environment related? You have obviously talked about this new commission-like body. How many others will be needed in your Department to replicate the functions that are currently carried out at EU level?

Michael Gove: I do not know what the 20 bodies are that Chris refers to. In my own area the body I mentioned would be the only specific new body that might need to be created that I think would fit into the classification Chris was referring to.

Q9 **Chair:** You think just one, as it stands at the moment. What about the issue of zombie legislation, the incorporation of EU law on exit day, the long-term policy-making functions and the European BREF function that sets out the techniques to follow? How much have you estimated it will cost for Defra to take on these policy-making and technical functions post-exit?

Michael Gove: One of the things that is striking about some of the assumptions about Brexit is that they disregard some of the other dynamic changes that are occurring in Government and more broadly. Brexit is an opportunity for us to put the operation of the Department and its family of non-departmental public bodies on a more effective and efficient footing. Everything from the operation of Natural England, to the way in which the Rural Payments Agency operates, to the relationship we have with the Health and Safety Executive over chemicals registration, all of these are opportunities to provide a more effective, responsive and democratically accountable service. Of course, there are new responsibilities we have as we take back control but also new opportunities to deliver those responsibilities more effectively and efficiently.

Q10 **Chair:** This Committee is concerned that the EU (Withdrawal) Bill could result in environmental protections being quietly dropped by Ministers. I have tabled an amendment to that Bill saying if people do make changes to secondary legislation through statutory instrument they should be very clear that this engages people's environmental rights. Is that something you would support?

Michael Gove: I am afraid I cannot support your amendment although I know it is offered in a constructive spirit.

Chair: Why not?

Michael Gove: I hope that during the passage of the Bill we will be able to provide you—and I would not want, again, to pre-empt what the DECC Ministers will be able to say on the Floor of the House—with reassurance.

Q11 **Chair:** This is something that is coming up in a couple of weeks' time, is it not?

Michael Gove: Yes.

Q12 **Chair:** You think you will be able to satisfy Parliament's concerns on this issue?

Michael Gove: I hope we will but, again, we will have to see.

Q13 **Geraint Davies:** With the EU (Withdrawal) Bill coming forward you will know the new power going to Ministers is that they can change standards as appropriate, for instance air quality standards. If there were still fines imposed, is it an intrinsic problem that if fines are imposed on the UK by the EU that is clear but how can we impose fines on ourselves? In other words, if we fail and pay money to an environment protection agency the Government can take the funding away with the other hand. How do you see that working?

Michael Gove: That is precisely the challenge we face when the Chair suggested the body we are thinking of might levy fines. In discussion with others, when I have been considering whether or not there should be the capacity to do so, the question is where might the money go and what change in behaviour might it have. We have to consider what the incentive mechanisms are in order to ensure we behave in the right way.

As you are aware, one of the problems with air quality is that the responsibility for meeting some of the NOx emission limits rests with local authorities. There is a question as to whether or not it might be local authorities that might be liable. All of these are matters for discussion and consultation.

Q14 **Chair:** Who would set this body's budget? Would its budget be set by the Government or by Parliament?

Michael Gove: That is a matter for discussion. There are precedents of bodies that have been set up and funded by Government that have operated at arms' length and then statutory bodies that operate independently that have been successful. Again, it is also the case there are bodies that are accountable to Parliament.

If one looks, for example, at Ofsted or Ofqual, two bodies with which I worked during the time I was at the Department for Education. I, as Education Secretary, happened to be responsible ultimately for the budget for both of those bodies and also I was responsible for appointing the Chief Inspector at Ofsted and the Chief Executive and Chair at Ofqual. I do not think anyone would say Sir Michael Wilshaw had any sense of reticence in pointing out when I was getting things wrong. Similarly, anyone who has read David Laws's Diaries will have seen that Glenys Stacey was also, as Chief Executive of Ofqual, determined to ensure that if we were doing the wrong thing in exam reform she would, without fear or favour, say so. In both cases there was a role for Government but it is also the case that Ofsted is ultimately accountable to Parliament as well.

Q15 **Kerry McCarthy:** As it stands, the key environmental principles that underpin a lot of what comes from the EU—the polluter pays, precautionary principles and so on—will not be transferred into UK law when we leave the EU. Is the intention that they will be dropped either

during the transition period or at exit date?

Michael Gove: No. The striking thing if one talks to environmental lawyers is they make the point that these are interpretative principles. They are there to govern how policy is designed and devised. I do not think the right answer, and I know lots of environmental lawyers take this view, is to place these principles on a statutory basis.

Q16 **Kerry McCarthy:** Did you say you do not think?

Michael Gove: That is the view of many environmental lawyers and it is also my view. The right thing to do is see if they can be embodied in policy guidance much in the same way as, for instance, you can have certain principles that are in National Planning Policy Guidance that will guide the way in which Government and other agencies operate. It is also the case that, because of the way in which the law operates, there have been judgments in court that enshrine the polluter-pays principle, for instance. In fact, law students will often, very early in their careers, develop their understanding of law on the basis of cases that lead to the polluter paying. Just because these principles are not automatically taken as EU law principles that are then passed into UK law does not mean that somehow the impetus and mechanism for enforcing them no longer exists.

Q17 **Kerry McCarthy:** What you are suggesting is replacing a very solid and clear set of principles that we know underpin EU environmental law with what sounds like quite a piecemeal approach. Perhaps you could explain guidance. Would it be enforceable? Would it be binding? There would be random bits of case law depending on whether or not something has been challenged in the courts. It sounds like a much weaker set of principles.

Michael Gove: No, it is stronger.

Q18 **Kerry McCarthy:** In what sense?

Michael Gove: You have both the courts, which already have statute and precedent that ensure these principles are observed, and you have—

Q19 **Kerry McCarthy:** Does that not require a court case being taken to challenge them?

Michael Gove: No, it is the law.

Q20 **Kerry McCarthy:** Yes, but we know that quite often if the law is not made clear and is not enforced then people will feel it is something they can disregard.

Michael Gove: Yes, but the law is clear and it is enforced.

Q21 **Kerry McCarthy:** We will be going on to air pollution later and the difficulties of trying to enforce things. When the law is quite clear it is difficult. ClientEarth did have to take the Government to court several times before they got anywhere.

You do not think there is a need in the EU (Withdrawal) Bill to spell out

clearly what the environmental principles are and carry them over?

Michael Gove: No, but there is a need to ensure those principles are embedded in the way in which policy operates.

Q22 **Kerry McCarthy:** How do you envisage doing that?

Michael Gove: As I mentioned, probably the best analogy is with planning policy and planning law. That is something, again, on which we will have to have discussions with others in order to ensure we apply these principles in the right way.

Q23 **Kerry McCarthy:** That could mean amending lots of different guidance notes and talking to lots of different people in different Departments. Would you see that you would take a steering role in overseeing that process?

Michael Gove: Yes.

Q24 **Chair:** On policy guidance, we have had three Secretaries of States for Defra in three years. What is to stop one policy from changing from one year to the next?

Michael Gove: Ultimately, of course, we live in a democracy and no Parliament can bind its successor. It is theoretically possible, on any future date, that you could have a Government that might decide to do all sorts of things that you or I might deprecate. That is democracy. The important thing in democracy is that you need every day to make and win arguments in order to ensure we have the right protection for everything from civil liberties to the environment.

One of the things I would say is that over time environmental legislation on the statute book and environmental bodies in being have helped to keep politicians, and more to the point other parts of the public sector and the private sector, up to the mark. I recognise that in a democracy you may have a future Jeremy Corbyn or John McDonnell Government that may decide they want to take away existing protections that we have cherished in this country, whether it is in the environmental space, the space of property rights or the space of civil liberties. Therefore we have to be vigilant in our fight to ensure our democratic culture remains strong.

Q25 **Chair:** This EU (Withdrawal) Bill is taking away rights and freedoms that we currently enjoy. As it is currently drafted, if a public body today was to contravene the principles of environmental law it can be challenged in our courts. Once the EU (Withdrawal) Bill goes through it will not be possible to challenge that action in court. That is a removal of our environmental rights, is it not?

Michael Gove: I disagree with the premise. It would be completely open to challenge the operation of any public body.

Q26 **Chair:** I am reading out from the explanatory notes to the Bill. This is what your Bill's drafters have written to guide Members of Parliament on Schedule 1, paragraph 3, "Limiting the legal remedies available when

general principles are contravened". I have cut and pasted it.

Michael Gove: Yes, but if there were any environmental damage done by any public or private body then it would still be the case that the option of judicial review would be there. If you can demonstrate a clear mischief that would be available to any individual or organisation as a result of the EU (Withdrawal) Bill then I would be interested to know what part of existing law would not provide people with an opportunity to secure a remedy. On top of that, I am keen to develop a body or commission of the kind we have discussed.

