

Environmental Audit Committee

Oral evidence: [Ministry of Justice Environmental Sustainability Overview](#), HC 545

Tuesday 14 November 2017

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[Watch the meeting](#)

Members present: Mary Creagh (Chair); Caroline Lucas; Anna McMorrin; Dr Matthew Offord; Alex Sobel.

Questions 1-141

Witnesses

[I:](#) Matthew Coats, Chief Operating Officer, Ministry of Justice; Barry Hooper, Chief Commercial Officer, Ministry of Justice; Carl von Reibnitz, Estates Directorate, Ministry of Justice; and Tim James, Property Director, HM Courts and Tribunals Service.

Examination of witnesses

Witnesses: Matthew Coats, Barry Hooper, Carl von Reibnitz and Tim James.

Q1 Chair: I welcome our four witnesses this morning. From left to right we have Matthew Coats, Chief Operating Officer at the Ministry of Justice, Barry Hooper, Chief Commercial Officer at the Ministry of Justice, Tim James, Property Director at HM Courts and Tribunals Service, and Carl von Reibnitz from the Estates Directorate. You are all very welcome.

We have had a very extensive set of briefings from our colleagues at the National Audit Office, who have been forensic in their examination of your sustainability practices, and we have a set of questions for you. You are the second largest buyer of goods and services in Government, the second largest estate of any Government Department, and 20% of Government emissions come from you, so obviously we want you to be an exemplar.

We were concerned to see that you had missed your targets for domestic flight reduction in 2014-15 and that your performance has got worse since then. Can you just talk us through the flight landscape? Why are there 4,000 flights a year, and why has that number increased by nearly 1,000 between 2015-16 and 2016-17? Who is going where, and why? Barry.

Barry Hooper: I am afraid I do not have the specific details of the flight locations and the departments that have been travelling, but if we look at the quarter 1 statistics, we see that roughly 50% of the flights that we incur were through our Courts Service. We have the requirement for judiciary travel for the Tribunal Service in Scotland, and we also have the Criminal Injuries Compensation Authority, which is based out of Glasgow.

It is important to note, though, that while our flights have increased slightly on the previous performance, if we look at our baseline figures from 2009 and 2010, our overall emissions for travel-related carbon have reduced by 22%; appreciating also, if we look at the overall carbon impact of flights, that it represents 1% of our total carbon impact.

Q2 Chair: You are saying that judges are taking planes up to Scotland, not trains? You said they have slightly increased. They have gone up from 3,300 to 4,000 in one year. That is a 30% increase in one year. What is going on?

Barry Hooper: As I say, I do not have the specific information about flight locations, but I am happy to provide that to the Committee if required.

Q3 Chair: You missed your carbon targets. Is this something that you have a grip on and an oversight on? Clearly, your carbon reduction is not coming from a reduction in domestic flights. What are the rules on travel? Is it that it is more than five hours on a train, more than three hours on a train?



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Barry Hooper: I do not have the specific details on the travel. I believe it is over four hours but I can confirm that to the Committee. Obviously, we have a policy in place that looks at the use of travel, whether that is through flights or through trains. As part of that, we look for local line management to review the application and the use of travel as part of the sign-off procedure.

Where possible, we also encourage the use of hire cars for travel and obviously the use of trains. It is down to a local management decision in terms of the type of travel that is required.

Q4 **Chair:** Your target reduction on carbon for 2014-15 was 2005. I am not interested in going back to 2009—that is ancient history for the purposes of the greening Government commitments. Your actual reductions were 14%, and then you set yourself quite an easy target for 2019-20, which was a 22% reduction, when you had achieved a 28% reduction by 2016. Does it not diminish people's faith a bit when you set yourself an easy target when you have already met it?

Matthew Coats: Perhaps I could come in, Chair. As you say, we are one of the largest Departments. We contribute 20% of Government emissions. We were a Department with a serious carbon challenge problem. We have an estate that has 1,300 properties and 120 of those are prisons, young offender institutions or immigration removal centres. These are really, really difficult institutions to make improvements to simply and there are a lot of balances to strike.

We were under pressure to get a grip on this issue a few years ago, and I think we have. You see a position where we were at 8% in our custodial estate and 23% in our office estate. We have improved that and we are now at 22% overall. We are now meeting our target. We are at 30%, and we are pleased with that. We are not saying that is as far as we should go, but I do think that is a big achievement for a Department that has such a big contribution to make to the Government's success in this area.

We are also showing leadership over the way we operate as an organisation. We are second to none in Whitehall in our use of our estate, so we are well on our way to our 6:10 desking ratio, which is a key leadership issue.

Q5 **Chair:** You are on your way to what?

Matthew Coats: For every 10 people there are six desks, and we encourage flexible working. We have 40 commuter hubs around the country that—

Q6 **Chair:** Does that include prison staff? They are not going to be sitting at desks, are they? Certainly not in Wakefield Prison.

Matthew Coats: No, I am talking about office staff. The point I am trying to make is about the leadership. We are trying to show that there is an organisation that takes this issue seriously, not just in its big set-



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piece projects, but in its day-to-day activities and something where we can build on what we have done. I do not for a second suggest that we should stop where we are on carbon, but I do think that people recognise the progress we have made, particularly around improvements in the prison estate, which have been extremely difficult to achieve.

Q7 Chair: I know exactly how challenging the prison estate is, but can I bring you on to waste reduction? At the moment, you are sending 50,000 tonnes of waste a year to landfill. That is costing you £4.3 million in landfill taxes—£86 a tonne. In 2016 DEFRA changed the waste reduction target to a landfill avoidance target, presumably to keep those taxes down. Your Ministry was out-performing those targets in 2014-15, and you had got to a 30% reduction in 2016-17. We are disappointed that you do not have any targets set for 2019-20, apart from sending less than 10% to landfill. Are you looking at the volume of waste as well as just the targets that you are set by DEFRA?

Carl von Reibnitz: Yes, we are looking at the volume. Our approach is absolutely about waste reduction and waste minimisation before looking at landfill avoidance. Ultimately, following the waste hierarchy—landfill being the least favourable—there is energy from waste, working upwards to reuse and recycling. If I could give you a couple of examples, we have a number of waste management units on the prison estate. The purpose of those is to manage the waste that is entering that waste stream and to segregate and recover what materials we can. In HMP Bure, which employs 12 offenders, on an annual basis they are recovering about 107 tonnes of materials that make it into the waste stream that can be reused on site in those prisons. That is things like clothing that prisoners have put into the waste stream. They are recovered.

Q8 Chair: What about the targets? What is the target?

Carl von Reibnitz: DEFRA and the Cabinet Office required Departments to improve on their 2015-16 performance, so that is what we are focusing on.

Q9 Chair: What is your target for 2019-20 in terms of waste reduction?

Carl von Reibnitz: We have not set a specific target other than what DEFRA and the Cabinet Office have asked us to do, which is to continue to improve. That is what we are focusing on, driving forward as much as possible. Coming back to the carbon target—

Q10 Chair: Are you going to meet DEFRA'S target of less than 10% of your waste going to landfill by 2019-20?

Carl von Reibnitz: We expect to. On the prison estate, which counts for two thirds of our waste, we are already meeting that target, so 90% of that waste is already diverted. For the wider estate, overall we are at 14%, so we are fairly close to that target. In our new FM contract for the non-custodial estate, which goes live in January, there is a key performance indicator specifically around landfill avoidance and requiring



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the contractor to meet that target by 2020. It is very much within the contractor's hands whether they choose to send our general waste that we have not been able to recycle to landfill or to energy from waste, so we are looking to them to support us with that.

- Q11 **Chair:** Is what you are saying that there is no waste reduction target because DEFRA has got rid of it, because central Government are no longer setting a target for you and you do not want to set a target for yourselves?

Carl von Reibnitz: We can look to set a target for the remainder of the period, but we do not currently have a specific waste reduction target other than what DEFRA has asked.

- Q12 **Chair:** Thank you. Let us move on. We are going to go into some detail on your contracts management a little later. Just as a closing to my opening questions, I want to talk about your vehicles. Obviously, this is a big part of your carbon footprint. We have started off with the planes, we have talked about the trains, and we have discovered that just two of your 1,483 vehicles are ultra-low emission vehicles. Prisoner transport vans need to be high-performance vehicles—we are fully aware of the challenges around them—but, realistically, the Committee on Climate Change says that 9% of vehicles need to be ultra-low emission by 2020. We have worked out, just using a bit of maths, that 0.13%—two out of nearly 1,500 of your vehicles—are ultra-low emission. What steps are you taking to improve that? Is this something that is on your radar?

Barry Hooper: It most certainly is. If we look at the vehicles that we have purchased across the fleet, 100% of them have been compliant with the Government buying standards.

- Q13 **Chair:** Are you saying that Government buying standards are the problem?

