

Foreign Affairs Committee

Oral evidence: The Future of the UK Overseas Territories, HC 1464

Tuesday 16 October 2018

Ordered by the House of Commons to be published on 16 October 2018.

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Members present: Tom Tugendhat (Chair); Ian Austin; Chris Bryant; Mike Gapes; Stephen Gethins; Ian Murray; Andrew Rosindell; Mr Bob Seely; Royston Smith.

Questions 1-86

Witnesses

I: Susie Alegre, Director, Island Rights Initiative, and George Fergusson, former Governor of Bermuda and (non-resident) Governor of Pitcairn.

II: Dr Peter Clegg, Associate Professor in Politics and International Relations, University of the West of England, and Eric Bush, Cayman Islands Representative to the UK and EU, and Chair, UK Overseas Territories Association.

Written evidence from witnesses:

[Susie Alegre](#)

[George Fergusson](#)

[Dr Peter Clegg](#)

[Cayman Islands Government](#)

Examination of witnesses

Witnesses: Susie Alegre and George Fergusson.

Chair: Welcome to this afternoon's session of the Foreign Affairs Committee. Susie Alegre and George Fergusson, thank you very much for coming. As always, if you could keep your answers brief and to the point, that would be very gratefully received. If another witness has already answered the question as you see fit, do not feel the need to repeat it.

Q1 **Andrew Rosindell:** Good afternoon. Could I start by asking a fundamental question to both of you? Why do you feel that so many former British colonies—now known as Overseas Territories—want to remain part of the British family? Why do they choose to want to stay British? So many others have chosen a different route of independence, but the remaining territories are so determined to keep that link. Why do you think that is?

Susie Alegre: I think it varies and there are as many different reasons as there are Overseas Territories. For some of them, it is a question of size, where independence would not necessarily be practical. For many of them, it is because they feel British and they have never not been British. It is not a question of going off and becoming an independent nation; it is part of their sense of self, in the same way that just because you are Scottish, you may still feel very British. For some, there may be practical reasons why independence was never thought of, but for many it is an emotional and identity reason.

George Fergusson: I would agree with that. I would add security or sovereignty reasons in a couple of obvious cases. Although I have direct experience only of Bermuda and Pitcairn, there is an element of, "If it's not broken, why fix it or change it?" In some cases, it is the need for financial and material assistance, which links to the point about size.

Q2 **Andrew Rosindell:** Do you feel that the British identity of the Overseas Territories is now solid and absolutely permanent, and that, whatever happens, the 16 remaining Overseas Territories feel deeply part of the British family? Or do you think that in 20, 30, 50 or 100 years it will gradually evaporate?

George Fergusson: Like everything else, I think it varies across the different territories. Some feel a greater organic attachment than others. I think that for some it is a matter of convenience and not getting around to doing anything about it.

Susie Alegre: I would agree. For some, there may be areas where suddenly it is not expedient to be British any more. I think you would probably have to ask people in the Overseas Territories directly about the feeling of Britishness, but obviously there are a couple where there are more discussions on a political level about potential independence, and many where there are not.



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Q3 Andrew Rosindell: So should British Government policy be on the basis that the territories remain British, rather than that they are in a transition to becoming independent? In the past, FCO policy has effectively been that it is a matter of time. Should we review that and say that following the last territory to go—Hong Kong—the remaining ones will stay British, and therefore our policies should reflect that this is a permanent arrangement, rather than something that may change in a few years' time?

George Fergusson: Since I have been involved with the Overseas Territories there have been three different attitudes in Government, which is a legitimate matter of Government policy. The consistent thing is to say, "Self-determination, as far as possible." The variant has been, "Self-determination, but it does not make a lot of sense for some of these connections to continue. We will try and encourage you and help you make your own way in the world, subject to consent." Tipping the seesaw the other way is a matter of consent. We could say, "We like you and we will try to do our best to keep you, because we like the association." All of those are legitimate and they all reflect self-determination so far as that is feasible with the Overseas Territories. Which end of the seesaw is up is a legitimate matter of policy.

Susie Alegre: I would say that there is a real need for a review of the situation. You cannot really bunch all the Overseas Territories together, because they are all unique. There are various groupings that will have a different answer to the question you are asking. In some there may be internal discussions about independence and things might be quite in flux, particularly over the next few years, during which you might see fluctuations. There may be others where there is a fairly obvious answer of a fixed status where it is unlikely that that will change, and if it does change then it will be towards a greater closeness to the UK rather than in the opposite direction. There needs to be a review of groupings of overseas territories, and maybe it no longer makes sense to bunch them all together in one group.

Q4 Andrew Rosindell: Do you feel that it is time that the UK changed its approach to how we deal with Overseas Territories? One example is that they are currently under the management of the Foreign Office. They are not Commonwealth, as they are not allowed to be members of the Commonwealth in their own right. If they are British territories, is the Foreign and Commonwealth Office the appropriate Department for the territories going forward, or should they be brought more into domestic Government Departments?

George Fergusson: The Committee may have seen my submission on this. My personal view—this is not the policy of the UK Government—is that it does make more sense to bring the management of the UK Government and its relations with other British jurisdictions to a greater extent into the same stable. There would be benefits in concentrating those resources, talent and careers. You would get away from the confusing status that we presently have, partly on the grounds mentioned. For the Foreign and Commonwealth Office to be administering



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British citizens—and administering territories at all—needs some explanation. The current arrangement adds to the confusion over what the relationship is both at this end and to some extent in the territories.

- Q5 **Andrew Rosindell:** Just to add to that, other countries with former colonies seem to treat them in a very different way. We talk about the British family, but clearly the territories are not part of the United Kingdom. We do not even have a name that represents the entire British realm. Do you not think that it is time we had a phrase, or something that absolutely encapsulates all the territories with the UK as part of a British realm?

George Fergusson: On the first part of that question, I think you could envisage a much more orderly, logical and accountable relationship, looking at France, the Dutch and the United States as possible models. Mostly this would involve direct representation to the House of Commons, and that would have some benefits. For example, it would mean that the territories could call to account the relevant Secretaries of State, and it would address a bit of a democratic deficit.

The catch used to be 'No representation without taxation'. If you were going to go down this track—and there are big disadvantages to this as well—you could see¹ the limitation on Scottish representatives voting on income tax and, maybe one day, Northern Ireland representatives voting on corporation tax. You could say that OT representatives shouldn't have a right to vote on money matters. The really big obstacle to this neat, logical structure is that it would bind territories more closely to the United Kingdom—probably more than they want.

The arrangement we have at the moment is slightly messy, certainly when compared with the French, but it reflects the wishes of territories that—I think; you need to ask them directly—would be reluctant to be tied in to Parliament, particularly Bermuda. Bermudians think of themselves as Bermudians. Becoming more legislatively connected with Britain would cause unease.

Susie Alegre: I would agree about the question of the complexity of British constitutional relationships. I am from the Isle of Man, so I recognise how strongly people can feel about their own Parliament. So, while feeling British, this idea of being brought more closely into an idea of what the United Kingdom is would meet quite a lot of resistance in some areas, although possibly not so much in some Overseas Territories. As I said, it very much depends on the territories you are talking about.

Having said that, I think that the situation generally around the British constitution is so unwieldy and complex, when you look at the different layers with the Overseas Territories, the Crown Dependencies and the devolved Governments, that there is a need generally for a British constitutional review to look at how exactly you reflect the needs and

¹ Note from witness, should read as: '...you could see, a kind of precedent now in...'

wishes and practical arrangements that need to be made between the UK and the Overseas Territories and Crown Dependencies.

That is also reflected in decisions taken by the UK that have direct effect. I raised in my paper the question of Brexit and people not being able to vote in the Overseas Territories and Crown Dependencies. While those votes might not have made much of a difference—Gibraltar did vote overwhelmingly to remain—Brexit will have an impact on many of the Overseas Territories and Crown Dependencies, but they do not have a voice in that. The question about the UK taking decisions that have a direct impact on them without them having a say is part of that constitutional review, of exactly how that balance is met.

- Q6 Andrew Rosindell:** So you think that there should be some form of constitutional review of how the Overseas Territories, and maybe the Crown Dependencies, fit within the overall British family. The Danish allow the Faroe Islands and Greenland to vote in the Danish Parliament. We are the only former colonial power that does not allow our territories any say at all. Would you at least agree with my view that there should be a Committee in Parliament that specialises, on a day-to-day basis, in the issues relating to the territories? This is the only Committee that does it and, of course, we have bigger issues to deal with: China, Russia, America, Europe—whatever it may be. Should there not be some central Committee that deals with the issues on a day-to-day basis? At least have that for them.

George Fergusson: I am not sure it would be very busy. The day-to-day business is not enormous. It is difficult to make the relationships too tidy, or much tidier than they are. There is a sort of equilibrium between the arguments for better accountability, perhaps including the sort of thing you are talking about, and the territories' reservations about getting more closely involved. Another element in that balance is the UK Government's principal limiting concern, which is not to allow the safety catch to be released that makes the UK Government liable for contingent liabilities over which it has no control. Those things swirling around together make it difficult to move very far.