Q27 **Kerry McCarthy:** With the precautionary principle it is, as the word suggests, a cautious approach. You do not have to demonstrate harm to have occurred before you invoke it. In America, for example, they have a different approach where the balance is much more in favour of people wanting to do things that might potentially cause environmental harm.

Do you believe in the precautionary principle as something that you want to see underpin your Department's work? How will that fit in with the need to challenge this through the courts? It should not require something bad to have happened for the principle to be upheld. It seems to be that you are saying if something bad happens then people take it to court. To me that does not square with upholding the precautionary principle.

Michael Gove: I am trying to think of an example. I absolutely take the importance of your argument. Indeed, the precautionary principle is right. If you look at ECJ jurisprudence on the precautionary principle, the ECJ itself has stressed it is not enough simply to say there is a theoretical risk of harm. You need to have a pretty solid body of evidence to suggest there might be harm and then the burden of proof shifts onto the person who wants to go down a particular course.

The second thing I would say is that the precautionary principle has evolved over time. There have been different interpretations of it and different bodies have viewed it in different ways. It is also the case that if you were to attempt to do something—I cannot think what it might be—that would generate a potential environmental hazard, our courts would have to say something if you were to operate in a way that was inimical to good environmental practice. As is so often the case, both with law and also with regulation, the matters are not quite sometimes as simple as they are presented in certain debates.

Q28 **Anna McMorris:** As you are aware, many legislative areas are devolved in the UK to Wales, Scotland and Northern Ireland. Both Welsh and Scottish Governments have laid amendments to the Withdrawal Bill that look to safeguard policy areas such as environment and agriculture. Can you ensure these areas remain safeguarded and that the legislative competence of those Governments remains safeguarded?

Michael Gove: Yes, I and the officials in Defra have had a number of meetings with the devolved Administrations. Obviously in Northern Ireland we do not have an Executive in being but there are some very

good civil servants who are keeping things operating effectively in Northern Ireland.

I foresee Britain leaving the European Union as providing even more opportunities for the DAs to do more in this area. Also, I have to be honest, there are things that both the Scottish and Welsh Administrations have done that have been admirable and in advance of what we have done in England, so they have set the standard in the UK. For example, the leadership that both Administrations showed on the Deposit Return Scheme is one where we have been playing catch up; I happily acknowledge that.

However, it is important we have a UK framework that properly allows the DAs to do what they consider to be appropriate in their own space but at the same time preserves UK-wide rules. We are very keen to get down to the nitty gritty of discussion on what should be in those frameworks with the DAs. Until recently, there may be an opening now, the Scottish Government instructed its officials not to engage in some of these areas. I hope we will get a more constructive approach now because it is in all our interests to crack on.

Q29 **Anna McMorris:** You see this UK commission operating in the UK as a whole?

Michael Gove: No, this is the critical question. I cannot enforce such an arrangement on Scotland or Wales.

Let me use an example that while not identical may be helpful, and that is the example of the Children's Commissioner. There is one for England, one for Wales, one for Northern Ireland and one for Scotland. They all operate in slightly different ways but the principle is there that the rights of children—particularly vulnerable children without access to the resources to make sure their rights are properly enforced—need to have a Commissioner who has the capacity to investigate, call for papers, hold Government to account and intervene in any area. That is a good model in many ways. As we, as the Government, come forward with our ideas about what might occupy the space in England I hope we can work with the DAs in order to ensure there are similar institutions operating in their territories as well.

Q30 **Anna McMorris:** These Commissioners do not have teeth though. If you are looking at something that is going to replicate the European Commission then do you not need something with a little bit more enforcement?

Michael Gove: We do need to discuss exactly what powers or role they should have. To be fair, the Children's Commissioners have influenced the debate and shifted policy. It might not be to everyone's tastes but the current position the Scottish Government is taking on corporal punishment for children has been influenced by the intervention of the Children's Commissioner. When I was the Education Secretary, the Children's Commissioner influenced everything from our thinking on how

we treated unaccompanied asylum-seeking children to reform of children's services.

Sometimes, even though there is no huge song and dance, these independent bodies that have the capacity to draw attention to all sorts of injustices or mistakes on Government's part can be very powerful. However, you are right, we need to make sure this body has the right bite in order to make a difference.

Q31 **Anna McMorris:** You are prepared to support the amendments then?

Michael Gove: I cannot support the amendments in the way in which they have been framed but I do recognise why they have been brought forward. I do not think the amendments have been brought forward in anything other than a constructive spirit. However, it can sometimes be the case that an amendment to a Bill may not be the best way of achieving the goal the framers of that amendment had in mind.

Q32 **John McNally:** This is of extreme interest. I wonder if you could clarify that a little more, following on from Anna's point? Are you telling me that with the environmental protection that is devolved we can expect to see full devolution of environmental monitoring and enforcement in Scotland? If so, how will that be funded?

Michael Gove: I would like to discuss with the Scottish Government all these things in as much detail as possible. At the moment, until recently, it has been the case that the Scottish Government has instructed their officials not to engage in some of these areas. I hope that will change. The potential is there for us to have a very fruitful and creative discussion about what should be done at the devolved level and what, for example, common rules on air quality, let us say, should be maintained at a UK level.

Q33 **John McNally:** How do you envisage this regulatory divergence between the UK and the devolved Administrations be managed?

Michael Gove: I do not believe we should have regulatory divergence on things like air quality or water quality.

John McNally: There is already some.

Michael Gove: This is the £64,000 question. With the tension between what should be managed at a UK level—in the interests of all the citizens of the UK and, indeed, the planet—and proper recognition that DAs have their own responsibilities, how do you divide powers, responsibilities, resources and so on. That is the conversation we are busting to have with the Scottish Government but so far it has been more one-way.

For example, we are going to have a 25-year environment plan. I shared an early draft of that with the Scottish and Welsh Governments in entirely that spirit. I made the point to the Scottish Government that when the announcement on the Deposit Return Scheme was made—and I supported it—in the First Minister's programme for Government, the first we heard of it was when we read it in the paper. It has an impact. The

point has been made by companies such as Coca-Cola, who support a potential Deposit Return Scheme, you need to have a UK-wide approach for it to work. All I will say is that it is an admirable thing the Scottish Government is seeking to do. We are seeking to emulate it. We are showing willing and trying to share as much as possible.

I respect the Scottish Government's autonomy but sometimes I have to say, with all respect to the Scottish Government, the exercise of autonomy is great but we need to work together on some big issues.

John McNally: I do not disagree with that on any matter at all. That is good for long-term Executive policy.

Michael Gove: Absolutely.

John McNally: We need some clarity on that so there is no reason why Governments and devolved Administrations cannot work together.

Michael Gove: Yes.

Q34 **John McNally:** I want to come back to one more point here, you were talking about the courts. What court in the UK does the Secretary of State, yourself, see as having the power to decide whether claims are brought to court? At the moment I am assuming the power will lie in Scotland with the Supreme Court but it will remain for London to impose any kind of final punitive measures that they see fit. How will that work?

Michael Gove: It is an interesting question to which I do not have an immediate answer. One of the things about the UK Supreme Court is it has two judges on it who are experts in Scots law and, as it happens, a judge from Northern Ireland in order to take account of these considerations. Ultimately, when it comes to some of these issues, it is really my colleague, the Secretary for Justice, who should be in the lead. The UK Supreme Court, which I was wee bit of a sceptical about when it was set up, has proved itself to be an exemplary constitutional innovation.

Q35 **John McNally:** You are telling me the Supreme Court will have the ultimate say?

Michael Gove: I think so but my view is that it is in all our interests to make the institutions across the UK work as effectively as possible. I do not think it would be the case that any of us would object to looking at any aspect of our settlement across the UK in order to make it work even better. As I say, that is my assumption—and it is a working assumption—but I am very happy to talk to the Scottish Government, and I am sure David will be very happy to talk to the Scottish Government, about how we might refine that and get it to work in practice. The last thing we want to do is accrete power to the centre when in many cases, as you know, the decisions will be far, far better taken by a strengthened Scottish Government and Scottish Parliament.

Q36 **Chair:** Secretary of State, to bring you back to this commission we started with. You started talking off about one commission. In the course

of the last half hour it has turned into four commissions. That is an extraordinary multiplication, duplication and cost burden you are putting either on the UK taxpayer or the devolved country's taxpayers, and it also creates the possibility of divergence. We know you want divergence from EU law, but do we want the nations diverging from each other?