Barry Hooper: No, not at all; I am merely stating that we have a policy on how we buy vehicles and, if we look at the profile of our estate, it is true that we only have two hybrid vehicles on the estate. In addition, we have 320 battery-powered small vehicles that are also included in the reporting numbers that we have given you. Where possible—

- Q14 **Chair:** Where are they located? What do they do?

Barry Hooper: They are located predominantly across our prison estate, and they are used for transporting material around the prisons. Those are included in our numbers in the return. At the point that we started the renewal process of the existing fleet, the vehicles that we needed to maintain across the estate were not available through the Government scheme. Going forward, we are keen to ensure that we work with OLEV to ensure that vehicles are available that meet our requirements across the estate.

- Q15 **Chair:** Why are these vehicles not available? Are you saying that your



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1,400 vehicles are specialist vehicles? Don't you provide cars for people? Do some of your cars go to people as part of their employment contracts?

Barry Hooper: They do. We have a mixture across the estate. In terms of the numbers that the NAO has reported, we have roughly 283 cars across the estate, 284 minibuses, 266 light goods vehicles, seven medium goods vehicles and 86 trucks. We have 11 car-derived vans, which are specially commissioned and configured. We have 17 4x4 vehicles and 168 secure cell vehicles.

Q16 **Chair:** There is no reason not to have 283 low-emission cars, though, is there? Low-emission vehicles—hybrids—have been around for the last 10 years.

Barry Hooper: Is there more we could do across the estate in terms of vehicles? Absolutely, and we are looking at that as part of our fleet management process going forward.

Q17 **Chair:** What is the turnover for your cars? Is it on a three-year contract?

Barry Hooper: These are vehicles that have been purchased. In terms of the tenure of the vehicles, some of them we have had beyond a three-year term. I cannot give you the details of the age and the profile of the estate, but if you wanted that information I could make it available.

Q18 **Chair:** You are saying that these are vehicles that you own?

Barry Hooper: They are vehicles that we have purchased. That is correct.

Chair: They are not on a hire purchase agreement going back to the—

Barry Hooper: No. We do have a series of leased vehicles across the estate. We have 380 leased vehicles, and that is made up of 335 cars, 37 vans and eight minibuses.

Q19 **Chair:** Not one of them electric?

Barry Hooper: I am not clear where the two hybrid vehicles fit within the estate and what the vehicles are.

Q20 **Chair:** When you encourage people to rent cars to drive, what guidance do you give them on the rental?

Barry Hooper: For hire cars, we are very specific. The current policy that we have for the use of hire cars is that they should be used only when more than 100 miles per day are incurred, or 150 miles over two days, or 200 miles over three days. Below that, we encourage the use of public transport where possible.

Q21 **Chair:** On the hire cars, can you go and get any car? Is it done on price or is it done on emissions? Is sustainability part of your hiring policy?

Barry Hooper: Our standard policy is category B vehicles, and those are the vehicles we have contracted for the providers to provide under the



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contract. Clearly, there will be some exemptions where category B vehicles may not be used, but they are the exception rather than the norm.

Q22 **Chair:** You have a contract with a hire firm for those vehicles?

Barry Hooper: We do.

Q23 **Chair:** Are any of these category B vehicles low-emission or hybrid?

Barry Hooper: I do not have that information to hand. I am sure if we asked the provider they could give us a summary of the types of vehicles that have been used.

Chair: That would be very helpful to us. Thank you very much. We are going to do a deep-dive into carbon now with some questions from Caroline.

Q24 **Caroline Lucas:** Can I go back to aviation for one second? Can I clarify that you have said that you will provide the Committee with more information about what the policy is for when people use planes rather than trains, and also where people are flying to and from? We would really love to see that in a bit more detail.

Barry Hooper: We can make that available.

Q25 **Caroline Lucas:** On carbon more generally, you have achieved a significant improvement in performance on carbon emissions between 2014-15 and 2016-17, but could you break down that improvement for us? In other words, how much was that a result of deliberate decisions targeted at emissions, and how much was it the result of estate rationalisation and other policy decisions?

Matthew Coats: I might ask Carl to come in on the detail. We set about reducing the carbon target overall. We understood where we were, which was that the office estate was the same challenge that everybody else has, and the prison challenge was a different thing entirely. We made faster progress with the office estate and ran ahead in that area for a while, and there was a programme of work that contained awareness-raising on practices, on energy saving, on how we did maintenance in prisons and investment in certain parts of the heating and ventilation aspects of prisons too. It was a comprehensive programme for a couple of years, which we set about doing specifically. Carl, on the stepped reduction, what would we say?

Carl von Reibnitz: It is true to say that the estate rationalisation has been a key part of reducing our emissions, and quite rightly so.

Q26 **Caroline Lucas:** Was it being driven by that as an objective, or was estate rationalisation happening for other policy reasons and it had the happy outcome of reducing carbon emissions? That is what I am trying to understand.



Carl von Reibnitz: Estate rationalisation happens for a whole range of benefits: reducing the cost of the estate, of course, but also making the Government estate more efficient in every sense. It is also about bringing staff together and co-locating staff, rather than having people located in disparate offices because that is just where they have arrived at over a period of time. There are a whole range of benefits and certainly sustainability is part of that.

Beyond estate rationalisation, we have undertaken a whole range of measures to drive down our carbon emissions. Our approach is to reduce our buildings and consolidate into those, and consolidate into more modern, more efficient buildings. Within those buildings, we are then working hard with our facilities management suppliers and our building managers to operate those buildings more efficiently. For example, optimising building temperature set points and more closely aligning heating and cooling operating times to staff occupancy hours.

Also, once we have reduced our demand in that respect, we have a series of carbon reduction programmes, capital investment programmes, which we have run. We had one in 2012-13, 2014-15, and we have one this year. Over the period since 2012-13, through that programme we have reduced our carbon emissions by about 6,000 tonnes. As I mentioned, we have a further programme this year where we expect to reduce it by a further 4,000 tonnes. We have further programmes taking this forward to the spending review period.

Q27 **Caroline Lucas:** That success story presents a conundrum, because my next question is this: in 2016 the Ministry lowered its carbon emission reduction target from 25% to 22%, yet that was a target you were already exceeding and 10% lower than the whole of the Government target. Given that you were doing so well, I don't understand why you reduced your target.

Carl von Reibnitz: I am not aware that we reduced a target.

Q28 **Caroline Lucas:** In 2016 you reduced your carbon emission reduction target from 25% to 22%.

Carl von Reibnitz: We were required to agree an achievable target with—

Q29 **Caroline Lucas:** You were already exceeding it so it was obviously achievable, because you had already overshoot it, so why would you then reduce your ambition?

Carl von Reibnitz: I am not aware, at the point where we proposed the 22% target, that we were already overshooting it.

Q30 **Caroline Lucas:** We have figures here that show the actual reductions achieved by 2016-17 were 28%.

Carl von Reibnitz: That was the annual out-turn.



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Q31 **Chair:** It is on page 20, figure 4. That was the NAO.

Carl von Reibnitz: That was the annual out-turn for the year, but the target was set before that. At the point at which the target was proposed, our performance was not as strong. That 22% comprised a non-custodial and a custodial target. For the custodial element, we were about 8% and we were proposing a 14% reduction. The important thing here—

Q32 **Chair:** No. Before we go on to what you think is important, you said you had set your target before you had achieved your reductions. Is that right? You had set the target of 22%, but you were unaware that you had reduced it by 28%?

Carl von Reibnitz: Yes, because that out-turn, that data up until then—

Q33 **Chair:** Who fed into that target-setting process? Didn't anyone say, "Do we think 22% is achievable?" Surely, you had your figures for 2015-16 that would have shown some improvement. You did not know when you set the target that you had already met it. Is that what you are telling us?

Carl von Reibnitz: Correct.

Chair: Thank you.

Carl von Reibnitz: At the point at which the target was proposed, we did not have full-year data for that. In particular, the winter impacts because, if you get a particularly cold winter, as you know, you end up using more heating, so we were cautious. We chose not to project where we might be at 2016-17. We based our target on the full-year out-turn from the previous year.

Q34 **Caroline Lucas:** That is not very ambitious in that case, is it?

Carl von Reibnitz: We felt it was challenging, as I have illustrated with the challenge particularly around the custodial estate. Their target comprised—

Q35 **Chair:** Sorry to interrupt. Is that still your target now, given that you have met it last year? Do you think it is still reasonable?

Carl von Reibnitz: That is the target we agreed with DECC and the Cabinet Office at the time. We are having conversations, along with all Government Departments, including BEIS, about renewing targets, because Government as a whole have met that target two years early.

The point I was hoping to make was that we have not let the target stifle our ambition. We have driven forward, we have overachieved, and we have plans in place for this year. For the remainder of the spending review period, we have capital budget allocated to these programmes. If the target was felt not to be ambitious that has not held us back in what we are doing on our plans.

Q36 **Caroline Lucas:** That undermines the point of targets, if you are just



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going to ignore them. Targets are there in order to stretch ambition, one assumes. Therefore, taking it to the next point, as I understand it, the Ministry has since forecast that it will achieve a 34% reduction by 2020. Is that right?

