

Environment, Food and Rural Affairs Committee

Oral evidence: Chair of Natural England, HC 1728.

Wednesday 21 November 2018

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Members present: Neil Parish (Chair); John Grogan; Kerry McCarthy; Mrs Sheryll Murray; Angela Smith; Julian Sturdy.

Questions 1 - 74

Witness

Andrew Sells, Chair of Natural England.

Examination of witness

Witness: Andrew Sells.

Q1 **Chair:** Good morning, Andrew. You will have to excuse my glasses. These are a spare pair and they only have one side to them. Please excuse that. There is always a degree of eccentricity to me, and I think this morning, with these glasses, probably more so. You are very much welcome. Could you please introduce yourself for the record?

Andrew Sells: I am Andrew Sells and I am chairman of Natural England.

Q2 **Chair:** Andrew, it is good to have you in this morning, and we have always worked well with you during your term of office. We appreciate you coming in this morning. We would like you to be very open and frank with us, as you always are. I am going to start off with the first question. Your tenure as a chair of Natural England was expected to last until January 2020. Why have you chosen to leave the role a year earlier?

Andrew Sells: Can I start by saying thank you very much for asking me here? It is a pleasure to come and give evidence to you. I will also say, Mr Chairman, that sadly, in my old age, I am going deaf, so I sometimes have trouble hearing things. The short answer is that I always felt five years was a good term in any job. One Minister said to me that, after five years in the same job, the questions that are coming back on your desk are the problems you thought you had solved already. I genuinely thought five years is a good enough term. Without going into it, I have had some health issues. I felt it was probably the right time to hand over to somebody else, but I said back in June, I think it was, that I would do five years. I am sad to go, quite frankly, but I also think five years is long enough.

Q3 **Chair:** James Cross has also recently stepped down from the position of CEO of Natural England, so how are you going to ensure that some continuity of leadership will be maintained? It is a bit strange that both of you are more or less going at the same time.

Andrew Sells: Yes.

Q4 **Chair:** Is it a conspiracy? What is going on?

Andrew Sells: No. I am disappointed to see James go at this stage, but it would also be fair to say that I think all parties involved thought that it was the right time for him to move on. There were new challenges for Natural England. I agree that the timing is not ideal, but I think we can ensure reasonable continuity by several mechanisms, which is really the point behind your question. First, we have a newish deputy chairman, who has been able to take over some of the forward thinking from me. Secondly, we have appointed an interim chief executive, who is well known to the organisation, who has been on the board for six months or so, knows many of the key stakeholders. Thirdly, we have appointed Alan



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Law as deputy chief executive from within the team. It is not ideal, but we will manage.

Q5 **Chair:** There is a fairly open rumour that perhaps your political masters want a slightly new direction for Natural England and a new management. Is that true or not?

Andrew Sells: I have had four Secretaries of State in five years, and new political masters come and go very quickly. By the time you have taken any one decision, you never know what the new set of priorities and directions are. When I said all parties, it meant James Cross, Natural England, Defra and political masters probably all felt that it was the right time. I think I have answered the question.

Q6 **Chair:** You are not going to be drawn further, are you?

Andrew Sells: No.

Chair: All right, not at this stage anyway.

Q7 **Mrs Murray:** How successful have you been in achieving the vision you outlined at your pre-appointment hearing?

Andrew Sells: I think I have achieved quite a significant shift in culture and in many of the things I thought I would shift. It seems quite a long time ago, five years ago. One of my board members was interviewed by Owen Paterson almost exactly five years ago—Owen appointed me—and asked why he wanted to join the board of this failing organisation, this organisation that Owen said, and I quote, pretty much, was the most unpopular non-departmental public body in Whitehall. What Owen meant by this was that he was constantly being castigated in Cabinet for the failings of Natural England.

I would like to think that, instead of being remote, rather dictatorial and dirigiste, we have taken our decisions much closer to people. We have tried to explain them. We have tried to work with people. I have said before that the single biggest reform we made was to move to an area structure. In each of your areas, you have an area manager who should know the local MPs and the big stakeholders, and explain what we are doing. We have also tried to work with people to achieve their shared outcomes. In changing the culture in that sense, I would like to think we have been very successful.

I would also like to think there is something else we have achieved, which is a close working relationship between the board members, who have a lot of expertise, and the management. We have set up several committees between the two to try to deliver that. Have we reversed biodiversity decline? No, sadly not. Have we actually got some very good ideas as to how we might? We have. Maybe we will come on to them.

Q8 **Mrs Murray:** What have been the main obstacles for you during your tenure?



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Andrew Sells: The single biggest recurring challenge has been the financial cuts. I have all the data here. I do not want to bore you at great length. In the last five years, Natural England's grant in aid has been cut by 47%. Certain aspects of our expenditure are ring-fenced for specific projects: BTB, coast path, marine work, to give you three examples. That means the remaining work, licensing work, SSSI work, national nature reserve work, protected sites work, gets cut by more than that. There has been cut after cut after cut. Within Defra, we have suffered disproportionately, because in the same time as our grant in aid has gone down 47% Defra's has gone down 23%, and the whole of Government spending in nominal terms has risen, so we have been very hard hit.