Michael Gove: In a way I am tempted to say if your concern is over the devolution architecture in the UK then it should be the former Member for Sedgefield who should be here answering these questions.

Chair: He was not changing the entire regulatory system of environmental protection this country, which is what you are undertaking.

Michael Gove: I am responding to the devolution settlement.

Chair: We are responding to your commission, which now turns out to be four commissions. My question is, is it desirable to have four commissions all separating out on environmental legislation?

Michael Gove: It is a matter of discussion with each of the DAs. All I can do is say that I honestly accept the governance gap that has been identified. I will seek, in a spirit not of imposing but consulting, to try to fill that gap. I have to take account of the constitutional architecture of the United Kingdom and the fact we have devolution. Your argument, is there not a danger of divergence and does it not add to cost, is fundamentally an argument against devolution, not against the operation of Defra or any other existing Government Department. People can perfectly legitimately say it would be cheaper for the taxpayer if there were no Scottish Parliament and if there were no devolved institutions but it is not an argument with which I agree because devolution has been a good thing.

Q37 **Chair:** The argument is not about devolution. The argument is that all of the devolved Assemblies have to comply with one commission guidance, just like the 27 member states. What you now appear to be saying is that there will be no overarching body setting environmental policy for the UK but you are prepared to see, this is the key point, separate regulation in four different nations with four different sets of environmental architecture.

Michael Gove: The point I made to John was that there are some things that should be common standards at a UK level—air quality and water quality I ventured would be those—but, by definition, I do not want to be in the position of a colonial overlord saying to the Scottish Parliament and Scottish Government, or to the Welsh Assembly, that I can determine how they exercise their right over devolved matters.

Fundamentally it is an argument about devolution, either you believe in it or you do not. The whole point about devolution is that it is not independence. The whole point about devolution is that we resolve these issues through fruitful dialogue. Again, if you think we should have complete legislative and regulatory uniformity across the entire United

Kingdom that is a perfectly respectable intellectual position but it is not the policy of any party currently in the House of Commons.

Chair: For the way environmental fines are levied all devolved Administrations adhere to one set of rules. They do not make up their own rules and then judge themselves against them. I am sure this is a point to which we will be returning.

We are going to move on to divergence and the cost on businesses with some questions from Caroline.

Q38 **Caroline Lucas:** Secretary of State, you said recently the UK would regulate chemicals better when we leave the EU. Could you elaborate on what you meant?

Michael Gove: Yes, there are all sorts of benefits in our remaining compliant with the existing EU rules and all sorts of benefits in our looking at how we can use the European Chemicals Agency and the REACH Directive in order to ensure we can trade freely with the EU and ensure the significant chemical sector we have here continues to have access to that market.

It is also the case that we can now give some thought to what changes, if any, we want to make in order to ensure that in the future we can, in any particular area, require higher standards. It is the case that, should we wish to, we might want to impose either restrictions, changes or alterations in the way in which chemicals are regulated. That will be open to us as an independent nation after we have left the European Union. The principle remains that if you want to sell into a particular market you need to observe the rules of that market and in some cases the rules may be lower than your own. That is a choice.

Q39 **Caroline Lucas:** Is your message to the UK chemicals industry, which is a very large sector in this country, that they need to get ready for, at the very least, two different sets of regulatory frameworks if not more?

Michael Gove: It is already the case that we operate in lots of different markets. We will initially be in regulatory alignment but ideally we want to have a system of mutual recognition. Ultimately there is the possibility of divergence. The only thing I want to say is that it will be for Ministers long after I have quit any governmental role to decide how far we wish to.

Q40 **Caroline Lucas:** You are right, of course, UK chemical companies are exporting all over the world. Most of that is going to the EU. When they are exporting to other places they do not then deliberately reduce their regulation. At the moment there is a single standard, the EU standard of regulation.

Michael Gove: Yes.

Q41 **Caroline Lucas:** I want to clarify from you, are you imagining, post-Brexit, we would then have potentially two, three, four different levels of regulation depending on what England might want, perhaps what Wales

or Scotland want?

Michael Gove: It is unlikely we would have separate chemical regulations in Northern Ireland that would be distinct from Scotland. It is the case that we might well decide on a UK basis, at some future point, to take a different approach from that the EU chooses to take. At the moment it seems entirely sensible to take advantage of the REACH provisions.

Q42 **Caroline Lucas:** Can you explain how will diverging from the EU benefit the UK? What are the risks to business of divergence on chemicals regulation and what practical reasons are there for establishing a separate system?

Michael Gove: There is no point in diverging for divergence's sake. All I would say is that it may well be the case that as science develops, and as our understanding of how regulation can drive innovation develops, we may wish to take a different approach in the future.

One of the points that has been well made is that sometimes when Government seeks to intervene and impose higher standards than hitherto existed, that drives, in the private sector, a level of innovation. I will give you a for instance. Both Britain and France have decided to be more ambitious than the European Union when it comes to phasing out the use of the internal combustion engine. We have both said that by 2040 there should be an effective ban on new petrol and diesel cars and that by 2050 they should be off the road, although I am sure there will be certain exemptions for classic cars and whatever. As a result of that, Britain and France being more ambitious than the EU, we have seen everything from Uber saying they are going to change the nature of their fleet, to James Dyson saying he is going to develop an electric car in this country, to the patterns of purchasing of cars altering and the decisions being made by car companies changing as well. That is an example of a higher level of environmental ambition, and a regulatory flag being planted in the ground, which combined with the creativity and ambition of the private sector has led to a real and beneficial change.

All I am saying is that at some point in the future it may be the case that a future UK Government may decide they want, in a particular area, to set a standard or put in place a requirement that would then stimulate innovation in a particular area. All I would say is that it should be up to future Governments to have that freedom. Your initial question, is there any point in diverging for its own sake, no, there is no point in diverging for its own sake.

Q43 **Caroline Lucas:** What we can understand then is when we leave the EU, REACH is part of the single market—

Michael Gove: Exactly, yes.

Caroline Lucas: —that means we have to create something new. Have you any idea on how much it is going to cost to, for example, create a whole new equivalent to the European Chemicals Agency?

Michael Gove: We are working now with the Health and Safety Executive to develop an approach that I hope I will be able to say more to the Committee about in due course. At this stage I could not put a figure on it and nor could I define it in the degree of detail I would like to be able to. That work is ongoing and I hope I have the opportunity to return and say more about it.

Q44 **Chair:** Perhaps I can help you because you have effectively told this Committee it would cost tens of millions of pounds. Is that a figure you recognise?

Michael Gove: At this stage all of those figures are potential estimates. I will come back with further and better particulars.

Q45 **Chair:** A not insignificant sum though, tens of millions of pounds, on British industry that is already having to sign up to register its chemicals by 31 May 2018. Do you think those chemical companies should continue to register their chemicals with the EU knowing that 10 months down the line those registrations will cease to be valid and effective?

Michael Gove: They should continue to register, yes.

Q46 **Chair:** You recommend they spend tens of thousands of pounds registering chemicals in this country that they are then unable to export on exit day?

Michael Gove: I am not sure I recognise the consequences in the way you put them. I will go back to my official team and check to see whether or not the assumption you make is justified.

Q47 **Chair:** The European Chemicals Agency has said the 6,000 substance registrations filed by UK companies that currently exist will not be able to be exported on exit day, when we cease to be part of the single market mechanism.

Michael Gove: Again, we are in the process both of doing work within the Department and also shaping our negotiation outcome with the European Union. At this stage I would not take the definitive view that you do.

Chair: That is not my view. That is the view of the European Chemicals Agency.

Michael Gove: I know.

Chair: You do know about it?

Michael Gove: I would not want to pre-empt what the outcome of our negotiations will be with the European Union.

Q48 **Chair:** At the moment one in five UK chemicals businesses is setting up as an agent in another EU member state to mitigate against this risk. Are you aware of that?

Michael Gove: Yes, it was a point that was made in your report on this issue.

Chair: I am glad to see you have read it, excellent.

Q49 **Geraint Davies:** You obviously appreciate the basis of REACH is that the onus is on the manufacturer to prove a chemical is safe before selling it. In America the onus is on the Environmental Protection Agency to show it is a hazard, hence things like asbestos are still sold in America.

After Brexit, will we not be in a position where, when we have less access to the single market, we will want to have a trade deal with the US and will be under pressure to adopt their chemical safety standards that will be lower than ours. How do you respond to that? Do you imagine that will happen and we will face more hazardous chemicals?