Carl von Reibnitz: Correct.

- Q37 **Caroline Lucas:** Will it be revising its formal target? On this target you are just talking about, in your discussions with BEIS, if you have already achieved a 34% reduction, or at least you think you are on course to by 2020, then surely the target would be to say, "Come on, folks. Let's see if we can go a bit more ambitious than that." Is that going to be your strategy?

Carl von Reibnitz: Yes, we will be looking to set a more ambitious target through the conversations with BEIS.

- Q38 **Caroline Lucas:** You think that in your conversations with BEIS you will probably end up with a target that is more ambitious than 34% by 2020?

Carl von Reibnitz: I would expect it to be at least 34%. Of course, we have not achieved that yet. There is still a lot of work to do. As we have said, it is a huge and complex estate. It is 20% of the Government's emissions. We are not there yet, so if we agree to 34%, that is still a long way to go. That would still be a significant achievement.

- Q39 **Caroline Lucas:** As I understand it, the carbon reduction programme has been delayed with not all the planned projects for the 2016-17 financial year going ahead yet. Can we come back to that 34% forecast? How robust do you think that forecast of 34% is, given that there are a number of these planned projects that have not happened in the time period? Forty-six of the 59 projects that were approved in June 2016 for the financial year 2016-17 were completed by July. In other words, another 13 were not.

Carl von Reibnitz: It is fair to say that a number of different factors need to come together for us to meet that 34%—if that is the target we agreed. I have not personally scrutinised how robust that forecasting is.

- Q40 **Caroline Lucas:** Who has?

Carl von Reibnitz: The sustainability team, and our head of sustainability. We are also working with external specialists to help shape our carbon strategy going forward.

- Q41 **Caroline Lucas:** The Ministry has made some progress on biomass boilers but seems to have been slow to take up solar panels, and it has applied for funding under the renewal heat incentive only twice. Why is that? Solar panels are installed on a domestic scale at just four sites. The renewable heat incentive has been open since 2011 but, as I say, you have submitted only two applications.

Carl von Reibnitz: If I take them each in turn, generally I think the correct approach is to reduce your emissions as much as you can before



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moving on to low and zero-carbon technologies. For example, there would be little value in putting solar thermal on top of a prison to reduce your gas consumption if you have not mended the broken windows, or whatever the insulation challenges might be, which is allowing the heat to be lost from the building inefficiently. There are a series of steps you take before you move on to low and zero-carbon technologies. However—

Q42 Caroline Lucas: What about new buildings, though? That would not be the case for new buildings, would it?

Carl von Reibnitz: No, that is correct. As part of our prison estate transformation programme, which is about the new prisons and the new house blocks, there is an expectation that these will be near zero energy, which effectively mandates the use of renewables.

On solar specifically, I have commissioned a technical and financial feasibility of larger scale adoption of solar panels on the MOJ estate. Specifically, I am looking at a 1.5 MW installation at one of our prisons. That is at the very early stages, as I said. It is just a feasibility to understand what is possible, but that is the direction in which I would like to take it.

In terms of the renewable heat incentive, ultimately that is partly reliant on what the district heating provision is available for us to be able to link into. Where we have opportunities—at HMP Risley and Lindholme—we are talking to BEIS about those. We are also, as part of our new build programme, designing to future-proof to enable us to link into district heating networks at low cost if the availability for that heat comes in the future.

Q43 Chair: Thank you. I have a tiny follow-up question. You helped develop a two-turbine wind energy development on the Isle of Sheppey. Why was it sold?

Carl von Reibnitz: I don't know about the specific decision to sell it.

Q44 Chair: Could you write to us about that, please?

Carl von Reibnitz: I could.

Chair: That would be helpful. Thank you.

Carl von Reibnitz: The important thing is that the turbines were built and the renewable energy is being generated.

Q45 Chair: But not counting towards reducing your carbon footprint?

Carl von Reibnitz: Not MOJ specifically.

Q46 Chair: Yes, it is great that you have done it, but then what is the rationale for you doing it if it is just going to realise a financial asset rather than a carbon reduction? That is my question: why is a Ministry resource used?



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Carl von Reibnitz: It is Government making its land available for renewable energy generation.

Chair: All right. Thank you. We will move on.

- Q47 **Anna McMorris:** Although you don't lead on policy responsibility for environmental sustainability, you do have quite an influence on the wider society and as a part of central Government. In February this year the Government introduced a proposal to remove a fixed costs cap on environmental hearings, and the NAO and the House of Lords Secondary Legislation Scrutiny Committee found that the proposal had an inadequate impact assessment and lacked supporting evidence. Why did you, as a Ministry, fail to provide Ministers and Parliament with sufficient information to judge the likely impact of these changes?

Carl von Reibnitz: I don't have an answer for that at the moment, but if I can I will provide that information to the Committee.

- Q48 **Chair:** Thank you. It is a question we would have liked to have put to Ministers, but you obviously draw up these plans for Ministers so we are keen to hear what was behind the decision-making process.

Carl von Reibnitz: What I would say on that change is it was in response to a finding from the EU that changes were required to make the implementation of the law compliant. The changes made were deemed compliant in a High Court judgment in September, and it is too early to make a formal assessment of whether we got the capping right, but the Department has committed to keeping it under review.

- Q49 **Anna McMorris:** One of the key concerns over the change was the chilling effect on meritorious cases. Can you provide comparable figures for the number of environmental cases brought before and after the rule changes to allow us to look at the comparison before and after?

Carl von Reibnitz: The data that was provided to me indicates that there were about 16 claims a month prior to the change, and there are roughly 11 claims a month since the change. There has been a drop. Still, a fairly significant number of claims are being made. It is too early to say what the long-term trend is, and we have committed to keeping it under review and we will look to make that assessment in 18 to 24 months' time.

- Q50 **Anna McMorris:** Would you be able to commit to updating the Committee on those comparable figures?

Carl von Reibnitz: Yes.

- Q51 **Chair:** Can I ask why Mr von Reibnitz is answering this question? Are you responsible for the policy guidance to Ministers? I would have thought that would have been Mr Coats.

Matthew Coats: I was just allowing Carl to answer the detail of it. We will come back on the specifics. Collectively, the way it works at the Ministry is that the estates team takes the lead on advising on



sustainability overall. That is not to say that it is only the estates team's responsibility. The point has been made, I think by the NAO, about it being everybody's responsibility in the way we look at policy and conduct projects. We completely accept that, and we will come back on the specifics of the individual cases you raise.

Q52 Anna McMorris: Thank you. The NAO also found that the Ministry had only addressed environmental implications in two out of seven relevant impact assessments, and guidance from policymakers did not include environmental considerations. What I want to know is why the Ministry is not following central government guidance on environmental aspects of policy making.

Matthew Coats: We do have work to do with this, and we do recognise that we need to relook at this as a key area. We need to make sure that our future impact assessments invariably include sustainability where that is appropriate, make sure that we raise the knowledge of policymakers across the board on what the requirements on the Department are, and educate and support them in discharging that. Even more importantly, we need to make sure that those impact assessments are used when reviewing policies and taking choices within the Ministry. We accept that and, as part of a wider review of our policies and procedure in this area, we will be taking action on that.

Q53 Anna McMorris: You have a plan going forward on that?

Matthew Coats: We do, yes.

Q54 Anna McMorris: Is that led from the top, from the Minister?

Matthew Coats: Yes. On the broader review and our response to the NAO, we are going to do three things. First, rather than relying on the estate's property board or equivalent to monitor the targets, I think we need to institute a more senior sustainability board that I will lead and report to Ministers on regularly. We need to make sure that the processes within the Department—the processes for holding to account that have been commented on—are broad and, by definition, we have concentrated on carbon over a couple of years. We need to make sure that the information, whether it is in my holding to account of the estates function and colleagues, or whether it is the permanent secretary in his holding to account of me, sees the whole picture of all of the sustainability measures and targets. We also need to make sure that the sustainability has a higher profile in the Department's key plans and documents. We do accept that progress is needed there too.

Finally, we are reviewing the more detailed policies and procedures within estates and beyond to make sure that all of the things that are done are properly captured. I am sure we may come back to that on other questions. We want to make sure that impact assessments are properly executed and subsequently used, and make sure that all of that review is driven home by the board and advising Ministers of what they need to



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support too. Yes, we do have a plan to respond to the challenges and to take action on that.

Q55 **Chair:** Thank you. Mr von Reibnitz, can you give us the cases before and after the change? I heard the 11 but I did not hear the original number.

Carl von Reibnitz: Sixteen a month.

Chair: Sixteen. Thank you. I had 18, so thank you for clarifying. We are going to move on to some questions from Matthew, developing your theme, Mr Coats.

Q56 **Dr Matthew Offord:** The Government have committed that, using the Building Research Establishment environmental assessment method, all new buildings should achieve the award of excellence and that refurbishments should be very good. With evidence submitted to us, the Ministry does not appear to have any active monitoring assessments in place. Would you like to comment upon that?