Neither of us have answered the second part of your first question about terminology. I have been attracted by the New Zealand use where they have—like us but there are fewer of them—associated territories of various kinds with various different relationships. They call the areas that come under the Queen of New Zealand the Realm of New Zealand. We could not call it the 'Realm of the United Kingdom', because the Crown Dependencies are not in the United Kingdom - in fact none of them are². Whether the British Realm sounds a bit vague, I do not know. It is quite a striking gap that there is no term for all the bits in the world that come under the Queen of the United Kingdom.

- Q7 Chair:** What would you call it, Andrew?

² Note from witness, should read as: '...in fact none of them are- nor are the Overseas Territories.'



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Andrew Rosindell: I think that there should definitely be a name, but I do not think it should be for me to decide that; I think there should be consultation. Mr Fergusson is absolutely right that there is a huge gap here. When you talk about British territories and dependencies, there is not one name that encapsulates everything to say: "That is part of the British realm, or whatever we call it."

I certainly agree with Mr Fergusson that maybe there should be something that encapsulates that to explain to everybody that we are responsible for all these Overseas Territories and Crown Dependencies.

Q8 **Chair:** Ms Alegre, do you have a view?

Susie Alegre: One of the things that is quite interesting in the way the EU deals more broadly with small islands not directly attached to the continent is the difference between outermost territories and overseas countries and territories. Outermost territories are places such as the Azores and Madeira or the Canary Islands, whereas the overseas countries and territories are dealt with as being overseas. I think there is an argument, which doesn't go to the global title for all British territories, but maybe for a distinction that could be made when you look at reviewing how they are treated. There are probably those differences as well within the Overseas Territories.

Andrew Rosindell: I think Denmark refers to it as the Danish Kingdom. That does not mean that Greenland and the Faroe Islands are part of Denmark, but they are part of the Danish Kingdom. I think something along those lines would probably be the way to go.

Chair: Thank you. Those are some interesting ideas.

Q9 **Royston Smith:** We have mentioned Brexit briefly, and I will come back to that. There have been some other things recently, not least hurricanes and changes to legislation in the UK. How healthy is the relationship between the UK Government and the Overseas Territories?

George Fergusson: I think it is almost fated to be difficult. Part of the reason, as I mentioned earlier, is that we are in an equilibrium where there are interests at the UK end and variously around different OTs in different forms, which are quite difficult to reconcile in a neat, tied-up parcel. There will always be a degree of confusion and pushing and pulling.

I am now two years away from Bermuda. I do not think it is worse than usual. I do not think it is necessarily bad. I think that things like the Sanctions and Anti-Money Laundering Act obviously would represent a bit of a spike in spikiness. There will always be something around, but I don't think the relationship is too bad.

Susie Alegre: I would say—not necessarily speaking about the UK Government's relationship to Overseas Territories, but in terms of the way the Overseas Territories are portrayed and perceived in Parliament and the media—you would not really think that real people lived on them. There is always this idea that they are just offshore tax havens—a sort of rock with some banks on them. That is what leads to a real degree of



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disenfranchisement and the feeling that it is very difficult to engage. I would not necessarily say that that is about UK Government relations, but more about British relations with the Overseas Territories.

- Q10 Royston Smith:** We will speak more about Brexit—we talk about almost nothing else these days. What sort of strain has the Brexit vote had on the Overseas Territories? I was in the Falklands some months ago and we discussed some of their unique circumstances and how Brexit might affect them. Do they feel that their concerns are being listened to by the Government and the Foreign Office in this country?

Susie Alegre: I cannot speak for all the Overseas Territories. I know what some of the issues are that they are facing because of it. As you have mentioned, with the Falkland Islands it is obviously market access. For others, such as Saint Helena, Montserrat and the Turks and Caicos, there are issues about development funding, which will be the kind of funding they are getting from the EU that will not be capable of being replaced by official development assistance from the UK, because it is infrastructure-type funding. There is a cut-off of international funding that won't obviously be replaced from elsewhere, which is a very big deal in a small economy. For others it is a question of not having the same degree of representation at the European table, when you are talking about things like blacklisting. There are very variable impacts.

Gibraltar is clearly another unique circumstance: they are in the EU and they will no longer be in the EU. That will have a big effect on their border. There are very big impacts. Gibraltar is obviously being treated as a special case, in terms of the Brexit negotiations and how it has been dealt with, but for the others, how much of a problem it is varies from territory to territory. I do not know how much they feel they are being listened to, but, as you say, people are generally not talking about much other than Brexit. Whether or not the needs of Pitcairn, Tristan da Cunha or Turks and Caicos are going to be taken into serious account in those discussions is open to debate. Obviously, they are talking to them, but I do not know how much whatever they are saying is being reflected in negotiations. Maybe you have more insight.

George Fergusson: I agree with the categories that Ms Alegre has put forward: sovereignty, top cover in Brussels, market access and aid are the generic issues. Gibraltar obviously has a portfolio of extra unique issues. You ask about how territories feel they have been represented. I know you have another witness who can give a more direct response to that. I declare some interest in that until a year ago, I was working in the Cabinet Office on the management of Brexit for Crown Dependencies and Overseas Territories in particular, and Gibraltar was quite a big bit of that. As of a year ago, the feeling was that they were being listened to. At that stage, it was largely an exercise of mapping to see where the impacts would be and making sure that as the negotiations progressed the UK Government were not taken by surprise by the impacts on a territory or dependency.

- Q11 Chair:** Can we move on to other areas? We have touched in this already in response to Andrew Rosindell. There are many other Government



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Departments that are connected to the OTs in various different ways. Most recently we have been talking about Treasury and DFID elements, and in many ways the Home Office has very strong connections. How does the FCO co-ordinate these relationships?

George Fergusson: I am sorry that this is repetitive, but it varies. Bermuda, for instance, is very devo-max. The Foreign Office has really not very much to do with the Government of Bermuda, certainly on a day-to-day basis. The Governor is obviously the main channel for that. Probably the Government Department that spoke most often to counterparts in the Government of Bermuda would have been the Treasury speaking to the Ministry of Finance. There were connections between the Ministry of Defence and the Bermuda Regiment, and sometimes events made those contacts more frequent.

In other territories, there is probably a stronger connection between DFID and the island authorities than directly with the FCO, if you set aside the Governor. It is quite a varied picture. If you have got day-to-day contacts between DFID and the development Ministry in an aid-dependent territory, I don't think the Foreign Office would expect to get itself between DFID and a working relationship there. If it started going wrong, the FCO probably would want to get more involved.

Q12 **Chair:** Focusing on the Foreign Office's duties, how integrated are the OTs into the United Kingdom's foreign policy?

George Fergusson: You have got three territories where there are sovereignty or neighbourhood issues—the Falklands, Gibraltar and the British Indian Ocean Territory—and where foreign policy is deeply integrated. To some extent, there are foreign policies that those territories bring with them, so you would expect it to be connected. Sometimes, like with the British Indian Ocean Territory, it has a part to play in our strategic relationship with another country—in that case, the United States. Otherwise, I don't think it would be easy to show a close connection between the territories and UK foreign policy.

Q13 **Andrew Rosindell:** Following up on the Chairman's question, does this not highlight the huge gap that there is here? We are talking about territories that are British, yet we in this Parliament and Government Ministers influence them, whether it be through defence, foreign affairs or DFID. DEFRA does so especially when it comes to the protection and conservation of wildlife, particularly in the territories in the Southern ocean, and even the Home Office does so when it comes to immigration. Many of the territories use the pound sterling, so currency is an issue—I know the Caribbean ones do not, but the Falklands, Gibraltar and several others do. There is a whole range of areas for which the UK Government represent the territories in international organisations. The list goes on.

You can analyse the huge influence that HMG have over things that could affect the territories, even though they are all self-governing. Isn't there a big gap here about how the territories are included, consulted and represented? Shouldn't we try to look at this and resolve it so we have a permanent way of dealing with things that properly gives the territories a



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voice and a say over the things that affect them?

George Fergusson: It is difficult to make the relationship between Whitehall Departments and territory Governments very much more direct. To go back to the Bermuda example, with dev-max plus, DEFRA would find it very difficult—and understandably so—to influence policy within Bermuda, in the same way as applies in respect of Scotland or the devolved territories.

On the second half of the question—getting territories' input into broader UK policy, where input might mean getting UK help—I think there probably is more scope for that. But the Secretary of State for whatever feels that his or her responsibility is to deliver the policies within either the UK or England. It is quite difficult to get a UK Department to feel the same sort of responsibility and concern, particularly when they are cut out of policy development in a devolved area.

Susie Alegre: I agree that it is quite difficult to get people to listen in the UK. If you are in an Overseas Territory and you want a Whitehall Department to listen to you, I think that would be quite a challenge, particularly if you are not voting in UK elections but are in this separate situation.

Going back to the relations between the British Government and Overseas Territories more generally, which touches on your question about DFID, there is a problem there, in that development for Overseas Territories is not the same as it is for overseas countries. It is a very different deal to be funding a big programme with a large consultancy firm in Nigeria for development, compared with supporting a small community in the South Atlantic to be sustainable and manage its day-to-day affairs.