I do not want to mislead you. That is not the complete story. We have managed to generate a bit more income from our own activities and find sources of finance from everywhere. The total overall cut is nearer a third. Each cut often comes very late. This one this year, £6 million, came in this financial year. It is very hard to run any organisation with that destabilising pressure.

Q9 **Chair:** You talked about creating greater biodiversity and stopping the decline of it as well. Surely, there will be an opportunity, and we will talk further about the Agriculture Bill. Is it not a disappointing time to go now when things could change perhaps, as far as Natural England is concerned, and biodiversity? The policy could change for the better.

Andrew Sells: It is a period of very great change for sure, and Natural England has been playing its part. To go back to a part of Sheryll's question if I may, while we were very remote from Defra at one time, we are working very much more closely with it, and we are delivering. I applaud the Government for the 25-year plan. It is a terrific document. We actually fed content, line by line, into first draft and into the very last. To answer your question, Mr Chairman, we are working much more closely with Government. There are some other issues related to that, which we may come on to.

If somebody said, "Andrew, you need to stay to see Brexit through", I would do that and see it as my duty to do it. At the time when I thought I needed to go, nobody did think it was a serious issue, if you see what I mean. Yes, there is a lot of challenge. There is a lot of work. There is a lot of opportunity, but we are playing our part in that.

Chair: We will leave it there.

Q10 **Angela Smith:** Good morning, Andrew. I have been looking at the House of Lords report on Natural England and whether the Act that gave it statutory existence is still fit for purpose. I was particularly interested in chapter 3, which provided us with a really useful quote in relation to the questions around whether Natural England has lost its independence to a large degree and become too integrated within Defra: "The Open Spaces Society argued that: 'Natural England has regrettably been sucked into Defra. It no longer has its own website, nor does it issue its own press



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releases. It has no independent voice as the Government's adviser and champion on wildlife". I just wondered whether you would like to comment on that and tell us whether you think Natural England has lost its independence, particularly in relation to functions such as issuing your own press releases.

Andrew Sells: It goes on to say, in paragraph 95 of that chapter, "As a minimum requirement, we recommend that the Government should allow Natural England to re-establish its own, independent, press and communications function". He had been chairman, of course, of a predecessor body, so he knew exactly what this involved. It is a very complicated question and it is a complicated answer, but I will definitely try to answer it fully.

The relationship with Defra is not one single binary straight line. It is a game of three-dimensional noughts and crosses. I have a relationship with the Secretary of State. The chief executive has a relationship with the directors and directors-general. Board members have relationships. Members of our staff plug into various sector heads and whatever. It is a very complicated relationship.

When I came in, we were seen as remote and actually distancing ourselves from Government policy. We have made a policy of working with the grain of Government policy, but I can come back and touch on that if necessary. It also must be seen in the context of Defra having gone through a very tough time, Defra having budget cuts itself. It also has quite high profile ring-fenced budgets for floods and some things. It has had IT problems and so on, and then of course it has had the whole of our EU exit, Brexit.

If you go back to the beginning, everybody believed the way to save money—and nobody disputes it—was, for example, to share offices. It was obvious. It was low-hanging fruit that needed to be picked. Then you got into the question of things like why the computers did not talk to each other. It made very good sense to have common IT systems. Another one was, frankly, mapping. You have all these things that made sense, but then Defra got into saying to us, and to other bodies, "Now we are going to integrate your finance function, we are going to integrate your HR function, and we are going to integrate your press and comms function".

Running Natural England now is a very different thing from running it five years ago, because I do not have a head of comms to talk to about who we should get to this event or that, or how to get our stories out. I can give you a quote from a local area manager in a moment. If I want financial information, I have to turn to somebody in Defra, which I think raises quite serious questions about how the chief executive can be the accounting officer, because he does not have a finance director to turn to. I have had advice on the HR issues that, if you are an employee of Natural England and you want to go and complain about some bullying, for example, you should go and see the head of HR in Natural England,



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but he or she does not exist. It is a person in Defra. The parallel drawn with me is saying that an officer in the Met has a complaint and he has to go into the Home Office. In employment law, this is not terribly clever.

What started as cost savings has run over into something that feels more like less freedom, frankly. I agree with Lord Cameron in his report. The pendulum, quite frankly, needs to swing back. We are having a six-month experiment on working with the Defra comms, through Defra comms, to see if it works, but my instinct is that it is not very satisfactory. Yes, in truth we have lost a great deal of independence.

- Q11 **Angela Smith:** That is certainly the impression I get on the ground, representing a rural area with a national park within the boundaries. It is certainly the story I hear every day. The communications aspect of it is particularly worrying on a political level, because the reputation of Natural England out there surely will be that, when they get press releases in the name of Natural England, they are not hearing the voice of Natural England. They are hearing the voices of their political masters.