Matthew Coats: I will ask Carl to pick up on the specifics. On the third point I made about the review of policies and procedures, what we do accept is that we need to capture all of the work that is going on, whether it be on the specifics of construction or building or indeed the work that we do on ecology. The review that we are going to do and are doing will capture that.

Carl von Reibnitz: On the specifics of the certification, we recognise that we should have been more proactive in securing and recording receipt of our BREEAM certificates. We have retrospectively applied for certificates where they were not held, and we have already amended our processes in this area. I am confident that we will not be in this situation again.

Q57 **Dr Matthew Offord:** When you say you should have done, the Government have made their ambition clear, and politicians are often criticised for not achieving what they said they would do. In this case, it appears that the Ministry has let politicians down; let the Department down.

Carl von Reibnitz: The three examples that the NAO used of the new prisons demonstrate that, while the final certificates have not been obtained yet, we are absolutely on course for meeting the required standards. If we look forward to the prison estate transformation programme, which is about our new prisons and house blocks, we have a really strong commitment, aspiring to an "outstanding" standard, with "excellent" as an absolutely minimum, so going beyond the Government requirement.

Q58 **Dr Matthew Offord:** You have mentioned prisons but also, with regard to courts and tribunals, the Ministry's data itself shows that 97 of the 151 projects did not receive any final environmental ratings. Mr James, was that your area?

Tim James: I am courts and tribunals.



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Dr Matthew Offord: I am talking about courts and tribunals, yes.

Tim James: Could you repeat the question, please?

Q59 **Dr Matthew Offord:** For courts and tribunals, and indeed prisons—of which we have mentioned three—your figures show that 97 of the 151 projects did not receive final environmental ratings.

Tim James: Certainly, of the new build projects that were completed some years ago, we did achieve the BREEAM ratings. I would need to come back to you on that detail.

Q60 **Dr Matthew Offord:** Thank you. If you could, that would be very helpful.

I also understand the Ministry has available a strategy on biodiversity, a sustainable operations policy and a strategic plan for the management of the estates. Where could the Committee have access to those documents?

Matthew Coats: We are reviewing our overall policy at the moment in the light of the NAO review, this hearing and, indeed, any findings that you might make. We will be developing a sustainable operations policy with specific elements around carbon and energy, biodiversity, and ecology and environmental standards. We intend to publish that on gov.uk before the turn of the financial year.

Q61 **Dr Matthew Offord:** As you have mentioned carbon, I understand, Mr Coats, that you are the Department's sustainability champion in general, and the NAO found that you were very eager to address the issue of carbon. Will you be looking to expand your area of interest following the result of the NAO report?

Matthew Coats: I might say that the NAO report did give us plenty of areas to follow up with. It was thoughtful and constructive, so thank you to Katy and her team. I don't think we should apologise for our focus on carbon. We had a difficult job to do, and we have made good progress on it and we have not neglected other areas. We are working away—as comments have come out already—on waste, landfill, recycling water, flights and paper. We do have a very complicated estate. As you have said, it is not just prisons; it is courts as well and there are particular challenges in those areas. But we have not neglected progress. I will give you a couple of examples: introducing rainwater harvesting in prisons, or recycling our 34,000 mattresses. All of these are significant things that contribute to the targets themselves, and we need to bring out more strongly the work that we have done on all of this.

That said, you are absolutely right that we need to redouble our efforts across the board. We have made progress on carbon. We should go further and we need to work towards the targets in the other areas, too, and that is our commitment.

Q62 **Dr Matthew Offord:** You mentioned the example of sustainability, but



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you also mentioned paper. In the evidence given by Oliver Letwin on 6 March 2013, when he was in the Cabinet Office, I asked him how particular Departments had been achieving sustainability. One of the things he talked about was paper. He singled out your Department and said, "The Ministry of Justice has put a great deal of effort into the question of structuring the criminal justice system to try to reduce, for all sorts of reasons, the positively humongous amount of paper that is involved". You mentioned that paper reduction had been achieved. Could you give us an indication of how that is achieved? If you are not able to give us figures now, perhaps you could write later to tell us about the reduction in paper.

Matthew Coats: Of course. Barry, do you want to answer?

Barry Hooper: Yes. We have reduced our total usage of paper, in reams, by about 32%. As Matthew mentioned earlier, part of that has been attributed to the work we have been doing around the use of applications across the estate. For example, as a Department we have been piloting OneDrive and Office 365, putting more documents into a shared environment that people can access easily.

You will see from the NAO report that our compliance on paper previously was quite poor. We found that the specification of paper that was put forward by the Government Crown Commercial Service had operational problems for us with the machinery we had across the estate. Since then, the Crown Commercial Service has moved to new, different types of paper that we have piloted across the estate and, where we are buying paper through the central Government contract, we now have full compliance to that buying standard on paper. On the numbers that we reported previously, we are looking to see a dramatic increase in terms of our performance on paper.

Our overall reduction on paper is due to a number of things. It is the introduction of new technology. It is also looking at some of the technical advantages, with printing devices, looking at print on demand, looking at people putting in PIN codes to monitor the usage by individual. Again, there are a lot of behavioural things that we have put across the estate that have had a big impact on overall paper usage.

Q63 **Dr Matthew Offord:** Thank you. That is very helpful. This is my last question. I understand that your sustainability team within the Department has six members covering seven Departments. Is that enough?

Matthew Coats: We are looking at that at the moment. I think we should commit more resource to this issue, and we can probably do that in three main ways. The first, as you alluded to, is the size of the core central team, which is not the be-all and end-all of our efforts, as you will appreciate. We are reviewing that at the moment and our initial thinking is that we should increase that by 50% in the near future to create a larger team.



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Equally, it is not just how many; it is who. The team and its leadership has made considerable progress, in the last 12 months or so, in professionalising that team as well and bringing in the right people, not just numbers. I do think we should have a larger team in that area, yes. We also need to increase the amount of resources focused on this issue by being more imaginative about what we ask our suppliers to do. In our new FM contracts we are seeking to give them more responsibilities, move more responsibility in the supply chain and, therefore, drive up the amount of resource and focus we have on the issue.

We also need to be an even more appealing proposition within the Department of how to get involved. One of the things I fear we have probably not got across yet is some of the energy and passion that exists, particularly around ecology. We have a network of more than 180 people who have clustered around a really brilliant person that we have in the Department, and we need to give that more voice over time.

I would completely accept that we need to increase the level of central resources, but that cannot be the whole story about a Ministry facing up to and tackling these challenges.

Dr Matthew Offord: Okay. That is acceptable.

Q64 **Chair:** Can I come back to the BREEAM standards, please? You said you are absolutely on course to meet the required standards at HMP Berwyn. That is the first new prison to be built and operated by the public sector for 30 years. On page 22 of the NAO report, the scores for HMP Berwyn imply a "very good" rating, and the requirement in Government guidance is "excellent".

Carl von Reibnitz: Some of the data available to support the "excellent" was not available at the time of the NAO report. Our independent BREEAM assessor has submitted evidence to BRE to support an "excellent" rating, and that is the rating we expect to receive.

Q65 **Chair:** Has that just come about because the NAO was in and you suddenly realised it had not happened, or was that in process anyway?

Carl von Reibnitz: No. We were already undertaking a review of our application of the BREEAM standard.

Q66 **Chair:** What about these other two thirds of your projects? This is Government guidance. You are the Ministry of Justice and you are not meeting the Government's guidance. It is a bit embarrassing, isn't it? You are the Ministry tasked with upholding the law, and yet you are not meeting your Government's guidance on environmental standards.

Carl von Reibnitz: As we have said already, the prison estate is uniquely challenging and complex, and it is not always easy to apply the BREEAM standard in a prison context. For example, in developing new buildings or even refurbishments within an existing prison, there are a



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number of considerations, such as safety and security, which must take an overriding precedence.

Q67 Chair: Of the 54 projects that did receive a certificate, 30 were “excellent”, so why are the other 13 not “excellent”? That is what we cannot understand. We totally understand prisons are difficult places to manage, and I have a 300-year-old prison in my own constituency, so I do understand the challenges of managing very difficult people in very closed environments. A new build is, “Here is a greenfield site.” Thirty of these projects got the BREEAM. Why have 13 of them not, and why are some of them falling through the cracks? We are trying to get to systems here.

Carl von Reibnitz: I do not have the specifics on the 13, but they would not have been new prisons; they would have been new buildings within existing prisons, with the constraints within that. As I have said, we have changed our processes and we have far better systems for monitoring BREEAM compliance. We have also drafted a new policy around BREEAM to make it really clear for everyone where we are aiming for. It makes it a specific requirement, for example, to obtain a post-construction certificate, which the Government standards are specific on.

Q68 Chair: Does that policy reflect the Building Research Establishment’s bespoke methodology for prisons? They have developed, in acknowledgment of your specific problem, a bespoke methodology for you. Are you aware of that?