Michael Gove: In the same way as I responded to the Chair's question, during any negotiation either side is going to say, "You cannot have this" or, "You must accept that" but in the process of negotiation a different outlook emerges. I am sure at the beginning of any negotiation on trade the United States would say, "You have to accept our chemicals on the basis on which we regulate them". That would be the opening gambit in a trade negotiation in any one of a number of areas, I am sure. It is in the very nature of negotiation that the opening gambit that one side necessarily makes, or the definitive statement that one side necessarily asserts, may not necessarily survive contact with the reality of negotiation.

Q50 **Geraint Davies:** As you know in the TTIP negotiations between two very large players, the EU and the US, they locked horns over this very issue. Now we will have a situation where Britain—a much smaller player, obviously, than the EU—will be locking horns with the massive US, having turned its back, to a certain extent, on the single market. In terms of what will come out regarding the power relationship, is it not much more likely we will end up with lower safety standards for chemicals as a result by adopting the US standards?

Michael Gove: I disagree with three of the premises in that question.

Geraint Davies: Which ones?

Michael Gove: Firstly that it is automatically the case we would have to accept US regulation.

Geraint Davies: That was not a premise. That was a question.

Michael Gove: I disagree with that assumption then.

Q51 **Geraint Davies:** What do you think will happen then? The US will say, "These our standards. Take it or leave it. You have turned your back on the biggest market in the world, you better accept what we have." You will just say what?

Michael Gove: If we have a free-trade deal with America it will be the subject of negotiation. What you are doing is, if I may say so, falling for the assumption that a trade deal with any country involves the unilateral acceptance of everything that country demands at the beginning of the negotiation.

Q52 **Geraint Davies:** You did accept earlier, in one of your answers, we were willing to move and adjust according to the markets we were selling into and adopt more than one standard. You said we will try to keep the REACH standard for selling things into the EU and presumably we can lower our standards in selling into the US in response for us having standards that will allow them to sell to us that are lower.

Michael Gove: At this point it is perfectly possible you would not be able to sell it in the UK, but you could manufacture something in the UK for sale elsewhere that would be to a lower standard. Different countries have different regulatory standards. Some countries are in complete regulatory alignment with others. Other countries agree to respect the coherence and integrity of different forms of regulation because they achieve the same outcomes.

Q53 **Geraint Davies:** In other words there is an opportunity here for us to produce chemicals that would not be allowed in the EU, because they would be regarded as unsafe, so we can sell them in the US market?

Michael Gove: As far as I can tell it is theoretically possible for anyone to do that at the moment.

Chair: We are going to move onto a question on air quality now from Joan.

Q54 **Joan Ryan:** There have been quite a few references already to air pollution. Obviously it is an extremely important issue for all of us and all our constituents.

The Government is potentially facing their third judicial review on their plans to tackle air quality and the EU's nitrogen dioxide targets. They have reportedly spent £370,000 fighting these cases. A former plan was described in a judgment that was passed down as woefully inadequate. The most recent Air Quality Plan has been criticised for passing the buck to local authorities. Why has the Government struggled to get to grips with this issue?

Michael Gove: It is a fair point that ClientEarth have taken the Government to court. Certainly the latest plan that deals with roadside NOx emissions is a response to the judgment we needed to secure compliance at the fastest possible rate. That is what we are seeking to do.

The passing the buck challenge confuses the fact that it is local authorities themselves who have to take steps in order to ensure they are compliant with the law or that the law is complied with in the area for which they are responsible.

We have made available sums of money in order to help local authorities meet those requirements. It is certainly the case that the sums that have been made available are significant and substantial. I hope they will ensure that local authorities do bring the level of NOx emissions at roadsides into compliance as quickly as possible.

Q55 **Joan Ryan:** Do you think they are just out to get you, Secretary of State?

Michael Gove: ClientEarth?

Joan Ryan: ClientEarth, the Royal College of Physicians, the Royal College of Paediatrics and Child Health and even the European Commission.

Michael Gove: I will come to ClientEarth in a second. Improving air quality is a hugely important and urgent issue. People can argue over the scale of it but there is undeniably a harmful impact to our health as a result of NOx and particulate emissions and therefore we need to act.

There is a legitimate argument, and here is where ClientEarth may differ from us, about whether or not we are doing it in the right way. That is a matter for legitimate public debate. It is also the case that ClientEarth are demonstrating the courts are a very effective tool for making sure the Government is kept up to the mark in some of these areas.

Q56 **Joan Ryan:** The Government have had it pointed out to them where they are not fulfilling their responsibilities and putting the health of at least 40,000 people a year at risk.

Michael Gove: Yes.

Q57 **Joan Ryan:** It does not seem to be being very effective at making sure you do fulfil those responsibilities.

Just to come back to the passing the buck argument, what is said is that this plan is yet another plan for more plans. What the Government is doing in passing the buck to local authorities is saying to them, "Yes, come up with your own scheme as to an alternative to clean air zones, for instance, which have been suggested". Every town and city will have its own scheme. You said in an earlier answer that air quality and air pollution is one of the issues you would see as being cross-UK.

Michael Gove: Yes.

Joan Ryan: That is obviously not what you are doing.

Michael Gove: It is because there is a level of NOx in the air that is a legal limit that should not be breached anywhere in the UK. There are different ways you can ensure that you are compliant with the law. In some areas, like London, you have charging. Clean air zones can be established in other areas without the necessity to charge. It is open to local Government to decide whether or not they think charging is appropriate or whether other solutions, other engineering or traffic management solutions, are more appropriate.

It comes back, in a different way, to the earlier point I made in response to John's questions and the Chair's questions. There has to be a balance between setting high standards at a national—or, indeed, in this case at a European level—and then allowing appropriate public authorities, below

the UK or EU level, to pursue what they think is the right policy in the right way.

Q58 **Joan Ryan:** You would say the Royal College of Physicians and the Royal College of Paediatrics and Child Health have it wrong, and therefore do not understand the advantage of the Government's plans, when they are saying the plans you have published do not go far enough, not only to meet legal limits but to deliver maximise health and environmental benefits?

Michael Gove: I have enormous respect for those organisations. However, there are still two missing parts so far of the picture. One is what the actual proposals are that local authorities may even come forward with. It may well be they meet the concerns of the Royal Colleges and others. It is also the case the road plan is only part of the picture. If I may, one of the points that has been well made by the Mayor of London is that roadside emissions from traffic are only one part of the picture. We also need to deal with everything from domestic boilers, to wood-burning stoves to river traffic if we are going to deal with this issue. There is more we will be saying in order to meet the requirement to protect public health.

Q59 **Joan Ryan:** Indeed, but vehicle emissions are a very important part of the picture.

Michael Gove: Absolutely.

Q60 **Joan Ryan:** It has been referred to in negotiations that the UK Government have been accused of trying to water down new tests introduced, following Volkswagen's scandal, by introducing a looser rate, we are talking about the conformity rate. Given that, your failure in the courts and the headlines you—without wishing to be rude—have attracted—"Gove falls at the first hurdle", "Shabby rewrite of previous draft plans", "Woefully inadequate"—it is hard to have a lot of confidence in what you are telling us.

Michael Gove: In comparison to some of the headlines I have generated in my political career those are relatively flattering.

Joan Ryan: It is not helpful to the health of the nation though, Minister.

Michael Gove: The key thing is we are spending, as a Government, £2.7 billion on tackling poor air quality. We are spending £1 billion on improving the infrastructure for ultra-low-emission vehicles, £290 million as part of the National Productivity Investment Fund to reduce transport emissions, £11 million has been awarded to local authorities through the Air Quality Grant, £89 million for a Green Bus Fund, £27 million for the Clean Bus Technology Fund and the Clean Vehicle Technology Fund and £1.2 billion for a Cycling and Walking Investment Strategy. On top of that, an additional £255 million in the latest plan is available to councils to accelerate the bringing forward of their air quality plans.

Of course, we could always do more but what we have done—including in the area we discussed earlier, the medium to long-term plans to get

petrol and diesel cars off our roads—is all driving improvement in air quality. The level of ambition that has been shown is as great as any other developed country has done.

- Q61 **Joan Ryan:** Let me make this last point. Ambition is something to be welcomed and something we would all want to have. However, it is of little use if it is not achieved. When you have the number of bodies telling you that you do not have it right, that this is a plan for more plans and is not going to address the issue in the short and medium term, then you need to look again at that ambition. You have been dragged, kicking and screaming, to make a plan for more plans that is still considered as not meeting what is necessary to do the job.

Michael Gove: There are some who say it does not meet it. I completely understand why they make that argument. I do believe the level of investment and the commitment we have shown is appropriate to the challenge but we can always do more.