Andrew Sells: We have one or two examples of that. Without going into too much detail, the inquiry comes into Defra, they start to draft the reply and they put perhaps their interpretation on it.

- Q12 **Angela Smith:** Really?

Andrew Sells: That has happened. If I could read to you from one area manager, an individual said he has 10 points of the effect of the financial cuts, and this is 10: "Our comms work has taken a big hit too, so we can't even tell our story and provide some assurance to partners that we're still doing good work". I was in another area, not his area, two or three weeks ago, and they were saying they felt pressure on comms. I am agreeing with you. We think we have lost too much of our freedom to do that.

- Q13 **Angela Smith:** On the HR function, given what is happening here with the report on bullying of staff in Westminster, and the sense that there is no proper process or mechanism to hold bullies to account, if employees at Natural England effectively have to go to Defra to have their complaint dealt with, what real impact could that have, in terms of not giving satisfaction and resolution to victims of bullying and other serious matters? How would that work in effect?

Andrew Sells: I did not imply, and I definitely do not suggest, that Defra does not take it very seriously and does not investigate it properly. All I say is that, if your contract says you should go and talk to the head of HR of Natural England, because they are your employer, and we are a public body, you should not be going to talk to a civil servant who then says, "I am going to summon various other members of staff in to discuss it". I have had an informal complaint from a member of staff who said he was asked to go and see Defra HR. He did not think it was his business to, but he nonetheless felt he needed to do so, to be co-operative.



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- Q14 **Angela Smith:** Just to sum up this part of the question, do you think Natural England has sufficient independence from Defra at this point to fulfil its duties as a statutory adviser and a regulator?

Andrew Sells: The difficulty is that all our money effectively comes from Defra. For the piper, where does the money come from? You know where I am going. There is an inherent contradiction in there. They want us to deliver their priorities. We say, "We have 500 statutory duties and responsibilities. We want to deliver those". On one particular instance, I was having a conversation, a very amiable conversation, with a civil servant about why we were not doing more in certain areas of what we might call landscape generically. I was told there was no interest among Ministers to do it, so there was no budget for it. This was a couple of years ago and it has changed, but it happened to be one of the things we wanted to do something in.

The problem is that you do not have a parliamentary precept of money just coming in and telling you to get on with it. We have lost the control. Five years ago, we could determine, very largely, what we did with our money and how we made the announcements. Now, we cannot.

- Q15 **Angela Smith:** The Act in 2006 should have put the parameters within which Natural England could work without interference from Government. In reality, there is always this space between the statutory powers and protections provided by legislation and the practical reality, which is that the piper plays the tune. Do you think it is possible, despite the fact that Defra funds Natural England, to resurrect a degree of independence, and to push back and reclaim the powers and duties that belong to you, according to the 2006 Act?

Andrew Sells: I have tried hard. I do not think anybody would say that I have not. Probably my weakness is the strength of my personality, not the opposite way round. I have not managed to achieve it.

- Q16 **Angela Smith:** What advice would you give to your successor? This is a really important tension and problem facing Natural England that must be resolved. What advice would you give to your successor?

Andrew Sells: I have lots of advice, but on this very specific point one must never forget that one is chairing a public body with statutory responsibilities. We have had a nature conservation body—and we are more than that—in this country since 1949, and people look to it to fulfil its statutory functions. You have to fight for that. I have lots of bits of advice for my successor, one of which is, unquestionably, if you are unsure which way to turn, to always go to the science and the evidence. To stick to your point, the question is about never letting go of your independence. Having said that, I have to admit that is not one of my achievements.

- Q17 **Angela Smith:** Thank you. Yes, that is a very honest, admirable admission. I hope, Chair, that we will make some representations to Defra around this, because it is a really worrying situation. Finally, to



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finish on this question, was Natural England consulted in the writing of the Agriculture Bill, the Fisheries Bill and the Environment Bill?

Andrew Sells: In each case we have been consulted.

Angela Smith: You have been consulted. Okay.

Q18 **Chair:** Adequately?

Andrew Sells: I think so.

Q19 **Angela Smith:** You have already made reference to the funding. To expand on that a little, the House of Lords report made quite lengthy points about the funding situation. Again, Chair, if you will indulge me for a moment, I need to quote from the Landscape Institute in the report, which said Natural England "has annually lost scientific expertise and funding to the extent that it has become unable or unwilling to formulate national policies to secure the conservation and enhancement of the landscape...In particular, it has been unable to secure and safeguard a coherent ecological network to overcome the damaging fragmentation of habitats across the whole country". The House of Lords accepted that evidence and made recommendations accordingly. Do you think Defra listened to that report and to the representations made by the report?