Carl von Reibnitz: I am aware of it.

Q69 Chair: Does your new guidance reflect those new methodologies?

Carl von Reibnitz: We are in discussion with BRE about agreeing an approach for the new prison programme. I think that was agreed a while ago, but I do not know the specific date off the top of my head. For example, we are looking at whether it right to assess the prisons on a building-by-building basis or on a site level. There are some really fundamental things to get to grips with on how we should be approaching the assessment methodology in the prison context.

Chair: Thank you for your clarifications.

Q70 Alex Sobel: Tim James, on that same point on BREEAM ratings, between 2010 and 2016 you built four new projects, and three were “excellent” but one was not. That is 25%. That is quite a high percentage of not excellent. What are you doing to bring projects up to “excellent”, and is there a cost in meeting targets to your service?

Tim James: We are working on a new design guide for courts and tribunals where, for new builds, BREEAM “excellent” would be our base position. We would aspire to go further, but we would take “excellent” as a base position, and again “very good” for refurbishments. There have been no new court buildings built in the period you mentioned, so those would have been refurbishments of existing buildings.



Q71 **Alex Sobel:** Why are refurbishments only “very good”? Why not try to aspire to “excellent”?

Tim James: The challenge with an existing building is that there will be constraints with the fabric and possibly the building systems of an existing building, which are much more challenging to address than when a building is being built from the ground up.

Q72 **Chair:** Of the 77 projects with no environmental rating, has that now changed since the NAO report?

Carl von Reibnitz: We have requested the certificates. I am not sure whether we have received them or not. I can find that out for you, but I don’t know that we have—

Q73 **Chair:** Some of this goes back to 2010. They have done a look back over six years, so you are basically now in the process of acquiring?

Carl von Reibnitz: Where appropriate, we are in the process of acquiring retrospective certificates. We probably would not go that far back, but—

Q74 **Chair:** Of those 97 projects, only 20 have received an interim rating. Does that mean that for 70 this was not even part of the agenda?

Carl von Reibnitz: I don’t know the specifics on those projects. I have recognised, and as a Department we have recognised, that we have needed to change our systems to get far better at the application of BREEAM.

Chair: Thank you very much. We are going to carry on now with some questions on sustainability.

Q75 **Anna McMorris:** Although overall there might be an improving picture in sustainability and improving new buildings, a new prison building programme, when you are looking at existing prisons there are four Prison Service instructions: packaging, waste, disposal of hazardous waste, and waste management. They expired more than six years ago. How is that going to work? Are they going to be renewed? If so, when are they going to be renewed?

Carl von Reibnitz: We have drafted a new sustainable operations policy framework, which is to replace those four Prison Service instructions. The four are dated, but they are still available and in place. They will be replaced by this new framework. The new framework pulls together into a single place all the different sustainability requirements for governors. It not only sets out what is required of them, but goes into some detail of how to achieve those requirements. It has a wide-ranging focus, so it incorporates all those other areas. It has waste, water, energy, biodiversity and data reporting. We are looking to introduce that in 2018, and that will replace the existing ones.

We are also working with governors to provide them with better information to help them understand how well they are performing, so



they can monitor and target where there might be less efficient activities. We are also working with University College London, which is undertaking some energy benchmarking, so that we can understand what “good”, “poor” and “average” look like in the prison context. Again, we can learn from the prisons that they find are performing well and apply that to those that are performing less well.

- Q76 Anna McMorris:** You do not set individual targets for individual prisons and, as you suggested there, you want to try to give individual prison governors greater freedom to set those targets and run their own prisons. We know the huge pressure that prisons are under. What incentives then are there to introduce greener practices and more sustainable practices for these individual prisons? Are there plans to introduce targets?

Carl von Reibnitz: I would need to review the outcome of the benchmarking work to understand how easy it will be to apply specific targets to specific prisons but, in terms of whether they have more autonomy, those prisons will be subject to the same requirements as all other prisons. They will still be required to meet the sustainable operations policy framework.

- Q77 Anna McMorris:** To go back to the BREEAM rating and the new prisons, you have HMP Berwyn, which did not receive final environmental ratings, which we have touched on. As you will know, behaviour and how you use a building is very much integral to its sustainability. What are you doing to encourage that in new build and BREEAM “excellent” buildings?

Carl von Reibnitz: I think that I am right in saying that, as part of the prison estate transformation programme, the environment they are trying to create for prisoners is more rehabilitative, so encouraging them to engage with the environment around them, rather than it being so stark an environment for them. We are giving them control of temperature in their cells—that is the intention—within a range, so encouraging them to reduce temperature and, therefore, energy consumption where they are able to. We are trying probably quite a radical approach to encourage prisoners as well to buy into our activities.

- Q78 Anna McMorris:** Do all of these buildings sit in isolation in the community? You could be an exemplar and also, by working with the community, encourage greater progress towards sustainability within the whole community.

Carl von Reibnitz: At Berwyn there was a significant amount of community engagement. I think the project was nominated for some community awards. That is something that is very much in our minds as well.

Anna McMorris: The sustainability?

Carl von Reibnitz: Yes.



Barry Hooper: Berwyn is a great example where we have looked at sustainability in its broader sense. If we look at some of the targets that we set ourselves on Berwyn, looking at committing spend to the SME market within the local jurisdiction, we set ourselves a target of £50 million as part of the construction process with Lendlease and we achieved £83 million of spending in the local community. If we look at local committed spend, we made a target of £30 million and we were able to demonstrate £38 million in terms of the wider impact.

It goes so much further than that in terms of our impact because we have also looked at employment of the local workforce, looking at where people get employed. We set ourselves a target of 50%. We achieved a 54% target. When we set these, they were really stretching targets. In terms of work placement days, we looked to provide 500 work placement days for people in the local community. We actually provided 2,175. We are also supporting the wider Government approach on apprenticeships schemes, where we made 100 apprenticeships available and also, in terms of community days, getting the community involved in the prison and coming in for open days. We made a commitment to do three of those, and they proved to be so popular. I know Russ Trent and the team on site facilitated eight open days. More broadly, they have done open days for people outside of the local community as well.

Q79 **Anna McMorris:** In terms of financial investment into the community, broadly that is great for the wider community and encouraging that. In terms of sustainability and environmental protections, what have you done for the wider community?

Barry Hooper: It depends through which lens you look. One of the things that I have personally found over the last two years of being in the MOJ is that, when you go out and look at some of the prisons and what we are doing, we are doing things all the time on the ground that to a great extent go under the radar. For example, we are making investments in things like the big hammer machines that are taking food waste from prisons and turning that into compost that is used in the local prison.

Q80 **Anna McMorris:** So that is in Berwyn, in Wrexham?

Barry Hooper: We have it in a number of sites across the estate—Kirklevington and Holme House are the two where we have that in place.

As Matthew mentioned, we also have the contract for the provision of mattresses. Historically, the mattresses and pillows that we had were of a material that, once they were used, were disposed of, and they were generally put into landfill. If I look back at the numbers on the previous contract, we had 34,000 mattresses and 30,000 pillows that were put into landfill. By changing the specification, looking at how we use mattresses and how we consume them, by putting a wipeable material on them, we have now reached a position where we do not send them to landfill. What we do as a result is, once the mattresses and pillows have



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been used, they then go through an on-site facility where they are composted down and made into material that can be used in underlay. Again, they are really good examples where we have embedded things into day-to-day operations but also then used the by-product to support the local community and industry.

Q81 **Chair:** What is the life cycle of a mattress?

Barry Hooper: I don't have numbers to hand, I'm afraid. As mentioned before, on the previous contract we purchase roughly 34,000 mattresses and 30,000 pillows currently.

Q82 **Chair:** A year?

Barry Hooper: Annually, correct. Before 2009 we were purchasing roughly 50,000 mattresses and 47,000 pillows. Unfortunately, a very small proportion of them do get disposed of as part of chemical waste, but where they are not they are recycled through the current process.

Q83 **Alex Sobel:** Earlier this year we did a hearing where we heard that there was a cross-Government group on overheating in new buildings. At that hearing we were told that the Ministry of Justice does not sit on the group but the Department of Health does, which has similar challenges. Are there any plans to be involved in that work?

Carl von Reibnitz: Yes. The Ministry of Justice is due to attend the next meeting.

Q84 **Alex Sobel:** That is great. What engagement have you had with DEFRA on the national adaptation plan on overheating?

Carl von Reibnitz: I don't have that information to hand at the moment.

Q85 **Alex Sobel:** I was going to say something about technical standards but obviously, if you don't have that, you will not have the technical standards. You can write to us about the technical standards you intend to apply to new prisons. Have you done any research on the impact of high temperatures on living and working conditions in prisons?

Carl von Reibnitz: Yes. As part of the new prison programme, we have been modelling a range of climate change scenarios to be mindful of and militate against overheating in prisons. We are also looking at the 2017 climate change risk assessments, and we will be looking at the UK climate predictions for 2018 to inform how we approach this design programme.