The only other thing I would say is that it may well be that the plan faces legal challenge. Let us see. It may well be that that legal challenge results in a judgment that the plan is a good thing. We cannot know yet. All I will say is that I am doing all I can with the resources available in my Department in order to ensure we meet this absolutely vital public health target.

- Q62 **Geraint Davies:** You will be aware that the basic background is of 40,000, and rising, people dying prematurely at a cost of £20 billion. The courts have obviously found you simply are not doing enough to make things happen.

Michael Gove: In the past?

- Q63 **Geraint Davies:** Obviously you have named this 2040 date that could be brought forward. What physical incentives, for instance, are you proposing the Treasury adopt to incentivise people to move to something more sustainable? What confidence do you have we are going to fulfil the Committee on Climate Change's target of 60% market share of ultra-low-emission vehicles? What about banning diesel cars in certain particularly difficult areas of pollution? What more are you going to do other than say, "2040" as others have?

Michael Gove: I mentioned some of the things we are doing in order to invest in the move towards ultra-low-emission vehicles and also some of the investment that is being made in order to retrofit an existing, for example, bus fleet.

When you talk about fiscal measures, you are quite right that fiscal measures can help. However, I must not pre-empt anything the Chancellor may say in his Budget.

- Q64 **Geraint Davies:** In terms of the infrastructure we have had Bills going forward on electric-charging points and hydrogen. Do you really feel that is enough? A lot of industrial players are looking into other markets, rather than Britain, to provide faster infrastructure than we are. We are

likely to be left behind.

Michael Gove: What other markets are people looking at?

Geraint Davies: People like Volvo are looking at even China before Britain, but also France, Germany and so on. Certainly Norway is much more advanced, as you know.

Michael Gove: Norway is outside the European Union, of course.

Geraint Davies: So will we be shortly.

Michael Gove: Indeed.

Q65 **Geraint Davies:** Would you not accept that while we are in the EU the reason you have been dragged, shouting and kicking, to do anything at all is because the EU said, "These are our standards. You are failing them." You have come here today to suggest that outside the EU we might have even higher standards.

Michael Gove: Yes.

Geraint Davies: When the reason you are doing what you are doing is because the EU are forcing you and you would not have done it otherwise.

Michael Gove: As you, yourself, were generous enough to admit, Norway does have higher standards and it is outside the EU.

Q66 **Geraint Davies:** That is true but Norway is not you. I am saying the history of the Conservative party is not very successful. If you look at emissions overall—I was going to ask, incidentally, about ammonia going up—since 2010 general emissions rates have flattened overall. In certain places, namely urban environments, they have gone up with the great cost of premature death.

Michael Gove: My memory may be failing me but I do not think it was a Conservative Government that was responsible for encouraging people to move towards diesel in the first decade of the 21st century. Why are you blaming the Conservatives?

Q67 **Geraint Davies:** I am saying emissions went down to 2010 and since have flat lined.

Can I ask you about the air pollutant ammonia in particular, because rather than flat lining that has gone up quite considerably? It is linked, to a certain extent, to its use in agriculture. Is that something on your radar and what are you doing about it?

Michael Gove: Yes, absolutely it is. One of the things we have discussed is moving towards a system of agricultural support that uses public money to secure public goods. One of the things I am very interested in doing is making sure we can invest in the sort of innovation that makes it easier for people to farm in a way that means we use less fertiliser, fewer chemicals and move away from the type of agriculture that has generated the level of pollution you quite rightly draw attention to.

Q68 **Chair:** When you say moving away from that type of agriculture, significant amounts of ammonia are produced in the dairy industry. Are you suggesting we are going to be moving away from dairy farming?

Michael Gove: No. I had the opportunity on Friday to visit Harper Adams University that, as you know, is an outstanding educational institution. One of the things they are developing is something they call "Fitbit for cows". It is a sensor that enables the farmer to ascertain what the best mix of feed is for a cow. It also alerts them to animal health and husbandry concerns so they can deal, as quickly as possible, with any animal health problems that traditional husbandry might have identified but that technology can now identify more quickly. If you have the right mix of feed and the right approach towards animal health you can deal with some of the concerns that have been expressed in this area.

Q69 **Caroline Lucas:** I want to push a little bit further on this issue you have repeated again today. You said in a previous speech you think the UK will do better at tackling air quality outside the EU. I want to put it to you that for most of us hearing that it is stretching our faith to levels that are too great. Can you say again why you think that this Government is going to do better when we are already failing to meet the EU's nitrogen dioxide targets and when, as I know, Government have tried to block EU moves, for example, to clean up air quality when it came to blocking a proposal in the European Parliament that was about forcing member states to carry out surprise checks on the emissions of cars. The advice from the British Government to MEPs was to block that and, indeed, Conservative MEPs did block that. How can we have any serious confidence you are suddenly going to change your spots overnight?

Michael Gove: "By their fruits shall ye know them." One of things I am anxious to do is to ensure people understand that outside the European Union there is an opportunity for us to embrace our environmental standards. I think that is what the majority of public would want to see.

You quite rightly say we have failed when it comes to meeting some of our air quality requirements. Other member states have failed as well. I am not suggesting that excuses or exonerates our past failure. I am not saying the very act of leaving the European Union will mean instantly air quality improves, no.

My two points are first, we are putting in place a series of measures that are more ambitious at the moment than some other EU nations in order to deal with it. Secondly, as Geraint acknowledged, you have a country outside the EU, Norway, which does even better. It is not an absolute corollary that being outside things will be better but it creates potential for them to be better.

Caroline Lucas: No one is denying there is a theoretical possible.

Michael Gove: Indeed.

Q70 **Caroline Lucas:** As we have seen with Norway, one can do better outside the EU. The point we are making is that given the Government's

own record—which is there in red lights saying you have not done enough, it stretches credulity to believe you would not meet targets when you were meant to meet them in the EU but suddenly when you are out of the EU you are going to meet even higher targets. Do you at least acknowledge there is a cognitive dissonance around that proposition?

Michael Gove: No, but what the cognitive dissonance may be is the idea that a Conservative Government can be ambitious in the environmental sphere.

Caroline Lucas: Experience in this area has not given us that faith or confidence.

Michael Gove: Everyone would acknowledge that when one of my predecessors, Lord Deben, John Gummer, was both Secretary of State at MAF and Environment Secretary he was responsible for improving environmental protection and enhancing the environment in this country.

Chair: It is interesting there have been four Secretaries of State in the last seven years that you have chosen not to mention and you have to go back to 20 years to find one.

Michael Gove: I could have gone back to Michael Heseltine and talked about what he did with the Wildlife and Countryside Act.

Chair: Back to ancient history.

Michael Gove: I could have talked about the marvellous work that was done to embed natural capital accounting when Caroline Spelman was Environment Secretary, I would be more than happy.

Q71 **Chair:** Nicely recovered, Minister. We are going to move on to your environment plan.

Michael Gove: I cannot run through the long list of Conservative environmental achievements, Chair, in all the time we have available so necessarily I have to edit it. If you would like to invite me back to run through all the good work that has been done by my predecessors then I would be delighted to provide chapter and verse.

Chair: We would be happy to have you. We are going to move on to your environment plan that we have been waiting two and a half years for.

Michael Gove: By definition, it cannot be mine because I have only been in post for four months.

Chair: That is called passing the buck.

Michael Gove: By definition it can be only four months or four and a half months since I came in, so there we go.

Q72 **Dr Matthew Offord:** I will bring us back to more accountable issues then. Only yesterday I had response to a written question where I was asking when it would be published and I was told in due course.

Michael Gove: Yes.

Q73 **Dr Matthew Offord:** My first very brief question is how long is "in due course"?

Michael Gove: The first thing I would say is that is a model parliamentary answer from a Government Department.

Dr Matthew Offord: As a backbencher I am aware.

Michael Gove: I was a backbencher, I still remember. David Lloyd George was once lost in the Welsh countryside.

Q74 **Anna McMorris:** Will this be relevant?

Michael Gove: It will be relevant. He stopped and waved down one of the people he did not know. He said, "Do you know where I am?" The resident said, "You are in your car". David Lloyd George replied that was a model parliamentary answer because it was wholly accurate, brief and did not tell him anything he did not already know.

With respect to the 25-year environment plan we hope, subject to cross-Government clearance, to get it published before Christmas but it may well be that it falls after Christmas into January.

Q75 **Dr Matthew Offord:** I am not going to hold you to an explicit timeframe. One of the things I would like to know is what will it contain in regard to things like principles that have been enshrined in treaties we have had with the EU and, indeed, some legislation. You mentioned the Countryside and Wildlife Act and also the Birds and Habitats Directives that has gone through EU directives. Will it contain those kinds of issues?