Andrew Sells: There are two things. First, it is interesting you have picked up on landscapes. About 10 minutes ago, I mentioned landscapes as an area I did not think we were doing sufficient work in or had sufficient skill and depth in. As to whether the Government listened, it is fair to say that Defra, quite understandably, is consumed with Brexit and Brexit preparations, and has very tight financial settlements. I cannot say that they did or did not listen, but they have not given us any more money. In fact, subsequent to that report we had a further deep cut of £6 million after this year had started, and I think the report came out in February/March. The Secretary of State responded to the report, but I have not detected any deep changes in their thinking.

Q20 **Chair:** The Secretary of State is very keen on the environmental side of things. Surely we need the expertise to deliver that, do we not?

Andrew Sells: Just to divert on to the Secretary of State for a moment, he has been brilliant at bringing everybody together behind a 25-year plan. It is a very good plan, into which we fed a lot of stuff. It is stating the blindingly obvious to say the challenge is to deliver it, but actually to have the plan and everybody agreed behind it is really good.

The answer, Mr Chairman, is that we undoubtedly need the expertise to deal with it. Natural England are the best people on the ground to deliver this type of work. I would like to take the opportunity, if I may, to praise our staff, who are very hardworking, frankly overworked, underpaid, many of them stressed, and have been through endless reorganisations and uncertainty. They are the backbone of our organisation. Going back to your question, Angela, about advice to my new chair, never take them



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for granted. They are truly wonderful and that resource needs to be properly harnessed. Defra has taken in about 3,000 new civil servants, I think, to cope with Brexit, but none of them, or very few, will have the depth of expertise that my guys have.

- Q21 **Angela Smith:** I absolutely support your statement on the staff just now. I have always enjoyed very high standards of support from Natural England in my constituency. The only thing I do not like about Natural England is that you moved the head office from Sheffield, but that is water under the bridge now.

Andrew Sells: I am very sorry.

- Q22 **Angela Smith:** To go back to the serious point, Andrew, you are just about to depart as chair, but in the long term how long can Natural England go on with ever reducing levels of funding before it becomes an ecological crisis, in terms of biodiversity, protecting landscapes and enhancing landscapes? Is there a timeframe on this? How long can we go on like this?

Andrew Sells: I do not think I know the answer to your question. If I might just divert, because it really is relevant, I cannot see Natural England or any other public services, because public services have been cut very hard across the whole board, getting that £70 million-odd back from grant in aid. We have to find new ways of funding. If I leave today with three messages, we have already touched on the financial cuts we have suffered, and I can give you more data. We have talked about the independence. The future has to be one of the concepts in the 25-year plan called net gain. Net gain, for those who are not aware, replaces the compensation for biodiversity impacts you have and tries to improve it.

I speak here, by the way, as somebody who was chairman of a national housebuilder for many years. A lot of onsite compensation does not deliver long-term lasting benefits. It would be better to be looking at local compensation, maybe the nearest nature recovery network, or even potentially a national park, whatever it is, and be putting that net gain money into those kinds of projects. Natural England are the best people to deliver that.

- Q23 **Angela Smith:** It is an interesting concept. I do not think we have time now to explore it. It is something we should look at, Chair, because there are pros and cons. Absolutely finally, in relation to planning gain, I cannot miss the opportunity to raise quickly the point made in the House of Lords report. The Lords were persuaded that the quality of planning advice issued by Natural England has declined, largely as a result of resource constraints. Did you agree with that assessment?

Andrew Sells: It was one of the points where I was in less agreement with Lord Cameron than the rest. I did not entirely agree. I thought, "We are trying to find new ways of doing it and working efficiently with people". I took that point slightly less than some of the other ones, to be fair.



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Q24 **Angela Smith:** Slightly less, but there is still a funding problem with that.

Andrew Sells: Of course.

Q25 **John Grogan:** I have one question on the funding, one aspect of it, and the SSSIs. There has been quite a bit of publicity recently about how, I think it is, half of SSSIs no one has looked at for six years. I think the target originally was to get 50% of them up to scratch by 2020. That has slipped now. There is one in north Norfolk that Michael Gove is very proud of and so on, but, again, that has not really received much attention. Could you just give us your view of the impact of the cuts on the SSSIs?

Andrew Sells: The answer is that, in my period of chairmanship, our expenditure on SSSI monitoring is down 55%. As I said earlier, not being one of the ring-fenced items, it suffers disproportionately. The 25-year plan, which I have spoken warmly of, talks about trying to get 75% in favourable condition, and the current figure is 38%. I am taken to the Attorney-General's speech before Mrs May made her speech at the Conservative Party conference. He said we have to be grown up in life, and you cannot have this level of cuts without having impacts on the ground, and these are some of them. I am happy they are being highlighted and I will not pretend it is not the case. The answer is that, if you cut this amount, you are going to take staff off and you are going to have environmental impacts, and it makes the bill for restoration ultimately bigger.

Q26 **Chair:** That is where some of the new policies can and may well help in the future.

Andrew Sells: Yes.

Q27 **Mrs Murray:** An area to which Defra has been asking public bodies to reassign staff, which could also have an impact on them, is the work on Brexit. Have you been asked to reassign any staff, and how many?