On the international development question, there is a real need for clarification about what it means to be supporting the Overseas Territories that need development support, because it is not at all the same as development for developing countries and never will be. They are British territories: many of them are not going to be in the position to be standing on their own two feet with a wonderful, sustainable economy because of their size and remoteness. That is quite a difficult thing for DFID to deal with.

- Q14 **Andrew Rosindell:** Is it not therefore time to have one Government Department? We have the Scotland Office, Wales Office and Northern Ireland Office. Should there not be a Department for all the territories of the Crown with which the UK Government have to work and liaise and for each Government Department to co-ordinate through, or should the Cabinet Office, perhaps, take responsibility for all the British territories? At the moment, it is very disjointed. There is no one Minister who looks after all the different issues. Equally, I think there is a lot of frustration in territories that they are not fully included and consulted on all the issues. Is it not time that we included them properly, without taking power from them, because they are self-governing? Is it not high time that we gave them their own Department or unit within the Government that is



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separate from the Foreign Office, which clearly has bigger priorities to deal with in today's world?

George Fergusson: I do see the advantage in that. Going back to an earlier point in this exchange, the Cabinet Office would find it slightly easier to get other Whitehall Departments to pay attention to territories. It is quite a difficult thing for a small part of the Foreign Office, which otherwise does not do domestic policy, to tap into other Whitehall Departments, which is the Cabinet Office's day-to-day activity.

- Q15 **Mr Seely:** May I ask a question in relation to that? Looking at it from the other way round, do you think the amount of time the Foreign and Commonwealth Office spends—though it might be that it does not spend that much time—in looking after Overseas Territories is an efficient use of Foreign and Commonwealth Office time, considering that, effectively, it is there to speak to the rest of the world on our behalf? If it is dealing with somewhere that is not really the rest of the world because it is sort of British—they don't really pay tax or send representatives here but they are not "foreign"—is that a good use of the FCO's time and money?

George Fergusson: My personal view is that it is not.

- Q16 **Mr Seely:** Should we hive off the Overseas Territories in some kind of structure that is separate from the Foreign Office?

George Fergusson: In my personal view, yes. When I started I was Governor of Pitcairn from 2006, which is when I got involved in this business. In the period since then the Foreign Office has invested more in terms of money, people and effort in the Overseas Territories area, but it still seems to be an odd adjunct to what the Foreign Office is increasingly and rightly focused on.

- Q17 **Mr Seely:** So what would you do? Would you set up a little Department for the Overseas Territories that is separate and maybe has people from DFID, people from the Home Office, people from the FCO—and you almost have a mini Government Department sitting somewhere?

George Fergusson: I think there are different ways of doing it. What I have suggested in my note is that the UK Governance bit of the Cabinet Office, which already includes the Scotland Office and the Wales Office—and in a slightly different shape the Northern Ireland Office, at one stage, briefly came under the same umbrella³. They deal with constitutional issues. They deal with some constitutional relationships. I think they could quite neatly take on the UK's relationship with the Crown Dependencies and absorb the Overseas Territories directly to⁴ the FCO. I am not so sure that it makes sense to take in Overseas Territories Department to DFID, because there are specialisms that DFID has with some useful cross-fertilisation—but I'm not sure.

³ Note from witness, should read as: '...and previously the Northern Ireland Office, at one stage, ...'

⁴ Note from witness, should read as: '..Directorate of...'



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Susie Alegre: I think it would be useful to have a focus. Having said that, yes, the Foreign Office does not appear to be the natural fit, my understanding is that, certainly within the Overseas Territories directorate, there are people who really understand and get what the Overseas Territories are. Whether they are in the right place in Government to transmit that is a different question. One thing you do have to be careful about in creating a new Department is that it does not just get put in a cupboard because it is just about the Overseas Territories. You have to bear that in mind while moving it.

- Q18 **Ian Murray:** Mr Fergusson, could the idea of the Overseas Territories being in some sort of regional or national construct in Whitehall have the opposite effect of undermining the Wales and Scotland Offices, in the sense that the Overseas Territories are something different from the Whitehall departmental structure that is looking after Wales, Scotland and, increasingly, Northern Ireland?

George Fergusson: I do not think it need do that. I do not think it need affect the Scotland or Wales Offices at all, but I think bringing them together under the same umbrella offers an opportunity for a career structure in which understanding the difference between reserved powers and devolved powers, and matters of self-determination and constitutional relationships more generally, could become a career specialism. At the moment, you have got people—although I don't think you have to give this up—moving in and out from the Welsh Assembly Government or the Scottish Government into those offices. You also have some more Whitehall-based people who specialise in constitutional stuff. You would simply make that framework bigger and keep more people whose chosen career path lay—although not exclusively—within the world of reserved and devolved powers, self-determination considerations and so on. Again, in the Foreign Office, it is not quite big enough to be a career structure, so it tends to be people who do it for a few years.

- Q19 **Ian Murray:** I can see the argument for a civil service career structure and not having a brain drain of those particular specialisms, but I think there would be a real problem from a constitutional perspective, treating Wales and Scotland the same as Pitcairn or Anguilla, in terms of a Whitehall structure. The constitutional arguments against that would, in my view, be pretty powerful.

George Fergusson: If you did it on the model I have suggested, the UK Governance Group already deals with how UK structures are dealt with. I cannot second-guess what would concern people, but there is a practical point. In my own career, the first part of it was in the Northern Ireland Office. When I was Governor of Pitcairn, I was also High Commissioner to New Zealand and to Samoa. I did not find much that I had done in my Foreign Office career all that useful for governing Pitcairn; I found quite a lot that I did in the Northern Ireland Office really quite useful—in terms of understanding constitutions, police accountability, local government elections, and all of those sort of things. Somebody who had come in, say, from the Scottish Government and done a couple of jobs in the Scotland Office might be well equipped to take on a job in Overseas Territories.



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Susie Alegre: May I say something not on the constitutional role but on the advisory role of the United Kingdom and parts of the United Kingdom? I think on the nitty-gritty and the daily operation in a small Overseas Territory, it may well be that the Scottish Government, for example, has more to say than Whitehall in terms of advisory support and connections. Building connections is a useful thing to do but, without wanting to muddy constitutional waters, from a practical perspective of exchange.

- Q20 **Ian Murray:** Whitehall is not very good at determining practicalities against politics, unfortunately. You would never suggest that the Wales, Scotland and Northern Ireland Offices would go into the FCO as a reverse.

Susie Alegre: No.

Ian Murray: Although some would want that to happen.

- Q21 **Chair:** The Government are understood to be working on an intermediate update to their 2012 Overseas Territories White Paper. Given what we have been talking about now, what should go into it?

George Fergusson: It is quite hard to see a strategic change. The 1999 White Paper did some big things, above all the extension of full UK citizenship to virtually all OT citizens. The 2012 one found it quite difficult to come up with a big strategic thing. I am no longer involved, but I think you would be quite hard pressed to find something very strategic to change the step, given the balance between not wanting to bring people in the territories in beyond their comfort zone and not wanting to loosen up too much on taking on contingent liability. There is not a lot of scope for big strategic change. If it took on the suggestion of the machinery of Government changes that we have been discussing, I would be delighted but slightly surprised.

Susie Alegre: There is certainly a need to look at representation and international relations, and how Overseas Territories are able to have their voice heard on decisions made internationally that affect them. There certainly needs to be more work done on that. The 2012 White Paper spoke about the fact that Overseas Territories should have the same standards of human rights protections as the UK, but what that means in practice is not really fleshed out.

One of the things that I think needs to be developed more in the White Paper is the question of development assistance and what that means for Overseas Territories in practice. It is very important to look at human rights not simply as what is on the statute book, but as what is happening in practice, so access to healthcare facilities or funding for policing and internal security—those sorts of things. It is about looking at how you put into practice what you said in policy terms.

One final thing is to iron out the anomalies. As George Fergusson said, there are still very small anomalies in British citizenship in relation to people from British Overseas Territories. Ironing out all those anomalies is



a very important step, because they may be very small things on paper, but obviously for the people concerned they are very important.

- Q22 **Mike Gapes:** We have one Overseas Territory—Anguilla—that has a sea border of about 8 miles with an island that is part of two other European Union states: Sint Maarten is one of the four kingdoms that make up the Netherlands, and Saint-Martin is a French territory. I know you have answered questions already relating to the Brexit issue, but in your view what is the implication for Anguilla of these changes? Specifically, is there not an argument that in places such as Anguilla and potentially some of the other smaller overseas territories, it would be better to have some relationship closer to that of the French territories and the Netherlands territories in that area?

George Fergusson: There are two questions wrapped up in that. I am not remotely an expert on Anguilla. Anguilla is not in the EU, so the sea border with its nearest neighbour is already an external border of the EU. I do not think that will change. I see logical attractions in the close relationship that the French and Dutch territories have with metropolitan France and the Netherlands, and although I have had some hopeful conversations over the years on this, I have never picked up any real enthusiasm for getting closer and losing the autonomous identity that is currently enjoyed. Bermuda has had devolution since 1620, and was kind of American until the 1770s. The term Bermudian was first heard in about 1615. They are not suddenly going to call themselves British.

Susie Alegre: For the specifics of Anguilla I think you will need to speak to the Anguillan representation, but I think this highlights things like access to healthcare. My understanding is that those in Anguilla will often use healthcare facilities in French Saint-Martin. If there is a risk of that relationship being unavailable on an island with limited healthcare facilities, where will they go?