Michael Gove: It will address precisely how we ensure we protect and we hope extend the habitats necessary in order to recognise biodiversity. It will be a living document. It will be out for consultation. We will try to ensure we create appropriate measurements so people can see whether or not there has been genuine environmental improvement under this Government or under future Governments.

Q76 **Dr Matthew Offord:** I understand your Department intended to publish two plans, one for the environment and one for farming. There have been reports that is no longer the case. Can you confirm if that is the case, and how will the Department encompass both the issue of farming and environmental protection in the same plan?

Michael Gove: Originally there had been a plan to have a 25-year food and farming plan and a 25-year environment plan. The intention to do both was communicated before Britain voted to leave the European Union. Certainly my view is we need a 25-year environment plan, and that 25-year environment plan having been published we can then publish a command paper on the future shape of agriculture. That will be necessary as a prelude to bringing forward the Agriculture Bill that we will need to prepare for life after EU exit. There will not be a discrete 25-year food and farming plan.

Q77 **Dr Matthew Offord:** Excellent. The Natural Capital Committee suggested the plan should be placed on a statutory footing. Do you think

it is necessary to do that? Do you believe it is necessary to legislate to ensure it will happen?

Michael Gove: Again, one of the things I have to be wary of is not running faster than I am allowed to because of the necessary cross-Government checks, processes and so on. That is why I wanted to be cautious about what exactly any new body might look like in the environmental space. Similarly, I would like there to be further legislation in the future in some of the areas we have discussed around this table. I cannot commit to that because, of course, in Government you have to persuade your colleagues it is right you be allowed to legislate in particular areas. My hope would be that there would be space for future legislation, absolutely.

Q78 **Dr Matthew Offord:** That covers legislation. In terms of the plan specifically, you mentioned earlier you are not able to bind your successors. How do we ensure a future Secretary of State—whoever that may be—continues to support the plan, both publicly and within the Department, when they are actively making final decisions about some of the issues that will have been brought forward through the plan?

Michael Gove: I hope it will be seen that there are measures within the plan that provide Parliament and the country with regular reassurance we are making progress in a number of these areas. It is always the case that a future Parliament could abolish some of the mechanisms we are talking about. As ever, there would be a hue and cry if some of the additional ambition and the institutional architecture that we have in the plan were to be dismantled.

Q79 **Dr Matthew Offord:** Finally, obviously this plan does not stand in isolation. The Department has various other plans, including the Clean Growth Strategy. How do we ensure they complement each other?

Michael Gove: Defra was involved in the development of the Clean Growth Strategy. The real leadership was shown, of course, by Claire Perry who has done an outstanding job. Similarly, Claire and the BEIS team have been helping us develop the 25-year environment plan as well. They are designed to be sister documents.

Q80 **Dr Matthew Offord:** Can you give examples of where they will complement each other?

Michael Gove: One of the things that is, I suppose, a particularly resonant example is with respect to forestry. The Clean Growth Plan midpoint of meeting our ambition to have 11 million trees planted in the lifetime of this Parliament is a good thing in itself but also contributes to fighting climate change and dealing with CO₂ emissions. Earlier this week Thérèse Coffey, Claire and myself were discussing how we might ensure that we do meet that ambition. Again, in the spirit of total candour, we have not been as effective as we should have been in recent months and years in meeting that ambition.

Chair: Thank you. We are going to move on to some questions about the CAP from Anna.

Q81 **Anna McMorris:** You have made some pretty strong statements in ensuring farmers and others are incentivised to protect and enhance the environment once the UK exit the EU. How do you intend to set out these practical proposals for making this a reality? Are these going to be in the forthcoming Agricultural Bill? When is that going to be? I am hearing next spring or next summer. Are you able to shed any light on that?

Michael Gove: Yes. I hope that after the publication of the 25 Year Environment Plan, and that will say a little bit about this, we will have a command paper which will outline the principles on which we would like future agricultural support to be based. Then of course there will be various responses to that command paper that will then shape what we put in the Agricultural Bill. We hope to bring it forward, as you say, late spring, early summer.

Q82 **Anna McMorris:** Will that include a new agricultural system?

Michael Gove: We want to outline the principles that will guide that new agricultural system and then the Bill will give us, we hope, the mechanism to bring such a system into being.

Q83 **Anna McMorris:** You also recently decided not to reallocate funds from Pillar 1 to Pillar 2 in your statement. Doing that would have allowed a greater proportion of EU money to be spent on environmental goods, public money to be spent on environmental goods, before we leave. Why did you choose not to do that?

Michael Gove: Because there are problems with the way in which our Countryside Stewardship scheme operates at the moment, which we are attempting to deal with, and also because I did not want to provide an additional level of instability in the way in which money was allocated before we outline the new system.

One of the principles that the Prime Minister has outlined with respect to the need for a transition period is that people should have one moment, if possible, when they adjust to a new reality. I want to be in a position where farmers continue to have as much certainty as possible over the income that they receive as they prepare for a new system of support that is driven primarily by public money for public goods.

Q84 **Anna McMorris:** You would rather more public money go directly in single payments to—

Michael Gove: No. Rather than attempting to change things dramatically within the existing architecture when we will be outside the EU in 2019 and certainly a transition period of around two years will follow, and I have some thoughts about what might happen to the Common Agricultural Policy during that period that we may touch on—but in general terms we are going to be moving to a new system that will pay people for providing public benefit. It will also have other means of agricultural support within it. When we make that change, I want to have that moment and that new system be the one that people are preparing for now and not have a change before then that would absorb bureaucratic energy and time and create different pressures on farmers

as we expect them to prepare for what will be a significant change in due course.

- Q85 **Anna McMorris:** We already see a difference across the UK and we have touched on the differences with devolved Governments. Wales, for example, transferred 15%, the maximum, and I think you have kept it at 12%. Will you undertake to ensure that devolved Governments have the freedom to design their own agricultural systems?

Michael Gove: I absolutely want them to do that, yes, consistent with preserving the integrity of the UK internal market and consistent with ensuring that the UK can conclude, if necessary, trade deals with third parties including the EU 27.

- Q86 **Anna McMorris:** You will fund that accordingly?

Michael Gove: That is absolutely my intention, yes. My hope is that the DAs will continue to devote the same amount to agriculture and the environment as they do at the moment, absolutely.

- Q87 **Anna McMorris:** This Committee's inquiry found a broad consensus that a new agricultural scheme should pay for public goods, particularly environmental protection and ecosystem services. There was less consensus around what the goods should be. The NFU, I think, came up with food security as one. There are other examples. You mentioned you do agree with the principle of public money for public goods. That is correct?

Michael Gove: Yes.

- Q88 **Anna McMorris:** How will these be determined?

Michael Gove: We will outline in the command paper what we think public goods are and how they might be delivered. Then we expect there to be a response to that and we will, as with the best policy, consider and weigh the arguments that are made on the basis of the force, fluency and logic behind them.

When one is talking about public goods, pre-eminently environmental protection and enhancement is there but it also the case that there are other public goods, for example public access to the countryside and the maintenance of landscape beauty, which includes not just the natural environment but also aspects of the built environment as well. Beyond that there is also a human question. To what extent should we continue to subsidise people on low incomes whose way of life is integral to the overall health and balance of the rural economy? Those are all public goods.

There are two other areas where there is a role for public investment. One is in stimulating productivity and technology. The other is in helping farmers and those who work in agriculture deal with the inevitable volatility and vicissitudes that the agricultural economy involves. By definition, external factors like climate, blight, pests and other natural phenomena can affect the success of a farming enterprise in a way that

other businesses are not so affected. Most countries have some method of pooling risk, whether that is through the tax structure, state-backed insurance schemes or whatever. These three pillars have been identified by the NFU as well, which is not to say that we are necessarily going to agree with the NFU on everything. I do think that those three principles or pillars are right: public goods, innovation and volatility.

Q89 **Anna McMorris:** These are all good words, but what are you doing now to create something substantial that means that system will come about? You can set that out and we can then hold you to account on it.

Michael Gove: I hope that when we have our command paper that you can then see some of the mechanisms we have in mind in order to achieve this. At the moment, the Department is talking to, and more particularly hearing from, different organisations and individuals who have ideas in this space. Yesterday, for example, I attended a roundtable that was convened by the NFU but had the CLA and a variety of other representative farmers' organisations and they had some interesting thoughts that are feeding into the policy-making process.

Q90 **Anna McMorris:** You are working with environmental groups and so on?