Andrew Sells: Yes, we have. I slightly think the message has come out that we have done this either reluctantly or whatever. Actually, the opposite is true. We currently have 50 staff seconded into Defra and 63 staff working in Natural England on EU work, EU exit-related work or whatever. There is a further ask for some more, maybe another 20. We do this happily, because of two things. First, EU exit, deal or no deal, is something approaching a national emergency issue and we should support our colleagues in Defra on that. Secondly, and equally importantly, these people are working on policies for the future. They are having the opportunity to shape the new schemes and the new policies. You talked about agriculture. They are working on that and whatever. It is an opportunity for us to influence these things. My worry is that we will not get them back, or will not get the funding back for them, but they are doing very good work, and it is important.

Q28 **Mrs Murray:** Do you think it is better to have experienced staff working



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on those policies, rather than to take additional staff from outside?

Andrew Sells: I think we can agree on that.

Q29 **Mrs Murray:** What impacts has this had on the running of Natural England? Has it had an impact on the way you are able to operate?

Andrew Sells: Do you mean having however many staff I said, 113 at the moment, working on it?

Q30 **Mrs Murray:** Yes.

Andrew Sells: Yes, of course it has. It is another large chunk of very capable people. Senior people too, just below director, area manager level, have gone in to do this work. We have lent, seconded or transferred, one way or the other, very capable, experienced people, some of the very best. Yes, it has had an impact internally, but I am hoping it will have an impact long term for the good as a side benefit.

Q31 **Kerry McCarthy:** Natural England has shifted its approach away from a regulatory role towards more co-operation. What sort of results has that produced? Do you have empirical evidence that shifting from a regulatory approach towards a co-operative approach has achieved the outcomes you want to achieve?

Andrew Sells: I do not think we do either way. I do not think I know the answer to that level. Some people want all regulation and a lot of stick. A lot of other people, and this was particularly true of the Cameron-era Government, wanted us to reduce the regulation, and have much less stick, much more carrot, much more encouragement. I do not think it is empirical evidence but, if you look at the way we are trying to sort of some of the issues in the uplands, working with people for shared ambitions is likely to be a more productive way than just beating people with a stick. If you have the stick you should be prepared to use it. We are prepared to use it and we do use it. Without naming any names, one particular individual did a lot of damage to SSSIs. We are a prosecuting authority and we took him to court, and he got fined over £750,000, so we will use that.

Q32 **Kerry McCarthy:** Do you have statistics on how many prosecutions you have brought year on year and whether they are declining or increasing?

Andrew Sells: I do not have statistics and I am very happy to write to you with the data, but I know there are very few prosecutions.

Q33 **Kerry McCarthy:** Can you respond to that in writing, on not just the prosecutions but enforcement action as well? Clearly, not all enforcement action would lead to prosecutions. Just give examples or numerical details of when you have used the stick as opposed to the carrot approach, and whether that has declined.

Andrew Sells: I do not know what sort of stuff you have in mind, but let me hazard a guess that you are interested in wildlife crime. That is an area where we as a society have not been very good. The problem, as



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you know very well, is obtaining the evidence. Once you have obtained the evidence, the penalties are very light, in my, Andrew Sells's, opinion. This is Andrew Sells speaking, not the Natural England board, because we have not discussed this particular point. I think the penalties for wildlife crime need to be significantly harsher. In particular, we, or the magistrates or whatever, should have the power to remove the general licence, which means they cannot have guns for vermin control on estates.

I am surprised to see the Government have ruled out vicarious liability, if you are familiar with the concept, which the Law Commission did some work on. I would like to find ways of getting better evidence, but deeper down you have to change the culture as well. If you are talking about moorland wildlife crime, I suspect it is always going to be hard to get the evidence, so changing the culture is a very large part of it. When people are caught, we should come down on them much harder than we do.

Q34 **Chair:** It gives a greater deterrent to others.

Andrew Sells: Yes.

Q35 **Chair:** They would not like you to go there in the first place.

Andrew Sells: Yes. Kerry, I had this conversation with your colleague Barry Gardiner two or three years ago. He was very keen to get our support for vicarious liability and tougher penalties. I think we do need tougher penalties.

Q36 **Kerry McCarthy:** I guess with vicarious liability you do not have to jump through as many hurdles, in terms of proving who is responsible for it. It is the person who owns the estate.

Andrew Sells: It is the boss. When I was chairman of my housebuilder, we were responsible for what the employees did. It works in almost every other walk of life, but it does not seem to apply to gamekeepers. They will not like me for saying it, but I believe we need tougher penalties.

Q37 **Kerry McCarthy:** We have been given an example here. There was a decision by Natural England that was reported in August of this year. You issued a compliance notice to Abbeystead Estate after gamekeepers culled lesser black-backed gulls in sanctuary areas. The RSPB basically said that is a slapped wrist in the form of a legal document. That was one of the things I was trying to get at, in that just a compliance notice was issued rather than a prosecution under the Wildlife and Countryside Act. That is why it would be helpful to know when you use compliance notices and when you use prosecutions. You are basically talking about them culling gulls in an area that is meant to be a sanctuary. Do you think a compliance notice was appropriate?