This is a big issue for the UK's relationship with many Overseas Territories. The UK has limited the number of people who can get access to the NHS if they need it; I am not sure, but I think in Anguilla it is four, so we are talking about small numbers of people who can come and get NHS treatment if they need it. What happens if you are No. 5 on that list and therefore do not get access to healthcare at all, because there is not sufficient healthcare on the island you live on and you cannot get access to UK NHS care?

Beyond that issue, I am not sure whether, in the context of having borders with the European Union, they are better off being linked more closely to the UK or being at a further distance. Time will tell. However, there are certainly big questions on issues like health and education in some Overseas Territories—though, again, not in all. They all have slightly different arrangements to ensure that people have adequate access to healthcare and education when those services are not available for people on the island they live on.

- Q23 **Mike Gapes:** Anybody flying to Anguilla has to go to the Princess Juliana



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airport across the water. On the health issue, is Gibraltar in a completely different category because it is part of the European Union?

Susie Alegre: I am not exactly sure of the arrangement with Gibraltar, but I assume that you could use a European health insurance card, as you would if you travelled from the UK and crossed the border into Spain.

Q24 **Mike Gapes:** But in terms of people from Gibraltar coming for treatment in the UK—

Susie Alegre: I am not entirely sure. I know that about nine years ago there was a debate about the Crown Dependencies removing reciprocal health agreements, but they did not have limits on the numbers as some of the Overseas Territories do. Do you happen to know the answer on Gibraltar, Mr Fergusson?

George Fergusson: I don't. My hunch, which we would need to check, is that the Government of Gibraltar pays a sort of subscription, either to an NHS trust or to the NHS itself, and carries its own cost in that way.

I am venturing into speculation, but with respect to Anguilla, it seems quite hard to expect the Dutch or the French to pay indefinitely for the more serious health costs of a British territory. The Government of Anguilla or the UK Government may already pay a similar subscription, or the idea may be under consideration.

Q25 **Mike Gapes:** Perhaps we will need to explore that with the Department of Health and Social Care, among others.

Susie Alegre: The issue of access to UK treatment in NHS trusts for people with very serious healthcare needs was certainly raised in the Wass inquiry report on Saint Helena.

Q26 **Chris Bryant:** I am terribly sorry that I am late; I was in another meeting. Mr Fergusson, you were high commissioner in New Zealand—I remember because I visited you. What do you think about Pitcairn? Why on earth is Pitcairn still British?

George Fergusson: Because we took on an formal undertaking in 1945 under article 73⁵ to maintain its welfare and its development, and because it has always been British, although it began in slightly unorthodox circumstances. I think that is 99% of the answer.

Q27 **Chris Bryant:** But it has proved historically difficult for us to tackle child abuse there. We have always turned to the New Zealand justice system to tackle it, since New Zealand is far closer. Does Pitcairn have any military strategic significance for us or is it just a kind of relic of our historic past?

George Fergusson: I think there was a ship-spotting depot on it during the war.

Chris Bryant: Which war?

⁵ Note from witness, should read as: '...of the UN Charter.'



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George Fergusson: The second world war. But I am not sure that it spotted any ships; I could not identify any strategic benefits now.

The relationship with New Zealand is very, very strong. Most Pitcairners were born in New Zealand, because that is where you go to get born. The police officer comes from the New Zealand police and when there is a need for prison officers, they come from New Zealand. As you say, although strictly speaking they are members of the Pitcairn Bench, the convenient place from which to stock the Pitcairn Bench is the New Zealand Bench, which has worked very well.

If there were to be any change in that, it would be the obvious jurisdiction to make the change with, if they wanted it, and, above all, if Pitcairners wanted it. There are precedents. The Tokelau Islands, I think, were transferred from UK supervision in the 1920s to New Zealand supervision. The key thing would be the willingness of Pitcairners to contemplate it and the willingness of New Zealand, or indeed any other jurisdiction, to share or take on the responsibility.

Q28 **Chris Bryant:** May I ask you about corruption in the Overseas Territories, because of allegations frequently made, both within the territories and from outside? When the French raise their objections around financial transparency in the UK, they often point to the Overseas Territories. Do you think that is a fair or unfair allegation?

George Fergusson: I should probably limit my answer to Bermuda. I could do Pitcairn, but it has no financial services. I don't think Bermuda has much to be ashamed of in terms of international transparency. It has had a beneficial ownership registration regime since the late 1940s, which includes trusts, which is unlike quite a lot of other jurisdictions. It has moved quite a lot in the past few years to have rapid access— instantaneous access in some cases—for tax and law enforcement authorities in G7 countries, and I think EU countries.

The gap with the United Kingdom is on direct access to this information from everybody's laptop, which is a gap with the United Kingdom, but the United Kingdom is quite a long way ahead of everyone else on that. I think Bermuda meets OECD standards pretty comfortably. I think it has a record it can be quite proud of in that respect.

Susie Alegre: I am not an expert on the details but I think they are an easy target. Often the scale of the criticism is not necessarily fair. Certainly, following discussions in the UK Parliament, you will find parliamentarians referring to places such as the Bahamas as British Overseas Territories. I think there is often a conflation and they are quite easy targets because it is not so easy for them to stick up for themselves.

The reality on the ground is, I suspect, not proportionate to the amount of criticism that they get. I understand there is certainly a need to deal with transparency and corruption, and often that can be a challenge in small jurisdictions in general to deal with, and not simply on a financial services level, but more broadly, it can be a challenge in small places.



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- Q29 **Chris Bryant:** Don't some of them still have a system whereby you can vote only if you are a Belonger and you can become a Belonger if you are appointed as a Belonger by those who have been elected? You have no direct taxation of individuals or of land and consequently you end up with a financial system that is rather biased towards making money off financial services, rather than a more solid sustainable economic base.

George Fergusson: I can only answer for Bermuda; that wouldn't be correct.

- Q30 **Chris Bryant:** It is not true of Bermuda.

George Fergusson: In Bermuda, one of the main sources of income is land tax; another is payroll tax on earnings.

- Q31 **Chris Bryant:** And shipping but they are about to lose shipping unless they change their minds on same-sex marriage.

George Fergusson: Perhaps.

Susie Alegre: That is putting together a lot of issues. I would not suggest that there are not human rights issues or issues around immigration status and people's access to services according to their residential status. But I think that is quite separate from the wider issue of financial services.

One thing I would say about the question of other sustainable industry is: what does that look like? That is a very big question. I also cannot see any reason why it is more morally correct for the City of London to be a financial centre than it is to have a financial centre on a small island, wherever that might be. There are lots of issues, which are often conflated. There is a need to address the issues you are talking about in terms of governance where they arise, but that is not necessarily the same as saying we need to blame the British Overseas Territories for the entire global problems associated with financial services and international finance.

- Q32 **Chris Bryant:** One final question. Is it your impression that the Overseas Territories take up a fair or a wholly disproportionate amount of time, energy and paperwork in the Foreign Office compared with their significance to the United Kingdom?

Susie Alegre: No idea.

George Fergusson: I do not have any figures for it. As I said, the commitment in terms of people and cash has gone up in the last 10 years. As I wrote in my paper, the Foreign Office is rightly focused on three logical priorities. It is quite hard to fit Overseas Territories into those priorities, so, inevitably, they become a bit of a clip-on.

- Q33 **Andrew Rosindell:** A couple of additional points, if I may. First, Mr Bryant talked about Pitcairn possibly being a relic and all the rest of it, but surely we should see our territories as part of a global Britain network, as Britain alters its international policies in terms of trade and co-operation globally. Do you feel the Overseas Territories could actually



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play quite an important role in that British network around the world?

George Fergusson: I have my doubts. To some extent it will be up to them. Of the two I know best, one—Pitcairn—would find it quite hard to play such a role. In the case of Bermuda, there is a British identity, but I rather doubt it is strong enough alongside the Bermuda identity to carry that sort of weight.

Susie Alegre: Yes, I guess it depends on the territory.

- Q34 **Andrew Rosindell:** But do you not feel that if we included overseas territories and gave them opportunities to take part in the work we will be doing in the years ahead to promote a global Britain strategy—if we made them feel part of what we are doing—they might respond very positively and feel they were an equal part of the British family? They might feel that where we go, they go, and that our successes are also their successes.

George Fergusson: There are attractions in making that offer. In areas like participation in trade missions, Lord Mayors' visits and so on—some years ago there was agreement in principle that Overseas Territories could bid to take part in Lord Mayors' visits, which, so far as I know, has not been taken up and may have been forgotten—the offer is certainly worth making. In those sorts of cases, Overseas Territories could take advantage of the platforms of British embassies and high commissions around the world. It would be in their interests to do more of that. I think the door has been more or less open, but, either because they do not want to confuse their image in the world as an autonomous jurisdiction or because they are not sure that it is available—for whatever reason—the offer has not been taken up. I think it should be renewed.

Susie Alegre: I think as well it will slightly depend on what global Britain looks like—that is quite an open question—and whether there is direct competition between what the UK is trying to do and what a particular Overseas Territory is trying to do in the specific area. It will depend on whether there is an alignment of interests and whether those interests support each other or whether there is a perception that they would be better off keeping a separate identity. That remains to be seen, but yes, there is no reason why the offer should not be there.