Q86 **Alex Sobel:** What do you think are the main risks to your estate from climate change?

Carl von Reibnitz: Overheating and potentially low rainfall, so we are already adopting rainwater harvesting in a number of prisons. We are looking to incorporate that more where possible, and I suppose flood risk would also be a potential risk.



Q87 **Chair:** You talked about climate control in cells. Have you taken steps to avoid overheating in the new builds?

Carl von Reibnitz: Yes. As part of that new programme, there is a specific sustainability theme to ensure it is embedded throughout the programme and there were two specific targets around climate change, one about specifically overheating, yes, and one more generally about the climate change risks and assessments and militating against those.

Q88 **Chair:** Has overheating been a problem in any of your prisons?

Carl von Reibnitz: I don't have the answer to that.

Chair: If you could write to us on that, that would be very helpful. Thank you.

Carl von Reibnitz: Of course.

Chair: Anna. We are going to move on to sustainability and your SSSIs.

Q89 **Anna McMorris:** You have 10 sites of special scientific interest, with eight in unfavourable condition, seven recovering and one declining. By 2020 you have said you are committed to having at least 50% of your sites in favourable condition, so that would mean three more just this year, with a month to go. What are you going to do to improve biodiversity on your estate?

Carl von Reibnitz: It is three more by 2020, isn't it?

Anna McMorris: Yes.

Carl von Reibnitz: We have identified three that we think we can take to a favourable condition—I think you have been provided with a document to support this. There is HMP Frankland, where we are working more closely with our facilities management provider, looking at wildflower meadows and how we maintain the site generally; Snaresbrook Crown Court, again working with the FM provider and ecologists to draw out the key actions from the site management agreement; and Prescoed, where we are working with Natural Resources Wales to agree the actions.

We have taken a number of steps to ensure better management and review of SSSI condition, so we have now introduced quarterly reporting to our senior estates board about the condition of those SSSIs. We have a refreshed biodiversity policy and we are publishing our first annual report on ecology shortly, which will also help raise general awareness about SSSIs and biodiversity more generally.

Q90 **Anna McMorris:** The SSSI action plans do not mention a target condition for each site by 2020, although maybe that is what you are referring to publishing shortly?

Carl von Reibnitz: Yes.

Q91 **Anna McMorris:** You do not outline many specific and measureable



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actions to be taken, so is that what you are referring to?

Carl von Reibnitz: That is the process we are going through at the moment, so for each block of SSSIs we have a site management agreement, local biodiversity action plan, a habitat action plan and a species action plan. All of those have been agreed with the relevant statutory body—be that Natural England or Natural Resources Wales—and we are now working through each of those to identify the specific steps we need to take, because I think biodiversity 2020 is 50%. I would like to better that. I would be reluctant to make a commitment right now, but I am personally looking at how far we can go and what it would take to get many more of our SSSIs into that target condition of “favourable”.

Q92 **Anna McMorris:** Feel free to make a commitment now to us. That is absolutely fine.

Carl von Reibnitz: I would be reluctant to until I have looked at the data and looked at what steps there are because, as I think you have alluded to, SSSI is about natural ecosystems and it is not just something you can throw money or resources at; it is about looking at the specific nuances of each site. By virtue of being SSSIs, they are fragile, and we recognise either protected species or habitats of significance, so we need to look really carefully at what the steps are and be realistic about what we commit to.

Q93 **Anna McMorris:** There was an orchid meadow destroyed at one of your immigration removal centres, and that was a SSSI. Have you put any measures in place subsequently to make sure that absolutely does not happen again at any of the other sites?

Carl von Reibnitz: Yes. We are working far more closely with our facilities management providers, so they are really clear on the requirements of maintaining SSSIs. It is already included in the prison facilities management contract and there is a related KPI, but clearly having contracts and KPIs in themselves do not stop these things happening. We have also developed specific guidance about the types of activities that might damage an SSSI, so we have circulated that to those who look after them. We are also looking at making training mandatory for all those responsible for maintaining SSSIs.

We are increasing the frequency of our own visits, so I think Natural England visits these sites once every six years. We are looking at visiting these sites at least twice a year, and that is the principal ecologist visiting all of them. We are working with the ecologists from each of our facilities management providers, building better links with them so that we can approach this together to work through what the actions are to safeguard them better.

Q94 **Anna McMorris:** The National Audit Office described your records on SSSIs as “incomplete”. You have described your work in training and reporting, but what are you going to do to track the performance of SSSIs in a more complete way?



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Carl von Reibnitz: Before the NAO audit I had already identified that we were not sufficiently reviewing them and I had already taken steps, so that is the quarterly reporting to the senior estates board on their progress and status. The NAO found that we were not doing that historically, but it also found that we had introduced that measure already.

Q95 **Chair:** Mr Coates, you are the sustainability champion and I am concerned that this is all happening on your watch. The NAO in their report to us said there were no minutes of the meetings that you had in your role as sustainability champion, either with the head of estates, no minutes of the biannual sustainability meetings that you have with the permanent secretary, or that the permanent secretary has with the head of estates, and no examples of meetings where you had prompted specific outcomes on sustainability. What are you doing to get a grip?

Matthew Coates: There are two things that I would like to raise. First, just returning to what I said before about the review of our procedures, and the second point was to make sure that we did improve our holding to account, our performance management arrangements, and I have already made specific commitments about making sure that we do that. I also completely accept that we need to improve our record keeping in this area and to be able to show evidence of the good work that does go on, and hopefully we have given you some evidence of that today.

In terms of the broad role, I see my role as to build capability, drive performance and spearhead this issue. I am pleased with the development of the central team, the professionalisation and the focus that has been brought, although, as I answered earlier, I think we could improve there too.

Sustainability, if we step back further, should be in our DNA as an organisation and it should be evident in everything we do. Clearly there are examples where that has not been the case, but I do think we have taken very big steps over the last couple of years to make this a first instinct. I see a Department that is passing a critical point where this is a default position in what we consider and we are very keen to follow up on the examples where we have not done that, in terms of impact assessment or other documentation. We do want to go further than we have gone already. I think the NAO report is a very helpful prompt.

As Carl has said, we have already been working on many of the issues, but particularly on how we capture some of this and how we drive it. I think we have some good pointers there. That is our intention and I want to capitalise on the progress that we have made to make further progress.

Q96 **Chair:** Thank you. We have heard that you have missed the guidance on some of the BREEAM standards, and I want to turn now to the performance of the Courts and Tribunals Service, which has been shutting down its courts in towns and cities across the country, including



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my own city, where we have an old Crown Court building that is about to fall down on a main A road through the city centre. Obviously, that was before your time—I am not holding you accountable for that. I was particularly interested, from an environmental point of view, because this is where people live and shop and get access to justice. That court closure programme has meant you might have shut down your carbon footprint in a leaky old building but the carbon footprint of my constituents in travelling from Pontefract and Wakefield to Leeds to get justice has massively increased, so you have potentially externalised the carbon footprint through the court closure programme. How has the Ministry improved its systems to ensure that you follow the rules of Heritage England when selling off courts?

Tim James: We do ensure that we follow the guidance from Heritage England. It is embedded in the processes that we have in place with our agents. When looking at a disposal we are very thorough in the amount of due diligence that we do, in preparing the property for sale and in scrutinising the credibility and experience of the prospective purchasers, so that those purchasers are going into that purchase with their eyes open.

Q97 **Chair:** If you are following Heritage England's guidance, why in a parliamentary question to me do you say that you do not hold records relating to the historical significance of a Court, other than its listed status and whether it is in a conservation area? You do not have any other records on the impact of that building on the streetscape, so do you just look at listings and conservation?

Tim James: That is correct, yes.

Q98 **Chair:** Information about whether courts have been sold between 2010 and 2015, and whether they were located in conservation areas, has not been recorded. This is a parliamentary question to me that I tabled on 7 November as a result of this report, so you don't know how many of them were in conservation areas?

Tim James: I don't have that information, no.

Q99 **Chair:** So you don't know about conservation; you just know about listing, is that right?

Tim James: I don't have information about the conservation area status of courts that were sold in the previous few years.

Q100 **Chair:** But you do now? That has changed since 2015?

Tim James: We can obtain information about the number of courts that we have in conservation areas currently. I do not have that to hand with me.

Q101 **Chair:** This has a huge impact on dozens of cities and towns across the country. The report says that you don't yet have adequate arrangements to protect heritage in your disposal programme. You met with Historic



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England in 2015, as a result of the consultation on court closures. Did they raise concerns about the court closures programme? Is that why that meeting took place?

Tim James: As I understand it, the meeting took place as part of good practice to engage with Historic England before we went any further with court closures, which may involve buildings of historic significance.

Q102 **Chair:** When the NAO spoke to key staff members during the review, they found that they were not aware of Historic England's guidance, which all Departments must follow when selling historic property.