Andrew Sells: I am sorry; I decline to discuss any individual case. It went through a very thorough process, though.

Q38 **Kerry McCarthy:** If you could give us numbers on compliance notices



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and prosecutions, that would be helpful.

Andrew Sells: I am happy to do that.

- Q39 **Kerry McCarthy:** Can I ask about hen harriers? The RSPB has criticised the hen harrier action plan. They have said that it is about forcing hen harriers to fit in with driven grouse shooting. For example, it will involve removing eggs from hen harrier nests in areas where they are deemed to be at high enough density to have a negative impact on the grouse population. What should be the priority, hen harriers or grouse that people can then shoot?

Andrew Sells: I know you know this is a very contentious issue. You also understand that it is the subject of legal action that is to be heard in the High Court next month. I cannot comment on anything to do with the priorities on the uplands because of that hearing ahead. I can say, and you will know this, that the hen harrier recovery policy is a Government policy, signed off by Minister Rory Stewart. Our job is implementing it and issuing licences for it. It comprises quite a number of elements and you are only talking about one element, the so-called brood management in the uplands. There is also a southern reintroduction plan. I can say publicly that we are very disappointed that certain NGOs are not supporting the southern reintroduction. We cannot understand why you would not want to have that, alongside as much recovery as possible.

- Q40 **Chair:** The introduction of hen harriers or grouse?

Andrew Sells: Sorry, southern reintroduction of hen harriers, somewhere near your constituency, Mr Chairman.

Chair: I am just being absolutely clear, because it was not clear for the record.

- Q41 **Kerry McCarthy:** The grouse population is basically there in an area so it can be shot. I am not quite sure where Natural England's role would be in terms of needing to protect that population. To me, it does not seem to be a matter of conservation. I cannot see why you would feel a need to strike a balance between those?

Andrew Sells: Grouse shooting is a lawful activity. Killing hen harriers is an unlawful activity. Our interest is in stopping unlawful activities. Many grouse moor owners do fantastic conservation work, and we should not overlook that. I am sure it is only a minority, a small minority probably, that occasionally kill hen harriers or break the law. They should not, and it is our job to come down firmly on them. I have talked about tougher penalties for that. It is not Natural England's policy that grouse shooting should be banned, as certainly it is other people's policy.

- Q42 **Kerry McCarthy:** Do you think you have a duty to protect the grouse population? That is what I am trying to get at. I appreciate you cannot really talk about the legal case, so that makes it a bit difficult for you to respond. The RSPB has criticised the action plan because it is about



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forcing hen harriers to fit in with driven grouse shooting. They are talking about removing eggs from hen harriers' nests in areas where they are at a high enough density to have a negative impact on the grouse population. My argument would be that you should not be worried about hen harriers having an impact on the grouse population, as Natural England, especially when the densities you are talking about are very low anyway.

Andrew Sells: I am afraid, Kerry, this is a matter that may well get heard in court and I cannot comment on that, save to say that grouse shooting is a lawful activity and killing hen harriers is clearly unlawful.

Kerry McCarthy: There is a difference between being a lawful activity and something that Natural England has to facilitate, but yes.

Chair: We need to probably leave it there because of the judicial situation. Angela, you may not be entirely on the same tack.

Q43 **Angela Smith:** I need to declare before I start that I am a member of the RSPB. I need to declare that. Also, I suppose I will go through the usual list for transparency: Wildlife Trusts, Woodland Trust and National Trust, and I have significant grouse moor landscape in my constituency as well. It was over Broomhead Estate in my constituency that the hen harrier was shot down in August. It really annoys me, just for the record, that we are completely unable to establish the criminals who shot that bird down, because they are criminals. I do not expect you to comment, Andrew, but just to get that one off my chest. I am a hen harrier species champion, just to get that on the record as well.

I just wanted to explore further your comments on vicarious liability, Andrew. We have spoken about this before and I wonder whether you would like to elaborate a little on that and whether you base your support for vicarious liability, as an offence, on the evidence that is emerging from Scotland, where they already have a vicarious liability offence on the statute book.

Andrew Sells: Actually, I do not base it on Scotland. I have not seen anything from Scotland that has encouraged me down this route. I believe it would be a real deterrent to estate owners who employ a gamekeeper if, where that gamekeeper is subsequently convicted, the moor owner is, effectively, sharing responsibility in the court with them.

Q44 **Angela Smith:** I know there are various initiatives being developed in my area, across the Dark Peak, for instance, and in other upland areas to try to stop the polarisation of this issue, which we are now having today. There will be no resolution to the issue until there is an acceptance on all sides that working together is the best way forward. The starting point for that is that the illegal killing of the birds of prey must be stopped. It is absolutely the starting point. Nothing will improve, the gamekeepers and the landowners will not move to best practice, or be encouraged to, or work with the RSPB, and the RSPB will not work with the gamekeepers and the landowners, until the killing stops. Do you think vicarious liability



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as an offence being introduced, let us say, sometime next year, if we could do that, would polarise the debate and the relationships even further, or would it work to start to bring both sides of this debate together?