- Q35 **Chair:** One does somewhat get the feeling occasionally that British identity is optional: when it is convenient, it is hung on to and when it is not, it is rejected. Would that be fair?

George Fergusson: I think the Overseas Territories may not be unique in that.

- Q36 **Chair:** I merely identified that the talk of family can often be rather distant, and cousins can often reject the family name and decide to do their own thing.

George Fergusson: Bermuda takes part in the Olympics, and a lot of the territories take part in the Commonwealth games. Sport is often an area



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where the choice of identity can be slightly unexpected, and home internationals and rugby internationals is one of them.

Q37 **Chair:** May I just ask this, then: should the OTs be full members of the Commonwealth?

George Fergusson: I don't think it is possible, because the Commonwealth is an association of sovereign countries. I am not sure how much it matters, because their membership of the Commonwealth comes through their association with the United Kingdom. In some areas they participate in the same way as a Commonwealth member, for instance in the Commonwealth Parliamentary Association, which takes sub-sovereign, or whatever the technical word is, legislatures into account. The devolved Assemblies, Canadian provinces and British Overseas Territories all take part in that. I think the OTs get quite a lot from it. Commonwealth agencies, such as the Commonwealth Law Foundation, I think, did some useful work in Pitcairn on the constitution. I am not sure they miss out much by not having their own flag at the table.

Q38 **Andrew Rosindell:** Should they not have associate status, territory status or something? At the moment, the Commonwealth secretariat produces a map of the Commonwealth and it does not include Overseas Territories. Of course, if Bermuda or any of them declared independence tomorrow, they would be given full status. How much does the objection to their having any status in the Commonwealth have to do with Norfolk Island and Australia? It seems to me that they block any attempts to give territories a status because of the situation with Norfolk Island.

George Fergusson: That is rather on the edge of the things I know about, so I had probably better not comment further, but at the moment it is relatively simple: you have to be sovereign to be in. Once you go below sovereign, do you take provinces? Do you take Overseas Territories? Do you take Crown Dependencies? It is a less clear line.

Susie Alegre: As you have said, they do get involved in activities, so they benefit from British membership of the Commonwealth. What the additional benefit of being a full member would be is debatable. One thing that is worth exploring as part of a general review of the constitutional status is their ability to engage internationally in other forums. You mentioned the Faroe Islands earlier; I think the Faroe Islands have a much more developed external relations identity on their own, separate from Denmark, than the British Overseas Territories do. Exploring how that works, or similar examples, could be useful, but whether that is for the Commonwealth or other international groupings is debatable.

Chair: Thank you very much indeed for your insight. It has been extremely useful and I am very grateful. We will pause for just a moment as we swap witnesses. Thank you very much.

Examination of witnesses

Witnesses: Dr Peter Clegg and Eric Bush.



- Q39 Chair:** Welcome to this afternoon's session of the Foreign Affairs Committee. Thank you very much to both of you for joining us. As we continue, looking specifically at the Caribbean OTs, what sets the five Caribbean OTs apart from the others?

Eric Bush: Thank you, Chair, and thank you to the entire Committee for commissioning this review, which, certainly from the Cayman Islands' perspective, is very timely and very important. While I am the current chairman of the UK Overseas Territories Association—UKOTA—I am here as the Cayman Islands representative. I just wanted to clarify that.

To answer the question, the similarity between all the Overseas Territories is, first, that we are all British and we are all British by choice. The Caribbean region has five British Overseas Territories and while some have similar histories, the main thing that brings us all together is that we share the same environmental opportunities and challenges. As it relates to culture and our own history and where we are going, it is all individual.

Dr Clegg: Constitutionally, there are significant similarities across the five territories. The Caribbean region is an interesting nexus. Perhaps we can talk later about what support various organisations in the Caribbean can provide to the OTs going forward. Economically, there is diversity and distinctiveness, in terms of offshore finance, tourism and construction, but there are similarities there too. Some of the issues that Mr Bryant touched upon regarding the nature of these societies and some of the tensions within them is another interesting common factor across many of the territories.

- Q40 Chair:** Would those factors be what make Caribbean territories wealthier—or they tend to be, anyway—than others?

Dr Clegg: I think in part. Somebody said a while ago that American money and British security were important for the territories. Things have moved on a bit since then, but that balance of a significant degree of economic autonomy, but with that British political and defence security is important. That is a good balance for international investors who are thinking about the territories: having that balance and knowing that English common law and other aspects of the British presence apply.

Eric Bush: The Cayman Islands economy is tied very closely to the United States, not least because of the geography, being 500 miles directly south of Miami. Tourism is heavily focused on the United States because of the proximity and direct access. Also, with our global financial services, the majority of our business is through the US.

- Q41 Chair:** Would you say that the security provided by the United Kingdom, both in physical and political terms—in the sense, as you put it Dr Clegg, of a structured and formal political system that is less prone to failure than some of your non-Overseas Territories neighbours—is one of the strengthening factors as well?

Eric Bush: From the Cayman Islands perspective, we appreciate the constitutional relationship between the UK and the Cayman Islands. Next



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year, we will celebrate 60 years of the direct constitutional relationship between the UK and the Cayman Islands. Prior to that, we were administered as a parish of Jamaica—the colony of Jamaica—but as Jamaica decided to go independent, the Cayman Islands made the conscious decision to remain British rather than going independent ourselves or remaining a part of Jamaica. From July 1959 until now, we have appreciated the constitutional relationship we have. That being said, as that has evolved and devolved Administration has taken place, the UK has retained responsibility for external affairs, defence and internal security, and that works well for us.

Dr Clegg: I agree. Sometimes the British Government has to get involved more directly, as in the case of the Turks and Caicos Islands. But beyond that high level, just having the British presence there is an additional set of checks and balances, in terms of what can go on within the local political structure.

Q42 **Chair:** What would you say are the risks to this political stability and economic success?

Dr Clegg: The environmental situation is perhaps increasingly difficult for many of the territories, certainly in the eastern Caribbean. That is a significant challenge in both the short term and the longer term. With Brexit, the lack of engagement, possibly, with the European Union in relation to offshore finance can be a challenge, too. More generally, some of the territories are happy with the balance of their economies, but some are looking at new opportunities and whether those new opportunities could be fully exploited within the context of the direct link with the United Kingdom rather than the broader link across the European Union.

Eric Bush: For the Cayman Islands specifically, we have been left to our own devices on creating our own economy, whether it be for tourism, regional and global healthcare, attracting people for health tourism, or global financial services, for which we adhere to—and, indeed, exceed—all global standards. The risk lies in the realities of Brexit. As I have said, the UK retains responsibility for external relations and external affairs for the Cayman Islands. It is safe to say that given the realities of Brexit, the UK is going to be more concerned about its own external affairs for the foreseeable future, and about creating its own independent—if you'll excuse my use of that term—international identity and focusing on that, and rightfully so. For the Cayman Islands, the risk is that we need to be more proactive, with assistance from the UK Government, in trying to form our own international identity.

Q43 **Andrew Rosindell:** Mr Bush, I was impressed with the detailed submission you sent to the Committee, and was particularly interested to see how clear you are about the British identity of Cayman. You talk about the relationship with the British Crown, the Union flag, British citizenship, strong support of the monarchy and sovereignty. Essentially, you are saying that you are as British as the rest of us. How do you feel about appearing today before the Foreign Affairs Committee? How does that fit?



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Eric Bush: Thank you, Mr Rosindell. As we say in the written submission, we are British. As a previous witness has said, the Cayman Islands were never colonised by the UK. Our history tells us that we were formed by two British men from Cromwell's Army: one from Cornwall and one from Wales. We were settled by the British, and being British is in our DNA—it is who we are. There was another question about the public display of being British. We fly the Union Jack on our flag. The Queen is on our money. We drive on the left. We adhere to British common law. We are British by our very nature. Yes, we have a Caymanian identity—there is no getting away from that—but that does not take away from the foundation of being British.

Andrew Rosindell: Apologies to Members for returning to some of the points discussed in the previous session, but as you are actually representing a territory today, do you feel that it is time that the UK rebooted its relationship with British Overseas Territories, to include them as equally British while defending their right of self-determination and the management and running of their own constitutions and internal affairs? Is it not time that Overseas Territories were given a separate Department, either through the Cabinet Office or through a special unit within HMG dealing specifically with Overseas Territories? Also, do you feel it is time that the UK Parliament had a specialist Select Committee to deal with all the territories of the Crown that are external to the United Kingdom but for which we have responsibilities and ultimate sovereignty, rather than fitting them in with the general foreign affairs issues of the day, of which there are a huge amount that we have to deal with?

Eric Bush: From the Cayman Islands perspective, we are happy overall with the constitutional relationship between the Cayman Islands and the UK. The way in which the relationship itself is managed, as we say in our written submission, is dated and could be reformed. If you look at the FCO's desk model, as was said earlier in the session, the Foreign and Commonwealth Office is the UK Government Department that is responsible for pushing and promoting the UK Government's foreign policy. The Cayman Islands and, indeed, other Overseas Territories are not foreign.