Michael Gove: You bet, yes. One of the other things is that some of the most interesting ideas, for example, have come from organisations like Wildlife and Countryside Link, the Wildlife Trusts or the National Trust. Yes, absolutely. It is also the case that a significant part of Britain's agricultural land is managed by organisations like the RSPB or in my own constituency by the Surrey Wildlife Trust. Their expertise has been invaluable.

Q91 **Anna McMorris:** How much do you anticipate a new system costing?

Michael Gove: The new system will certainly have the same amount to distribute right up until 2022 as we currently spend on agricultural support through Pillar 1 and Pillar 2.

Now, one of the things about the current system is that it is expensive to administer and time-consuming to engage with. I mentioned earlier that there are problems with the Countryside Stewardship scheme and it has had a lower take-up than any of us would have wanted. It is also the case that some other funds that we have created like the Woodland Carbon Fund have had much, much lower take-up than we would have expected. There is the potential to create a scheme that not only incentivises people to do the right thing but which is also easier to access and administer.

Q92 **Anna McMorris:** On that, there have been previous problems in administering, as you have just touched on. Do you think an existing scheme will be able to cope with any new scheme? You will have to create your own?

Michael Gove: You are absolutely right, the—

Q93 **Anna McMorris:** The Rural Payments Agency.

Michael Gove: Has had its problems. Most conspicuously, again, there is a chapter in the book "The Blunders of Our Governments" that runs through some of the problems that the RPA had a wee while back. There are very good people there now and very good people in Natural England. What we want to do is to ensure that the system they administer is as simple and elegant in possible in order to ensure their skill and expertise can be devoted to helping people to do the right thing.

Q94 **Anna McMorris:** Again, though, this is about adding a new burden of cost and creating new bureaucracies in order to administer a new agricultural system while leaving the EU.

Michael Gove: Hopefully it will reduce administrative costs and hopefully it will strip out some of the existing bureaucracy. There are elements to the way in which the CAP operates that place on the RPA and Natural England significant additional bureaucratic requirements and many of those are passed on to farmers.

Q95 **Chair:** We are going to have to move on. Are we anticipating a vote at 4.00 pm?

Michael Gove: I think so, yes. There may not be a division but I am certainly expecting there to be one.

Q96 **Chair:** Are you able to stay with us until 4.00 pm?

Michael Gove: I can stay with you right up until the moment that we move from the first to the second opposition day motion.

Q97 **Chair:** Excellent. Lovely. That is great to know, thank you. We are going to move on now to questions about trade with John.

Q98 **John McNally:** Secretary, I follow on from Anna there. We are now coming to the time where it is deeds and not words that are required. You are the Secretary of State and you have mentioned a lot about choice architecture. Ultimately you are the architect of choice in how we take this forward. You agree with that, yes?

Michael Gove: I think so, yes, but it is such a cleverly crafted question I may be about to blunder into a trap.

Q99 **John McNally:** I will develop it a wee bit further then. You previously said that we cannot compromise high environmental or animal welfare standards in pursuit of a trade deal. Now, I do not think anybody would disagree with that, including yourself because you said it. The EU conducts environmental and sustainability impact assessments, EIAs and SIAs, before agreeing free trade agreements with other countries. Will you commit—this is the bit about the deeds now—to ensure that these are conducted and published for future UK free trade agreements once we have exited the EU?

Michael Gove: It is certainly the case that we need to take environmental and other considerations into account as we form any new free trade deals. In fairness, I would have to talk to my colleagues in Government before making a firm commitment of that kind but I will

seek to come back to this Committee with a greater degree of assurance, which you absolutely deserve.

John McNally: I will leave it at that just now. Thank you.

Q100 **Caroline Lucas:** I want to ask about two different views that have been expressed on the famous chlorinated chicken in the context of trade with the US.

You have been very forceful in your statement that there are no circumstances in which chlorinated chicken would be allowed and yet your colleague, Liam Fox, was giving evidence to the Trade Committee this morning where he has said, equally clearly, there are no health reasons why you could not eat chickens that had been washed in chlorinated water and there is no problem with them. He would absolutely foresee chlorinated chicken coming into this country post-Brexit. How do we weigh up in this situation which Secretary of State, which Minister, to believe?

Michael Gove: I am very glad you asked me that question.

Caroline Lucas: Good.

Michael Gove: Confusion sometimes arises in the minds of some as to why it is that there is currently a restriction on the import of chlorinated chicken. It is not because there is a public health problem in eating chicken that has been chlorine-washed. It is safe for human consumption. The issue is an animal welfare issue. In some states within the US, you can if you wish to keep chickens in circumstances that you would not be allowed to in the UK or in other EU nations. The farmer theoretically secures a competitive advantage by having more birds in a smaller space. Production can be higher. But there is a risk and that risk is that disease spreads amongst those chickens, and one of the ways in which you get rid of those pathogens is by having a chlorine or other wash at the end of the process.

It is an animal welfare issue, primarily. We believe that there are certain standards under which poultry should be kept and that we should not compromise on those.

Q101 **Caroline Lucas:** If I can interrupt—I am sorry—there is still a distinction here between what you were saying and what Liam Fox is saying. You have said categorically there would be no circumstances in which chlorinated chicken would be allowed to come into the country and yet what Liam Fox is saying is that essentially he believes in giving the public a choice over what they are eating, so long as the scientists tell us that it is safe. He is very relaxed about this coming into the UK and he does not seem to worry at all about animal welfare standards. You, I am very glad to say, do worry about animal welfare standards—

Michael Gove: I do worry about animal welfare standards.

Q102 **Caroline Lucas:** —but how do we reconcile those two very different approaches?

Michael Gove: It has been the case in Cabinet and in Cabinet sub-committees that we have agreed collectively that there should be no diminution in our environmental or animal welfare standards in pursuit of trade deals.

Q103 **Caroline Lucas:** So Liam Fox was wrong?

Michael Gove: No, Liam is absolutely right that there is no particular danger to human health—

Q104 **Caroline Lucas:** He has gone further than that. He is not only saying that. He is also saying that it is up to the British public to eat chlorinated chicken if they wish to because, as you said, it is safe. He is relaxed about it. You are not relaxed about it. You care about animal welfare standards. He, it appears, does not.

Michael Gove: The Government's position on animal welfare standards is clear and consistent—

Q105 **Caroline Lucas:** It is not, with respect, Secretary of State. We have just had Liam Fox at a different Committee telling us that there is no problem with chlorinated chicken coming here, not only for health reasons but because why would you not have it? It is good for the British public to have a choice.

Michael Gove: Choice is always a good thing but I do not think Liam was asked about animal welfare standards in front of the International Trade Committee. I do not know if he was. I am sure any Minister, if asked about animal welfare standards, would make the point that we do not want to see them in any way diminished. Indeed, we see an opportunity to improve animal welfare standards in this country. There are steps we have already taken, from the establishment of CCTVs in all slaughterhouses to increasing the sentence for the most conspicuous acts of animal cruelty. There is more that we hope to do in the future.

When it comes to animal welfare standards we certainly shall not compromise them but it is only fair to point out, and fair to America as well, that while they have a different approach to animal welfare there is no public health problem as a result of this. It is a distinction I know you appreciate.

Q106 **Caroline Lucas:** I do indeed. I simply want to restate what he said, which was basically, "I am a great believer in giving the public a choice over what they are eating, so long as the scientists tell us it is safe". Yes, as long as it is safe, he is saying the same as you, but what he is not saying specifically is that there are animal welfare concerns about the use of chlorinated water because, as you have described, it is allowing much more dense production. I would have expected, when asked about chlorinated chicken, he might have volunteered the fact that although a health issue would not be the barrier, there are strong animal welfare issues around its use.

Michael Gove: Yes, but because Liam does not say something does not mean he does not take animal welfare seriously. We all do and we have agreed in Cabinet Committee that we absolutely should—

Q107 **Caroline Lucas:** He has implied that it is fine for chlorinated chicken to be imported because it is safe. That is what he is saying.

Michael Gove: Liam is a medical doctor. He has a scientific background and training. He takes science incredibly seriously. Like lots of people with a scientific or medical background, when he sees, as some have—no one around this Committee table—the inference being drawn that somehow this is unsafe, he would want to rebut that as someone who has an interest in science guiding policy.

Q108 **Chair:** You agree with him that it is not unsafe to eat chlorinated chicken?

Michael Gove: I have not seen any evidence that there is a threat to human health as a result of that. It is an animal welfare issue.

Q109 **Chair:** Do you agree with Sir Ivan Rogers, the ex-ambassador to the EU, who said a week ago that the US would not do a trade deal with the UK without a significant, substantial agriculture element?