Andrew Sells: You have put your finger on a very good point. We are asking a lot of the landowners and the moor owners at the moment, and it is, as I understand it, not Government policy to introduce it. I made clear that it is an Andrew Sells point of view, not a Natural England board point of view, because we have not discussed it. Coming from a long commercial background, although with a love of the countryside, I do not see why these rules should not apply on the moors as they do anywhere else. As I say, it is not Scottish. It is a slightly broader principle. That is where I come from.

Q45 **Angela Smith:** It is corporate responsibility, in other words.

Andrew Sells: It is, yes.

Q46 **Angela Smith:** I asked a written question last week of the Minister in relation to the European Commission's infraction procedure on the protection of European blanket bogs from burning in northern England. Obviously, this is something I see every year in my constituency. The response I got was effectively this: "We do not comment on ongoing infraction procedures and are unable to provide further detail". I wonder, Andrew, whether you could provide us with some of that detail. What steps is Natural England taking to help Defra tackle the European Commission's action to protect blanket bogs?

Andrew Sells: I think you are aware that we approached a large number of landowners and asked them to give up, voluntarily, their consents for rotational burning. That was a pretty high number. I think about 170 was the last figure I heard. They were the commitments, but I do not think all of them had quite yet signed. That does not resolve the problem long term. The aim is to put in place long-term management agreements. We are working very hard. It is a good team and very overstretched. These are not easy. They are complicated agreements. You are working around their ambitions, our ambitions and whatever. That is ongoing work and it is going on hard. It is also worth remembering the timetable is really tight. We felt this was something the EU ought to give us a full five or six years to do. Effectively, although I might be slightly wrong on the timing, it came out to be not much more than two years or 18 months. It is a real pressure, but we are working to deliver the Government's commitment to the EU.

Q47 **Julian Sturdy:** Morning, Andrew. If I could, I just wanted to refer you to your annual report 2017-18. Natural England says, "Our performance in terms of Countryside Stewardship (CS) and Environmental Stewardship (ES) is the part of the business we need to improve. We have fully recognised that delivery of the scheme has fallen short of customer expectations and the commitments made". I would say that is probably a



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slight understatement, to say the least, of where you are. That is a personal opinion. Some farmers are still waiting over two years for payment on schemes they entered into in good faith. In your words, what do you think has really gone wrong with this?

Andrew Sells: The Countryside Stewardship scheme—I am thinking of an analogy—is like a really badly designed car, designed by a huge committee of people, and various key parts of it have never worked. You cannot point the finger at one person, organisation, committee or whatever. It was a very poorly designed car and key parts never worked. It was never piloted, so it was never given a trial. When we did try, our advisers found it was incredibly inefficient. They said to me you could get 10 HLS agreements out—and they have done very well for conservation generally—in the time it took to get one Countryside Stewardship application.

Chair: It is 10 to one, so it takes 10 times as long.

Q48 **Julian Sturdy:** You are talking about the bureaucracy involved.

Andrew Sells: I will come to that. It was going to be, for those of us who have long memories, digital by default. The farmers were going to have to fill it in. They complained they did not have the facilities, but that is what it was going to be. It still requires most applications to be filled in by hand. We then enter it into the computer. We then close down that computer and we get the computer off another computer system.

Q49 **Chair:** You draw it on maps, do you not, and draw it all out, and then you put it on to the computer? Is that how it works?

Andrew Sells: The mapping is a very serious issue. This has got lost in the mists of time. If I may divert for a second, Mr Chairman, I was at a meeting in Defra, two years ago I think, and I complained about the failure of the IT. A very senior woman snapped at me and said, “Andrew, it is not a failure. Please get this right. It will come right. It is a deferred success”.

Q50 **Chair:** It has been deferred for a long time.

Andrew Sells: It is still deferred, Mr Chairman.

Chair: I shall have to remember that one.

Andrew Sells: You have mapping issues, IT issues, a very intense evidence requirement. You have a very strong infraction lack of risk from the Treasury. Then Europe put in something called the uniform start date, where they all had to start on 1 January. That meant our work, instead of being spread evenly through the year, went up to needing huge peaks of people at one time and then down and up again.

Q51 **Chair:** You had to turn down many people because of that as well, did you not? That is another issue.



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Andrew Sells: Yes, we did. I actually think Natural England has taken more flak on this than it deserves, because we were asked to manage it because the RPA could not cope due to all the other problems the RPA had at the time. This was only a temporary situation. Even when we were managing it, certainly for the last two years or so, Defra seconded programme managers into Natural England to manage it. Even James Cross, who got a very hard time about it from Ministers, was not managing it day to day. It was somebody from Defra who had been seconded in, who used to come to the Natural England board and tell us how it was.