Tim James: Yes. We have rectified that now.

Q103 **Chair:** Okay, but you only found out because the NAO came in?

Tim James: I think in practice we were following the spirit of the guidance, and certainly the agents that we have in place were aware of that, but we did not internally, as a newly-formed function, have sufficient awareness of it. I accept that.

Q104 **Chair:** The courts have been sold off for the past seven years, so what you are saying is that the service has not been aware of their statutory guidance, so once again the Department tasked with upholding the law is potentially in breach of Government guidance in this area.

Tim James: I don't believe that we did breach the guidance. I believe that the agents that we have been continuing to use for the disposals were aware of and following that guidance. As a new function, we were a little behind the curve in our own internal understanding.

Q105 **Chair:** You do not believe or you don't know? You say you don't believe, but the point is that you don't know, do you? That is what my parliamentary questions have discovered: you don't know what was in a conservation area for the past five years.

Tim James: I don't have that information.

Q106 **Chair:** Mr Coats?

Matthew Coates: I don't either, I'm afraid. We will clarify that.

Q107 **Chair:** You are ultimately responsible for HMCTS, are you not?

Matthew Coates: HMCTS is a joint venture between the Lord Chancellor and the Lord Chief Justice and—

Q108 **Chair:** This falls under your purview as head of sustainability?

Matthew Coates: Indeed, and we will clarify this in response.

Q109 **Chair:** You know that you have sold 23 listed buildings since 2010 despite that guidance, you being unaware of that guidance?



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Tim James: I don't believe fundamentally that we were unaware of the guidance in the practices that we were following. I believe there may have been insufficient awareness in the team of certain documents.

Q110 **Chair:** Have any of those buildings that have been sold required any civic or local intervention to ensure proper management of them since their sale?

Tim James: I am not aware that has been the case.

Q111 **Chair:** But you cannot guarantee that they haven't?

Tim James: I cannot guarantee that they haven't. What I can say is that what we do now is go through a very thorough process with prospective purchasers to ensure that they are fully aware of the obligations that they would be taking on with an historic building, in the context of changing the use, redeveloping and investing in that building. We do a lot of work with local planning authorities in order to establish planning guidance, so that prospective purchasers understand the areas where local councils would be prepared to grant consent, so they are focusing their activities in the right way. We are looking for successful developers and successful developments, because we are typically selling land at a base figure and then, if there is any enhanced value that comes from the sale, typically in our contracts we have part of that. It is in our interests to make sure that we are selling properties to people who have the right experience and who can deliver.

Q112 **Chair:** Can you let us have a list of the 23 listed buildings that you have sold since 2010?

Tim James: Of course.

Q113 **Chair:** Thank you. Do you have a figure on how much you have had to spend fixing issues with vacant court buildings, because obviously some of them you haven't managed to sell? Just the money you have spent on their upkeep.

Tim James: I don't have that figure to hand but we do have figures on the amount of money we have spent on vacant buildings, yes.

Chair: Thank you. That would be very helpful.

Q114 **Dr Matthew Offord:** I am sure you will be aware that the Ministry is one of the largest consumers of goods and services within the civil service estate. It spends almost £5 billion a year on goods and services, to ensure that Government Departments were acting sustainably. The Government has introduced buying standards for 11 product areas, which I am sure you will be aware of, including paper, timber and food standards. How confident are you that the Department is complying with those standards?

Barry Hooper: In terms of the application of the standards, I am very confident that we have applied them. If we look at our annual reporting, for 2015-16 our furniture, transport and construction was 100%



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compliant, our food was 99% compliant, and our office equipment and ICT was 98% compliant. As we mentioned earlier, the area where we did fall down was around paper and we have taken steps to rectify that.

Q115 **Chair:** On paper, you said it was something to do with your vehicles? What was the story?

Barry Hooper: That was printing machinery, so across the estate we have various devices for printing, photocopying and things. We had an issue with the specification of the paper and the performance of some of those machines, so as a result we reverted to a paper that was of Government standard. We have been working with the Cabinet Office to look at the issues we had. We have been working with the Crown Commercial Service, and, as a result of wider reviews, they have changed the paper products.

Q116 **Chair:** Across Government?

Barry Hooper: Yes, and we are now compliant with our paper stock.

Q117 **Dr Matthew Offord:** You mentioned that you are quite confident, but for the Government buying standards of your 912 contracts only 127 comply.

Barry Hooper: In terms of where they apply, I am confident.

Q118 **Dr Matthew Offord:** What about the others?

Barry Hooper: I think we have to look at this in the wider context. Recognising that we are 10% of Government spend, we have a big responsibility to step up to the plate, not only in leadership but in how we apply that to our contracts.

One of our key challenges is that we have a number of contracts that have fairly long tenure periods, so where contracts have come up we have taken a very detailed review of those contracts and our performance on those. As my colleagues mentioned earlier, facilities management is one of those areas where we have gone above and beyond the requirements within the current Government standards. We have been working quite closely with the Crown Commercial Service to look at establishing a new framework for environmental performance within those contracts. Equally, as mentioned, mattresses is another example where we have done that, so as contracts come up for review we are looking at it.

If I am honest, one of the big challenges that we have is the policies on how we set the policy, the controls that we have across the organisation and how it supports that as an area of focus across Government.

Q119 **Dr Matthew Offord:** With the basis of this 700 to 800 contracts that you do not have the information for, are you really confident?

Barry Hooper: In terms of the common goods and services that are available through the Crown Commercial frameworks, yes, I am confident that they are compliant. We produced a report in 2015-16 that gave us



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that evidence and, while the requirement to produce continued reporting on that is no longer a requirement from DEFRA, I still have the ability through our systems to track the spend against those contracts.

Q120 Dr Matthew Offord: Is it fair to say that you only track the performance on five of the 11 standards within the Government procurement levels?

Barry Hooper: There are a number of things across Government that we are looking at, so although I sit within the Ministry of Justice, I am part of the wider Government commercial function. As part of that, I am also looking at a broader review of contract management standards across Whitehall. Based on the evidence and the processes that I have seen to date, I don't think there is enough emphasis on sustainability in the contract management framework. As the lead across Whitehall, part of my responsibility is to look at how we start to provide some thought and leadership into that space, how we start to think about the wider obligations of sustainability across both the commercial functions and the operational areas, to look at increasing what we are doing to track our performance in this space.

Q121 Dr Matthew Offord: But there are still six performances that you do not track.

Barry Hooper: In terms of the Government standards?

Dr Matthew Offord: Yes.

Barry Hooper: As far as I am aware, on the reporting that I have been provided by my team, at the moment we are compliant with the Government standards. If there are specific areas you would like me to look into, I am happy to.

Q122 Dr Matthew Offord: I know that DEFRA has changed its reporting format but, equally, we would expect you to continue with your own reporting arrangements. But from the figures that we have been supplied, you don't seem to know how you performed against the buying standards in 2016-17; the information on print paper, other paper, food and catering, vehicles and furniture, sustainable construction and timber are not known.

Barry Hooper: In terms of the specific reporting for 2016-17, as the Ministry of Justice we have not reported on those figures. It is not that we are not doing the work behind the scenes to look at doing that. Again, I think there are some really good examples. If we look at the purchase of wood products, we see that so across our prison industries we manufacture on site within prisons furniture that goes into prison establishments. I have seen evidence, through the work that we have been doing in prison industries, that one of the manufacturing processes for cabinetry creates a by-product, and the by-product is this non-flammable material. We had a business case put forward by the prison to look at investing in capital machinery to turn the by-product from the manufacturing process into skirting boards, so again there have been



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some really good examples of where we have looked at opportunities that exist, where we have secured funding and made funding available for other industries that also reduce the impact that we have in certain contracts.

Chair: With respect, that is anecdote, not evidence, isn't it? The question was about the data. Mr Coats, why is the data not there?

Matthew Coats: This is on the tracking of the six out of 11?

Q123 **Dr Matthew Offord:** I mentioned office ICT, print paper, other paper, food and catering, vehicles, furniture, sustainable construction and timber.

Barry Hooper: In terms of food and catering, that again is another good example of where we have been working very closely with DEFRA. We have worked with them on the buying standards. The plan from DEFRA was launched in 2014 and we have been working with them to implement those criteria across our contracts. In 2016 we tendered the prisons' food supply contract, which is one of the largest food contracts across Government, and we worked with DEFRA to ensure that was maximised in the way that we approached the market.

Matthew Coats: On the question about the completeness of data, we will follow that up.

Dr Matthew Offord: I think provide an example. This is not a trick question; it is just trying to—

Matthew Coats: We completely understand. We do not know about why there is a gap and we will establish why there is.

Dr Matthew Offord: If the Chair is happy for you to write to us, that would be very helpful.

Matthew Coats: Of course we will.

Q124 **Dr Matthew Offord:** I seem to keep talking about paper, but the Ministry's performance on print paper did fall from 100% two years ago to 15% and, indeed, on your other paper as well, it fell from 71% in 2014-15 to 13%. What was the cause for that to happen?