Michael Gove: An agricultural element might be there but I have had the opportunity to talk to the US Agricultural Secretary, Sonny Perdue, and one of the things that we emphasised in that conversation is that this concern is a concern about animal welfare, not about health. I think he, Sonny, like other Americans, would be grateful for the case that Liam made because obviously Americans would like to think that the food that they are eating and the safety standards they have are high quality.

Q110 **Chair:** It sounds like you are in agreement with Liam Fox that this is perfectly safe to eat and there is no barrier or impediment to this chlorinated chicken being incorporated in a future UK–US trade deal.

Michael Gove: There are two steps there. The first is: is it safe? Yes. Should it be in a trade deal? No, because of animal welfare considerations.

Chair: Thank you. We are going to move on very quickly to a question from Matthew about waste. No? Okay, very quickly.

Q111 **Caroline Lucas:** Just before we leave agriculture, I want to ask you whether or not you have received any advice on the question of whether to extend the restrictions on the three neonics to all crops. Indeed, have you have received any advice on whether or not to make those restrictions into permanent bans?

Michael Gove: I have received advice. I cannot say more at this stage because, as everyone here will know, there is a likely vote at EU level and I do not want to get ahead of myself. I have received advice there that I do take very seriously and I hope before too long we will be able to share both that advice and our conclusion.

Q112 **Caroline Lucas:** Do you have a sense of when you might be able to do that?

Michael Gove: I hope before Christmas.

Q113 **Caroline Lucas:** Would you be able to share your own view with the Committee on whether you think those bans should be—

Michael Gove: I would say two things. Three, actually, but I will try to keep them brief. First, we should always be guided by the science. Secondly, there are real questions about our pollinator and insect population and we need to be very clear that we take the right steps in order to ensure that the pollinator population is protected. The third thing is—I will leave it there.

Chair: Okay. We do have a question for you on waste and it is with Anna. My apologies.

Q114 **Anna McMorris:** China has notified the WTO that it is going to stop importing plastic waste and unsorted paper. What impact do you think this will have on the UK's waste economy and what preparations are you making?

Michael Gove: I do not know what impact it will have. It is a very good question and something to which—I will be completely honest—I have not given sufficient thought.

Anna McMorris: Okay.

Chair: Reassuring. It is happening in eight weeks' time.

Q115 **Anna McMorris:** Yes, it is. It is imminent. It is realistic to expect that we could process/recycle more waste in the UK as a result. Do we have the capacity in the industry for that? If not, are we at risk of seeing stockpiles of waste that now is taken to China built up, or even at risk of being sent to landfill?

Michael Gove: No, I do not believe so. I think we do have the capacity. One of the striking things about our waste industry is how energetic, innovative and ambitious it has proven itself to be, even as we place tighter regulations on how it can operate. There is more to do and we will be saying more about what we aim to do in this space in the 25 Year Environment Plan. I do not have any worries.

Q116 **Anna McMorris:** Perhaps another area you can learn from the devolved nations?

Michael Gove: In what respect?

Q117 **Anna McMorris:** Recycling.

Michael Gove: Yes, that is a fair point but one of the interesting things about recycling—

Anna McMorris: Recycling targets.

Michael Gove: Yes, that is true but one of the striking things about recycling is that my own local authority, Surrey Heath—I have nothing to do with the decisions it makes because of course it is an autonomous body—is in the top three, I think, local authorities when it comes to successful recycling. Local authorities have tended to have better recycling records outside urban areas and outside urban areas with denser housing. Those local authorities with the weakest recycling record have tended to be London boroughs and it is not a Labour, Conservative, Liberal Democrat or Green thing, it is just to do with the nature of the populations in those areas. You are right that Wales has a good record but that reflects not just the—

Anna McMorris: It is leading the way, actually.

Michael Gove: I would never want to say anything other than nice things about the leadership shown by Lesley Griffiths and her team in Wales but I would say that Wales starts with an advantage over a country that has London because London acts as a drag. That is not a criticism, as I say, of any local authority, simply a factor in the way in which waste is processed.

Q118 **Anna McMorris:** What has your little note told you about China?

Michael Gove: It is a large country. On 18 July, which was just a month after I took office, China notified the World Trade Organisation of its intention to ban the import of 24 types of solid waste and to reduce acceptable contamination levels of 11 other solid waste materials.

Chair: We know all that, Minister, so while you are reading we are going to ask you some questions.

Q119 **Kerry McCarthy:** Can I ask quickly about the EU Circular Economy package? Obviously that is close to being finalised. We will be leaving the EU. Is it the UK Government's intention to adopt elements of that package or to continue with that sort of work?

Michael Gove: Yes.

Q120 **Kerry McCarthy:** You think it is important?

Michael Gove: Yes, I do.

Q121 **Kerry McCarthy:** Okay. That is a good start. Do you like the term "circular economy", by the way? Are you happy to use that?

Michael Gove: I do not dislike it.

Q122 **Kerry McCarthy:** Your Minister does. I just thought I would—

Michael Gove: One of the things I am conscious of is that I have strong views about a variety of issues and I can understand why people feel that terminology sometimes leads to behaviour that is sub-optimal. My own view is that if you have a phrase in being, even if it is not necessarily the most pretty phrase, if it works it works.

Q123 **Kerry McCarthy:** That was a slightly frivolous departure. During the

discussions on the Circular Economy Package I understand the UK was arguing against food waste targets being included. Have you had a chance in your four and a half months in the role to look at food waste? At the moment between 30% and 50% of food is wasted.

Michael Gove: Absolutely.

Q124 **Kerry McCarthy:** Do you think the Government could do more, as opposed to just the voluntary approach that tends to be the focus of Government action at the moment?

Michael Gove: Yes, we absolutely can. When people think of food waste they often think of the over-energetic adherence to sell-by or use-by dates. That is a factor. It is undoubtedly the case that domestic food waste is a factor. But it is also the case that there is food waste at the level of the retailer and there is also food waste at the level of the primary producer as well. I am very keen that we should try to reduce food waste at every stage in the cycle and—though again I do not want to anticipate the 25 Year Environment Plan—having an ambitious target to reduce avoidable waste is potentially an incredibly useful tool.

Q125 **Kerry McCarthy:** Okay. Your Department's response to the EFRA inquiry, it has to be said, was pretty disappointing. We had to rush out a report just before Christmas. Hopefully we will see some more.

Michael Gove: A high level of ambition, yes.

Kerry McCarthy: Good.

Q126 **Joan Ryan:** On the same topic, the China ban obviously has the potential to be a major problem for the UK recycling industry as China is the UK's biggest export destination for waste products, as your note probably says. You know of the Recycling Association that brings together over 80 waste and recycling operators?

Michael Gove: Yes.

Q127 **Joan Ryan:** They have launched a Quality First campaign. They had a paper out, a report, "Why Quality Must Come First", and they set out a number of actions that they want to see implemented. Some of them are calling on Government and their first one is to adopt the EU Circular Economy Package despite Brexit, implementing the new regulations on packaging design. They say it would help the industry cope with the fallout of the China ban if the Government commits to this. Are we to understand then that your response is positive to commit to this and that the Recycling Association has done their work?

Michael Gove: The Recycling Association has done a very good job. I am positive towards the intent. You use the phrase "despite Brexit" and I completely understand why. One of the things I would want to do is make absolutely certain that the principles we apply here are an effective means of meeting that outcome but maintain the necessary flexibility in order to achieve it in the best way for the UK.

Q128 **Joan Ryan:** It might be a good idea to meet with them if you have not

because there are other points and they are a lot more worried about the fallout of this ban than you or the Government appear to be at the moment.

Michael Gove: The China ban?

Joan Ryan: Yes.

Michael Gove: It is the case that this ban will affect everyone apart from China. I think the European Commission has made representations to Beijing, as indeed our own embassy has in this area, but China—

Q129 **Joan Ryan:** We are relying on the EU then, on this one?

Michael Gove: We work in partnership with Europe and of course while we are members of the EU then we have certain rights and certain obligations. The European Commission is the body that represents us in trade areas. We do not yet, as an independent country, have a presence at the WTO. Whether we like it or not, it is the European Commission that helps its member states, of which we still remain one, to achieve its goals. The fact is that this decision having been taken, it is something with which we all have to deal. We may lament it from one point of view. On the other hand, it may be an example of, as President Xi has shown, a high degree of ambition in environmental standards. I might deprecate the manner in which the announcement was made and the speed with which the change is being brought about but I can understand why President Xi and his team chose to make this decision.

Q130 **Chair:** Okay. Minister, you have been very generous and the other debate has now started so we will thank you for your time.

Michael Gove: Not at all.

Chair: We may write to you and we look forward to seeing you again. Thank you very much.

Michael Gove: It is a pleasure.