Q44 **Andrew Rosindell:** Who is your Foreign Minister, by the way? Who decides your foreign policy?

Eric Bush: The UK Government retains foreign policy for us. Lord Ahmad would be the Minister for the Overseas Territories.

Q45 **Andrew Rosindell:** So you have a Minister elected by the UK citizens who decides your foreign and defence policy and a lot of other things as well.

Eric Bush: He is a peer.

Q46 **Andrew Rosindell:** But he is appointed by an elected Government—that's the point.



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Eric Bush: That is correct. The Cayman Islands and their Premier have a fantastic relationship with Lord Ahmad, but that is individual to individual, whereas we believe the structure can be reformed. The system that is currently being use—the desk officer model of the Foreign Office—was used, as far as I am aware, back in the day when you had the Colonial Office, which was responsible for administering the colonies of the UK Government.

As we now have more devolved Administration in most of the Overseas Territories, we think there could be a restructuring within the UK Government system that is better framed to managing the relationship and administering and creating a conduit of communication throughout Whitehall for the many different facets of a particular Overseas Territory, rather than in the FCO, within the Overseas Territories Directorate, which uses the desk officer model, which was used back in the colonial era.

- Q47 **Andrew Rosindell:** Would you support changes such as those I have outlined, namely a Department of Government separate from the FCO; a dedicated Committee in Parliament that deals with all issues relating to territories, so that it does not get mixed up with foreign affairs and international relations; and, generally, Overseas Territories being given a status that makes them equal within the British family and the way in which the British constitution operates?

Eric Bush: Particularly in the context of Brexit and the real changes that that will naturally bring and is bringing for the UK and the new sense of a global Britain, certainly from the Cayman Islands standpoint, we want to be a strong member of that global British family. There is evidence to show when things work very well for us. Earlier this year, we participated with the Department for International Trade as a member of the official delegation in the GREAT Festival of Innovation in Hong Kong. The Secretary of State wrote to the Premier, thanking him for Cayman's participation, because at that point in time we showed the tangible benefit of the Cayman Islands and what we bring to the table and what a global Britain looks like for the benefit of all concerned.

Dr Clegg: Can I make a small point about foreign affairs? I think it is true of the Cayman Islands as well as the British Virgin Islands and Montserrat that even though the Governor has ultimate authority, a lot of that authority has been devolved down to the territory Governments, particularly for territories such as Anguilla and Montserrat, where they are really embedded in that regional structure, and that local autonomy is quite useful.

- Q48 **Andrew Rosindell:** Just one tiny final question—it is to Mr Bush again, because he represents a territory. As someone who represents Caymanians, who as you said are very loyal to the Crown and the United Kingdom, and who serve in Her Majesty's armed forces, how does it make you feel on Remembrance Sunday when nobody from the Overseas Territories lays a wreath on their behalf? Why should the Foreign Secretary lay a wreath on behalf of the people of Cayman and the territories around the world who have given more service proportionately



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than the UK in Her Majesty's armed forces? Do you not think it is time for a change and recognition of what the territories have contributed to UK defence and during conflicts?

Eric Bush: I can certainly say that we in the Cayman Islands commemorate Remembrance Day in a typical fashion. As the Cayman Islands representative, I can say that it is always appreciated when we are included in such ceremonial events, which really show that the Cayman Islands are a part of the British family.

Q49 **Andrew Rosindell:** How does it make you feel that you cannot lay a wreath? That is the point. Is it right? Are you happy with that situation?

Eric Bush: The Cayman Islands would love to be included in such a ceremony.

Q50 **Chris Bryant:** You might have to write to Buckingham Palace to get an answer on that one.

The Cayman constitution of 2009 says that it is a "country in which religion finds its expression in moral living". What does that mean?

Eric Bush: I am not a constitutional expert, but it is quite plain in what it is trying to say. I am sorry—I am not trying to be difficult. Are you asking me to legally define what that means?

Q51 **Chris Bryant:** The UK does not have a written constitution at all, but on the whole that sounds like a rather different set of values from a British set of values.

Eric Bush: The constitution of 2009 was a result of a long conversation between the UK Government and the Cayman Islands Government. That is the product of mutual agreement.

Q52 **Chris Bryant:** I am trying to tease out why you would want to be British if you do not subscribe to British values. For instance, there has been a long battle about whether or not you should have same-sex marriage in Cayman, and you will not even recognise people's migrant rights for their spouses when they are in a civil partnership or same-sex relationship that is recognised in other authorities such as Aruba.

Eric Bush: I understand that. The issue of same-sex marriage is subject to legal challenge currently in the Cayman Islands, so it would be inappropriate for me to expand further.

Q53 **Chris Bryant:** Why would it be inappropriate?

Eric Bush: That is what I am submitting.

Q54 **Chris Bryant:** So you have no view about same-sex marriage in Cayman.

Eric Bush: I am a civil servant and it would be inappropriate for me to give an opinion on behalf of the Cayman Islands about any Government policy.



Dr Clegg: It is certainly a problematic issue across the Caribbean, including within the Overseas Territories. It is divergent from the UK policy and approach in general. There are heated discussions, but there are certain actors within Overseas Territory societies and the Caribbean more generally, including church groups, who have fought and are fighting very strongly against any change to legislation. I agree that, across the territories and in the Caribbean certainly, it is problematic when issues such as British values are considered. Maybe the judicial route is how things will start to change.

Chris Bryant: I fully get why a fully independent country would want to decide its own laws on marriage or whatever else. I would want to take part in that debate, but that is neither here nor there. The bit that seems odd to me, and why I asked this question, is that it seems like you are having your cake and eating it. You want to be under the British umbrella, but you do not want to be part of the British way of life.

Dr Clegg: Ten years ago, an Order in Council was needed to change and decriminalise gay sex in the Overseas Territories. That is just an indication of how difficult this issue is for many within those societies. It is possible that the UK Government would think that imposing or implementing another Order in Council was an appropriate step to take, but at the moment the politics are very difficult within the Overseas Territories in the Caribbean. These judicial cases may see some progress, but taking that decision is an opportunity and an option for the Government.

Q55 **Chris Bryant:** It sort of strikes to the heart of self-determination doesn't it? We assert self-determination, for instance, against Argentina in relation to the Falklands, which I am fully signed up to, but we have a bit of a pick-and-mix arrangement. At the moment, it feels that the UK Government is more in favour of hands-off but, interestingly, Parliament has asserted this year that the Overseas Territories will provide financial services transparency in relation to financial services.

Dr Clegg: Again, it is an issue in terms of the constitutional power. On Bermuda and same-sex marriage or civil partnerships, because Bermuda has greater constitutional autonomy, it was more difficult for perhaps the UK Government to get involved. In the Caribbean territories, there is that right and authority and it would be easier to do—it would not be popular and would certainly be controversial—but it would be an option for the United Kingdom Government to take that route.

Q56 **Chris Bryant:** So in relation to the legislation that we passed in Parliament earlier this year on financial transparency and providing for all of the Overseas Territories by a fixed date—I cannot remember when it is—what is the view in Cayman and the other Overseas Territories?

Eric Bush: The Government has been quite vocal in saying that we believe it amounts to constitutional overreach. The area of financial services and the way we legislate financial services is devolved. The Cayman Islands has and will continue to adhere to, and be an early adopter of, all global standards. Public registers are not a global standard. As early as 2013, the Premier came to the UK and spoke to the UK



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media—it was on “HARDTalk” in fact—and made it clear that the Cayman Islands would be an early adopter as and when this becomes a global standard.

- Q57 **Chris Bryant:** But will you adhere to it even if it does not become a global standard because it is British law and we have legislated for it?

Eric Bush: As you rightly say, this goes up until December 2020.

- Q58 **Mike Gapes:** An important point to make is that there has been big concern from various organisations. Global Witness estimated that £34 billion of Russian funds had been invested in Caribbean Overseas Territories, £30 billion of it in the British Virgin Islands. You are not here to speak for BVI; nevertheless, according to the Russian central bank and the IMF, £110 billion has gone through Caribbean Overseas Territories in the last decade.

As a Committee, we have been very exercised. We published a report a few months ago about Moscow’s gold and the Russian corruption of society and British politics. As a British Parliament, we have legislated.

I am interested in your response. You are almost implying that you will not set the higher standards in Cayman or other Overseas Territories, but will wait until everybody in the world has signed up and they become global standards. The sovereign British Parliament has legislated that we want higher standards than the lower standards that might or might not be agreed by the rest of the world. Where do you stand in that debate?

Eric Bush: In this context, two international organisations are relevant—one is the FATF, and the other is the OECD. They are the ones to set this global standard. It is not, Mr Gapes, that it’s a bunch of countries; it’s a global standard-setting body that is there to set standards, but also to hold countries to account and rate those countries. And certainly from those organisations, the Cayman Islands has always been on a par with countries like the UK, the US, Australia, Germany and France. We have maintained those standards.

- Q59 **Mike Gapes:** In the past, but the UK Government has now raised the bar and said, “We are going to have a higher standard.” My question is: are you choosing a lower standard or are you going to go with the British Government and the legislature in this country?