Barry Hooper: As I mentioned earlier, it was the way that we were both tracking the information and also the specifications of the paper that was being used. Although I don't have the full year figures, the latest figures I have show that we had a marked improvement in our performance across paper. The figure I was given was 30%—

Chair: In 2016-17?

Barry Hooper: Yes.

Q125 **Chair:** So you do have some data for 2016-17?



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Barry Hooper: Yes. As I mentioned earlier, we haven't stopped tracking the data just because DEFRA has stopped reporting on it. We still have access to the data. One of the issues that we have across the Government commercial function is that we need to be very clear on exactly what the policies are in this area and how we implement them consistently across Government. In that regard, I have been working with the wider Government commercial function—with Gareth Rhys Williams as the Government Chief Commercial Officer—to start raising specific examples of where policy ownership sits for these activities and how, as a commercial function, we implement them, whether that is through pre-tender documentation, through specific contract clauses or even within our contract management space.

Q126 **Dr Matthew Offord:** Okay. That did pre-judge one of my follow-up questions, which was to ask how you were going to improve your sustainability and your awareness of it. One of the functions that you are able to look at sustainability is through your own policy and compliance group for sustainable procurement. I understand that, when that was established in 2016, it was due to meet every month and it has not met since February 2017 this year.

Barry Hooper: It has been meeting. I did temporarily suspend that group on the basis that I felt that it was not particularly effective in the way it was operating and, equally, when I look at my wider responsibilities—and certainly that to the Audit and Risk Committee within the MOJ, where I have ultimate accountability for the implementation of policies and standards across the supply chain—I think there is more that we need to do across the board.

Q127 **Dr Matthew Offord:** Why did you feel it was not effective?

Barry Hooper: Because we have not been clear on exactly what the policies are, where the controls sit within those policies and how we have effected a role that supports that. The piece of work that we have been focused on, more specifically, has been looking at how we do that. Within the overall approach, we need to be very clear in terms of where the policy requirement sits with the MOJ to determine and where there are cross-Government policies that we need to be compliant with. As a heavily outsourced organisation, there is more that we need to do to track supply and performance against those policies and controls, and that is something we are actively working on at the moment.

Q128 **Dr Matthew Offord:** Who would that body report to in the senior management team?

Barry Hooper: The policy working group within Commercial reports to me and I have a dual accountability to Mike Driver, as the CFO within the Ministry of Justice. I also provide regular updates on our procurement activity into our audit and risk committee. I have also been working very closely with the National Audit Office to look at output from their contract



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management reviews and audits and embedding that within the work that we are undertaking.

Q129 **Chair:** Can I go back to paper? I know this is becoming a bit of a thing now, but it has gone down from 100% to 15%. There was this issue about the machinery, but it was sliding, wasn't it, going down to 50% then 15%. What do you think it is at now? You said you are doing much better. Do you think it is back at 50%, closer to 90%?

Barry Hooper: I have an interim figure that was provided. I am not sure of the reporting period for the interim figure, which was at 30%.

Chair: 30%?

Barry Hooper: It was at 30% on the interim report that I was given.

Chair: So maybe half-year?

Barry Hooper: What I would like to do is come back to the Committee with a figure.

Q130 **Chair:** That would be very helpful. Thank you.

On the management process, we were very concerned to see that your contractors reporting 100% compliance with environmental KPIs on the courts and tribunals estate, but that you do not collect data on KPIs on the prisons estate, and we were worried to see that there was missing waste management paperwork in one of your contracts on the prison sites—65% of prison sites scored 0% against environmental KPIs in one or more months.

Barry Hooper: If I look specifically at the contracts and then my learned colleagues can respond to the points. We have a number of contracts in operation across the whole of the MOJ. Some of those contracts have been set up for individual business units and they were let at different points in time. One of the key challenges that we face across all of our contracts is that, as a result of them being contracted at a certain point in time, different policies and different criteria have applied to those contracts, dependent on when they were originally let. There is clearly a piece of work that we need to do as we start to implement new legislation and embedding those in the contracts. To give you a wider example, GDPR—global data protection regulations—is a new regulation that comes in that we have to make compliant across all of our contracts. We haven't taken a similar approach in terms of environmental performance across all of our contracts, and the approach that we have taken is to look at that as the contracts come up for review.

If we look specifically at the FM contracts and what we have done more recently to bolster our visibility, the historical contracts had our environmental metrics as part of an overarching number of KPIs. We did not assign individual targets to those KPIs because the KPI performance was measured as an aggregate. We felt that has been wrong, so we have now made amends within the new contracts for certainly the MOJ cluster,



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as we go forward, and we have more specific provisions that go into a lot more detail than we had in previous contracts—for example, being more specific on BREEAM obligations, energy management, statutory reporting, energy efficiency plans, waste management, environmental management, packaging and waste materials, sustainability procurement, ecology and biodiversity. Again, these are all examples of where we are taking things forward based on the output from existing reports.

Q131 **Chair:** That is good to hear. Do they include emission targets?

Barry Hooper: I believe it does include an element of emissions.

Carl von Reibnitz: There are specific KPIs in the FM contract that goes live in January. The specific KPI is to comply with the Department's carbon reduction plan, so whatever we set ourselves that carries through to the contractors.

Q132 **Chair:** What happens if they do not meet that?

Carl von Reibnitz: There are penalties.

Q133 **Chair:** Are you saying that there weren't penalties beforehand if they failed to meet the KPIs?

Barry Hooper: There were penalties but the penalties were treated as an aggregate of the overall KPI performance.

Q134 **Chair:** Okay. So in terms of the contractor that cut the orchid meadow, did they lose any money as a result?

Carl von Reibnitz: I would have to follow up on that.

Q135 **Chair:** That would be helpful to know. Thank you. Alex, I think you had a question on courts before we get to the final question or do you want to ask the question and then come back to courts?

Q136 **Alex Sobel:** How confident are you that your FM partners and contractors are taking a long-term approach in managing this; not just looking at short-term targets, but thinking about the long term?

Carl von Reibnitz: If I talk about the new FM contracts that we are putting in place, there are long-term targets, so there is the specific target for landfill for 2020. There is a requirement to have a sustainability plan, which is forward-looking through the lifetime of the contract, and there is a requirement for them to support the Department in meeting all the greening Government commitments. We are aligning the contract with the wider reporting framework.

Q137 **Alex Sobel:** Can you explain your penalty structure for failure to meet targets in the contract?

Barry Hooper: On the FM contracts?

Alex Sobel: Yes.



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Barry Hooper: The new cluster contract—we have several contracts covering parts of the estate—effectively provides the FM services for the MOJ head office buildings and other Government Departments that are part of the cluster that we manage on their behalf. If we look at the contracts, we have 6% of the contract value that will be at risk in terms of KPI measures, of which 15% relates to individual sustainability targets.

Q138 **Alex Sobel:** Is that across all contracts?

Barry Hooper: Not all contracts. That is across the new cluster contract. We are working with Tim on the provision of new FM contracts for the Court Service and, again, what we will look to do is take learnings from our current tendering process for the cluster and embed them within our courts.

Q139 **Chair:** What is the timescale on that?

Tim James: We are about two years out on that.

Carl von Reibnitz: It is worth saying that on the FM contract we undertook an extensive rewrite of the core contract to really embed sustainability throughout it. We have added numerous additional KPIs. It has been an absolute focus for us. Where appropriate, we will also be looking at the KPIs of the existing FM contracts and whether it is appropriate to introduce KPIs before the contract end for them as well.

Q140 **Chair:** As a result of these new contracts, the new performance management, risk of fines and so on, how many ultra-low emission vehicles do you think you will have in your fleet in 2020?

Barry Hooper: That is something we haven't looked at, if I am honest, but it is something that we are cognisant of. If we look across the estate's purchase vehicles, we need to look at the wider infrastructure for supporting alternative vehicle types. Again, one of the requirements that I have put into the prison transformation programme is the ability to provide infrastructure that will allow for different types of vehicles to be used. Clearly, trying to retrofit that type of power network for electronic and hybrid vehicles will obviously be a challenge, but looking at how we build that going forward is an area of interest.

If we also look at our prisoner escort custody vehicles, which we use across the estate, our PECs contracts are coming up for review in the next couple of years. We will need to start looking at the investment in the wider fleet. Again, one of the areas we would like to explore is whether that would present us with an opportunity.

Q141 **Chair:** Okay. When we talked about this earlier you said you had 280 cars, 300 and something cars, so there are about 500 cars that you are boxing and coxing between different contracts. Isn't that the low-hanging fruit in ultra-low?

Barry Hooper: It is an area of opportunity for us. It has not been an area of focus to date and, having just taken on responsibility for



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managing the car hire contract across the MOJ, it is something that I will be looking at to see what we can do.

Chair: Okay. That is the end of our questions. Thank you all very much indeed for coming. We appreciate your time.