Eric Bush: The Act was accepted in Parliament; it is now primary UK legislation. It gives all Overseas Territories until the end of 2020 to adopt public registers. I will also say—I have to say—that it did not look to legislate directly for the Crown dependencies. That perhaps is a different review, but I can’t say what will happen—

- Q60 **Mike Gapes:** The Prime Minister of Cayman, Premier McLaughlin, is quoted as saying that Cayman would not sit quietly and accept the UK Government’s plans to impose a public register. Does that mean that your Government is on a collision course with the British Government and the British Parliament?



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Eric Bush: The Premier is the elected leader of the Cayman Islands. He and his Government set Government policy. I am here as the Cayman Islands representative and a civil servant. I am here to explain the Cayman perspective—you yourself read the quote, sir.

Q61 **Mike Gapes:** So you are on a collision course with the British Government and the British Parliament.

Eric Bush: I can say we continue to have constructive conversations with the UK Government about the legislation and the overall relationship between the UK and the Cayman Islands.

Q62 **Mike Gapes:** And will you accept the legislation that we have passed in this Parliament?

Eric Bush: It's not for me to say, Mr Gapes. I'm not trying to—that's my limitation.

Dr Clegg: May I add a couple of quick bits of context? One issue is that this is the first time, on a financial matter, that legislation has been passed in this way. In the past, it has been more collaborative. For example, looking back at the European savings tax directive and the frameworks for fiscal responsibility, there was a bit of a tussle, but ultimately the individual territories agreed before the UK Government had to act more directly. So this is new territory, I guess, in some ways. And the fact that the Crown dependencies have not been asked to do the same thing has caused some reverberations within the territories. The idea is between, crudely, white territories and black territories—why are the black territories being focused on and highlighted in this way? That is an argument that certainly has been discussed in the British Virgin Islands as a source of contention within that context.

Q63 **Mike Gapes:** Are you saying to me that the British Virgin Islands would be very happy to carry on being a recipient of billions of dollars or tens of billions of roubles of questionable money and stand aside from what the UK Government is now saying?

Dr Clegg: I certainly couldn't speak for the British Virgin Islands, but there is the idea of double standards, I guess, on the part of the UK Government, as things stand at the moment⁶.

Q64 **Chair:** There is certainly an argument on that. Some elements of the Overseas Territories registers seem to be rather better than the UK registers, certainly in terms of identifying actual directors and checking genuine ownership. It is clear, certainly to many of us, that there is a lot we could learn in reverse. However, I think it's worth noting that the reason why the change of attitude in Parliament has come about this time—the reason why the vote went through this time, in a way that it probably would not have done in the past—is that this is, in many ways, seen not as a financial matter but as a national security matter.

⁶ Note from witness: should read as: 'on the part of the UK Government and Parliament, as things stand at the moment.'



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Mr Gapes has quite rightly highlighted various elements of illegal funding—dirty money, if you will—that has gone through various jurisdictions, and I am certainly not going to say that the United Kingdom is clean on this. That would be untrue, but the difference between the money going through in the past and the money going through now is that in the past it was, by and large, different forms of tax evasion in countries that frankly should keep control of their own jurisdictions. Today it is something else. Today it is money going through that is being used to corrupt allies around the world, to weaken our defensive alliances, to influence civil society in various different ways.

Though I understand the point you are making, Mr Bush, this is no longer a financial matter. This is a national security matter. As you quite rightly said, our national security support to the Cayman Islands and others is part of the infrastructure that allows the prosperity of the Caymanian people, and this is an element of it. From our perspective, this is fundamentally an element of it. That is why this different action has been taken on this occasion.

Forgive me, but I think it is worth making that absolutely clear. May I ask this briefly? When we talk about national security like that, and when people see it like that, I do accept that there is a need for a conversation to go both ways. What aspects do you think we could be more proactive on? I ask that question because of course a lot of the co-operation from the Cayman Islands Government and others is made on the basis of an offer: if you wish to investigate our records, you can do so, and you will get an answer within a certain time period, on beneficial ownerships and other such things. How many times have those records been consulted in the past year, for example?

Eric Bush: I'm sorry, Mr Chairman, with all due respect, I do not have the exact figures. I would venture to say, from the last report I saw, fewer than 40 requests were made and answered.

Q65 **Chair:** That doesn't surprise me, having spoken to other jurisdictions. The numbers are surprisingly low, coming from the UK and asking these questions. That is also a matter of concern, that our own jurisdictions are not using the facilities that you have made available.

Eric Bush: I will also add that there is a common reporting standard, whereby it does not address foreign nationals, but certainly UK nationals. So, anyone who is a UK national who has an account, an interest, a business, a company registered in the Cayman Islands, that information is shared with the relevant authority once a year. That is an automatic exchange of information. As specific information is needed by HMRC or the National Crime Agency, that information is provided within 24 hours or, if it is an emergency, within one hour.

Q66 **Chair:** That is the area where, frankly, some supplementary requests would probably not go amiss.

Eric Bush: If I could just make two more points to complement what you just said, first, it is important to recognise that the Cayman Islands and Cayman Islands Government share in the goal of fighting against money



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laundering, tax evasion, terror financing and overall corruption. We have the same goal. That is why it is important to acknowledge global entities such as the OECD and the FATF that create these global standards.

The way in which we do so and the way in which we co-operate, just like all good co-operation, starts with constructive conversation. That is where we think, certainly with the actions taken by Parliament, in accepting the amendment in the Sanctions and Anti-Money Laundering Act, if you will, betrayed years of constructive conversation.

Because even the exchange of notes that we had in 2016, which, if you will, solidified the co-operation and put in timeframes of when the Cayman Islands would provide this information—what it would be and how it would be used and so on—the lack of conversation and adequate information provided to Parliament, we think, led to that Act and led to a sense of frustration, which was obvious to see. Similarly, it was a sense from the Cayman side of disbelief. Why? What happened? Because there is a disconnect. That is where the management of the relationship comes in and that is what I think is at the heart of this review of how the information is shared with the UK Government and, indeed, Parliament.

Q67 Mike Gapes: You mentioned discussions that are going on. Do you know what the British Government are saying to your Government about the steps that are necessary to implement the legislation?

Eric Bush: I don't understand—sorry, can you reword that?

Mike Gapes: Do you have any knowledge of what discussions there are between the British Government and the Cayman Government about the implementation of this legislation by 2020?

Eric Bush: I would say that the conversations continue to aid the co-operation and the relationship between the UK Government and the Cayman Islands, not just in financial services or in the discussion around implementing public registers of beneficial ownership, but the conversation continues in many facets.

Q68 Mike Gapes: Do you think it will be necessary for the British Government to implement these measures unilaterally by an Order in Council or some other mechanism?

Eric Bush: I don't think I am qualified to answer that, sir.

Q69 Mike Gapes: Dr Clegg, do you have a view?

Dr Clegg: That is of course an option for the UK Government and may be possible. As I said before, when there have been similar circumstances, at the end there has been compromise between the British Government and the Governments of the Overseas Territories. More broadly, one issue is about the capacity of regulated offshore finance as well. Although the laws and standards are there, there are concerns about whether the territories have the regulatory capacity or the manpower to properly oversee their offshore financial centres in all respects. Of course, the expenditure in those areas is a responsibility of the Overseas Territories themselves



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rather than the British Government, for example. Potentially, therefore, that could be a link that could be developed to strengthen those areas.

Q70 Mike Gapes: Does that apply to all Overseas Territories, or just the smaller ones?

Dr Clegg: No, to the larger ones, too.

Q71 Mike Gapes: Moving on, has this debate led to some people calling for more support for the independence of the Overseas Territories?

Eric Bush: Not within the Cayman Islands.

Dr Clegg: A little bit elsewhere, but it is more rhetoric than reality.

Q72 Mike Gapes: What about other issues, such as the Windrush scandal, where people in the Caribbean felt, quite rightly, angry about things that the British Government have or have not done?

Dr Clegg: I think it is a difficult time in the relationship between the UK and its territories—with Brexit, with the response to Hurricane Irma, perhaps, with the public registries issue. There have been difficult periods in the past, around the de-criminalisation of gay sex, for instance, or around the end of the death penalty a few years before. There have been spikes of discontent, but there has been no tangible discussion about the route towards independence. One discussion is that it would be greater autonomy—perhaps looking at the Bermuda model, which Mr Fergusson talked about before. So aspiring to greater levels of autonomy, but I don't think independence, certainly in the next 10-20 years is a possibility.

Q73 Mike Gapes: So when we see some politicians or community figures making remarks of that kind, it is more rhetoric than reality?

Dr Clegg: I think it is for the domestic political audience, yes.

Q74 Chair: How has the Act impacted the UK's standing in CARICOM and the Organisation of Eastern Caribbean States?

Q75 Eric Bush: I think at the last CARICOM Heads of Government meeting there was a part in the communiqué that talked about—though please don't quote me—

Chris Bryant: We will.

Chair: I am afraid it will be in *Hansard*, so you will literally be quoted on everything you say.

Eric Bush: The statement was to voice concern about the UK Parliament's acceptance of an amendment in legislation that does not take into account the constitutional relationship of the Overseas Territories.

Dr Clegg: That is true, and CARICOM has long been a defender of the Overseas Territories when the UK Government has shown its hand. Again, in the Turks and Caicos case, CARICOM was very much opposed to what was done.



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Q76 Chris Bryant: May I ask about contingent liability? We have not talked about it so far, but I understand that some people find it offensive as a concept. Where does that lie now?

Dr Clegg: I think it is where it was. Mr Fergusson alluded to the fact that there is a compromise position in place with respect to the governance arrangements, and the UK Government is not prepared to give the territories much wiggle room at the moment. There is always a tension between self-government and good government, and I think that is still the case.

I guess Anguilla is the obvious case, because it has a constitution that dates back to 1982. Could there be certain reforms there? There have been discussions about issues relating to the power to legislate and the role of the Governor. Within those margins, I think there could be some further discussion, but on contingent liability, my understanding is certainly that in relation to the UK Government are still very central.

Eric Bush: From the Cayman Islands perspective, while that may still be a characteristic of the relationship, we have never required or asked for any money from the UK Government in our history since we started our own relationship directly with the UK. In fact, during the Falklands war, we gave \$1 million to the UK Government in aid and in support of the UK's defence of our fellow British Overseas Territory.

Q77 Chris Bryant: But you need permission for significant borrowing requirements from the UK Government, do you not?

Eric Bush: Once we have passed a certain threshold of borrowing, yes.

Q78 Chris Bryant: I remember quite clearly that in 2009-10 you needed a very large amount of borrowing, and that came to the UK Government. There was a big row between the UK Government and Cayman about whether it was a sensible direction to go in when you had a very narrow tax base.

Eric Bush: Since then, we have not borrowed any money. We have had a surplus budget since 2012, so the Cayman Islands tax base, government model and—if you will—business model works for us.

Dr Clegg: That is an issue across the board, is it not? In Anguilla there is significant UK involvement, and in the British Virgin Islands there is significant involvement in relation to the hurricane reconstruction efforts. That is a key issue that the UK is certainly watchful of.

Chris Bryant: Not to mention places like Montserrat, where there is a whole different set of equations.

Chair: I have just been told that we will be voting very soon. There are a few more issues that I would like to get through. Rather than breaking for 15 minutes, let us try to get through them now so that we do not keep you.

Mike Gapes: There are two votes.



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Chair: So it would be half an hour. It would be best not to keep you waiting while we vote. Royston, did you want to come in?

- Q79 **Royston Smith:** I want to talk about Brexit, if I may. Mr Bush, you talked about where the UK might set its sights post Brexit when looking for future trade deals and so on. From your point of view, it might be a potential risk if the UK had its eye on a different prize. What do you see as the risks and—just as importantly—the opportunities of Brexit for the Overseas Territories, particularly Cayman?

Eric Bush: The Cayman Islands were not consulted on Brexit—we were not given a vote, and that is fine. We accept Brexit as a reality and therefore look at the opportunities. We have no official ties to the European Union other than through our British nationality and who we are as British people. We do not have any direct borders, so the risks that we have identified from Brexit for the Cayman Islands are all within the global risk of what it is to be British.

We do see Brexit as an opportunity to redefine our own relationship with the UK Government, certainly in the context, and under the banner, of global Britain. We also thank the Committee for looking to better define what that means. I would certainly ask that the Overseas Territories and indeed the Crown Dependencies form part of that. We have a lot to offer in broadening the UK's global footprint in many different areas, whether it be biodiversity—we make up 80% of the UK's biodiversity—financial services or around healthcare or different pockets of excellence. From the Cayman Islands perspective, we only see it as an opportunity, and we want to have those constructive conversations about how we can help each other and be a strong part of global Britain.

Dr Clegg: That is the same for many of the territories within the Caribbean. Some of the Caribbean territories would have, potentially, greater losses as a consequence of Brexit—not necessarily in terms of trade, but certainly aid and the regional approach to aid that the EU provides, which is very useful for issues ranging from climate change to sustainability, biodiversity and energy policy. All of those things are very important for the Overseas Territories.

- Q80 **Royston Smith:** Has there been any commitment from the UK Government to replace any of that funding going forward? Sorry to interrupt.

Eric Bush: I can answer that. Lord Ahmad, as the Minister for Overseas Territories, wrote to all Chief Ministers and Premiers indicating just that.

- Q81 **Chris Bryant:** Indicating what?

Eric Bush: That the UK Government would replace any lost funding that is currently approved by the EU.

Dr Clegg: Beyond 2020?

Eric Bush: Yes.



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Dr Clegg: It is also the French and the Dutch connections. It is not just bilateral aid or aid just for the UK Overseas Territories that the territories appreciate. Linking in with their French and Dutch neighbours is an effective way of dealing with these issues on a collective basis, which may well be lost in a couple of years' time.

Q82 **Royston Smith:** Is there a feeling that will be lost?

Dr Clegg: I think at the moment there is that feeling, yes.

Q83 **Mike Gapes:** I know that Anguilla is quite concerned because it does have some European development funding. I gather the Government issued one of these "What might happen if there is no deal" papers a few days ago where it covers some of these issues. It explicitly says, "The exceptions are the finance interest subsidies and technical assistance through the European Investment Bank's Overseas Countries and Territories Investment Facility, which are not covered by this guarantee." Some of our Overseas Territories will lose out because the British Government are not prepared to fund everything. I do not know if you have made an assessment of that.

Eric Bush: We do not request any funding from the EU in the Cayman Islands.

Mike Gapes: This was a letter that Alan Duncan sent to our Committee a few days ago.

Chris Bryant: Could we ask if we could have a copy of the letter from Lord Ahmad?

Q84 **Chair:** Yes. If there are no further questions, I was just going to finish with one, focused on Hurricane Irma and how the various islands are recovering. Are the UK Government doing enough, and how does it compare with French and Dutch support in various areas?

Eric Bush: The Cayman Islands, thankfully, was not affected by Hurricane Irma.

Chair: Perhaps I can encourage you to have your UKOTA hat on for this for the moment. You are quite right, the Cayman Islands was not affected, but others—

Q85 **Andrew Rosindell:** Hurricane Ivan was devastating.

Eric Bush: We were devastated by Hurricane Ivan and the UK's response in 2004 was minimal at best. We were left to our own devices to rebuild and to understand what the current reality was and what we had at our disposal, which were things we created ourselves. We did not have any offer of assistance, whether financial expertise or otherwise, from the UK Government back in 2004. The experience I have heard from my colleagues in other Overseas Territories that were affected is that there has been some assistance offered. There could always be more. That is all I can really say on that, I am sorry.



Dr Clegg: I think there was a sense that maybe the UK authorities were caught somewhat unawares initially, and had to keep responding as the situation got worse over time. The fact that there was not a dedicated UK presence on the individual islands was a drawback, certainly when compared with the French and Dutch territories. Now, however, reconstruction efforts are starting to take shape. Certainly Anguilla and the British Virgin Islands are coming back to some kind of normalcy, although there is still a lot to do. They are also getting significant help from the Caribbean Development Bank, for example, and some technical assistance from ECLAC as well. Again, that regional perspective has been quite helpful to some of the territories.

Eric Bush: If I could just explain Cayman's response: while we were lucky enough to be unaffected by the hurricanes, we were part of the global British response, because Cayman was the first global British responder. The Premier led a delegation. We have our own airline. We flew a 737 jet filled with emergency personnel and £16,000 of emergency aid into Anguilla. We delivered that and offered emergency personnel.

In the BVI, we had police officers assisting with security issues for up to six months after the storm. Similarly, in Turks and Caicos, we were able to fly in another 737 filled with doctors, medical personnel and humanitarian aid. I know there was a lot of criticism within the UK about the timeliness of the response, but if we can accept that the Overseas Territories form part of a global Britain, the global British response was pretty good.

Chris Bryant: Touché!

Q86 **Andrew Rosindell:** Just to sum up with one final point if I may, it is about 10 years since the Foreign Affairs Committee did a report on the Overseas Territories under our former distinguished Chairman here—that is 10 years. Today has revealed so many areas that are relevant to the UK working with the Overseas Territories.

Do you feel that this is the right forum that we should continue with for the Overseas Territories to express their views, be consulted and be involved, or is there a better way? For instance, when the Premier of Cayman comes here, he is not given VIP treatment, even coming into the British Parliament. He has no ability to speak to parliamentarians, and there is no Committee that sits to look at issues specifically to do with any of the territories. Is it not time that there was a better UK Parliament response to how we include, involve and give a voice to Overseas Territories?

Eric Bush: Again, from Cayman's perspective, any more inclusion and ability to communicate and create better relationships would be most welcome. As you rightfully say, Mr Rosindell, when the Premier comes into Parliament as a guest for whatever reason, he is subject to the normal security checks, as is anybody off the road. But if there is an ambassador—or not even an ambassador, but an attaché—of a Commonwealth country or an independent country, he or she is afforded certain privileges and courtesies, if you will. If those courtesies could be



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extended to the Premier of the Cayman Islands and other elected leaders of Overseas Territories, that would be most welcome, because then we could start to feel as if we are accepted as equals.

Chair: We have had a very interesting session, so thank you very much indeed Dr Clegg and Mr Bush. Thank you for making time for us this afternoon.