We made one mistake. I will come back to it too. I have publicly apologised many times for the delays farmers have had, but it is a very complicated picture and it is not really any more Natural England's fault than anybody else's. The one mistake we have made, and we have to put our hands up to this, is that we suffered from a sort of optimism bias. We thought we could fix this broken car, for which we did not have the right tools, by the way, more quickly than we could. We let people down there.

Q52 **Chair:** It is not fixed now, though, is it? The car is not fixed.

Andrew Sells: It is in the RPA's hands now. You will have to ask them.

Q53 **Chair:** I am asking you straight. Do you think the car is fixed now? You used the analogy, so you answer the question, please.

Andrew Sells: Mr Chairman, all I will tell you is that on Monday two large landowners, of whom I am aware, or their agents, rang up to complain about their lack of payment. In a way, I think nobody thinks it is sorted yet.

Chair: We are getting it all the time. Julian knows that. We all know that.

Andrew Sells: It is an overcomplicated scheme, massively overengineered, with all these defects in it. Only last year new mapping issues came out of the RPA. To be fair, and the Secretary of State would say this, we have simplified some schemes. We have brought in new programmes that you can apply for by computer. We are trying to simplify it and whatever. At the same time, I am hoping we are going to be able to extend HLS schemes and design a new one. Going back to Sheryll's question, that is why I am happy to have people working on that in there, trying to design a new scheme. I agree with you; it is a very unhappy story.

Q54 **Julian Sturdy:** You mentioned the RPA. What is your view now on how the RPA can take it forward? Can they address this situation so farmers are getting the payments on time, or certainly more in time, for schemes they have, as I said, signed up to in good faith, and want to enter into and deliver, not only for the environment but for their business?

Andrew Sells: I cannot speak for the RPA. I know I am interested in delivering the outcomes on the ground. We are not delivering as many



outcomes as I would like us to be because of the complexity of this scheme and because of the reluctance of some farmers coming out of old schemes to go in to tackle this new scheme. We need our schemes to work.

I am going to answer a question you have not asked, if I may. Do I think we should run them, or the RPA? I think we are the best-placed people to deliver conservation on the ground. In a way, I was quite sorry to see these schemes taken away to the RPA. Of course, we still have the advisers who would have set those schemes up in our area managers, doing conservation work. Nobody particularly wants to run this scheme as it is now. If we had a really good efficient scheme, maybe the architecture should change again.

- Q55 Julian Sturdy:** What lessons can be learned going forward, looking at the new agriculture Bill, looking at public goods? We do not know the full details, but we know a lot of those are going to be based around potentially delivering environmental benefits. Those could come through schemes, as you have talked about, pilot schemes. What lessons can be learnt going forward?

Andrew Sells: There are two essential lessons. First, you must pilot your scheme. You must give it a proper trial and get it working, making sure it does work. The other thing is that you must be prepared to take a bit more risk. Most of the people who have this money really care and want to deliver the conservation outcomes. We have been unduly untrusting, so I would say take more risk.

- Q56 Julian Sturdy:** Take more risk as in with the schemes themselves, or take more risk with actually trusting some of those people who are implementing them.

Andrew Sells: I specifically meant the latter, but I also think the former.

- Q57 Julian Sturdy:** On this point, you mentioned you think Natural England is better placed to deliver this, rather than the RPA. Going forward with delivering, and having some form of scrutiny or checks and balances over what are called the public goods, because there is a lot of argument at the moment about how you quantify public goods in the new Bill, do you feel Natural England would be better placed to quantify some of the public goods, especially when we talk about the environmental side of it, than the RPA?

Andrew Sells: Most certainly.

- Q58 Chair:** Andrew, the trouble we have at the moment that is farmers have really lost confidence in the scheme altogether. Some farmers are coming out of them because they are complex. They are not getting their money. The agriculture Bill is moving everybody more and more in the direction of the environment and public money for public goods. The trouble is that, if we are not careful, we are going to start off in a worse place than where we were, for the simple reason that people have just got fed up



with it.

I am not blaming you for it. Obviously, you have made the point that the car is bust, basically; it does not work. I do not think there is much we can do to repair the car, to be blunt. How quickly can we not exactly scrap the scheme but bring in a scheme that will be workable, farmers will sign up to, you, Natural England or whoever can actually administer, so the farmers get their money? Putting it bluntly, why would you enter into this terribly complex thing that costs you a fortune to put in place if you do not get paid? It does not have a lot of attraction, does it?

Andrew Sells: You are preaching to the converted, Mr Chairman.

Q59 **Chair:** I want to try and pick your brains on how soon we can get ourselves out of this lousy car.

Andrew Sells: I have been pressing the Government, and they have agreed in principle, that we should be able to extend the HLS schemes there are where they are delivering what the landowner wants and we want. That is very important. What I am really interested in is what we are delivering on the ground, or what we are not delivering on the ground. You are putting your finger on it. Without the schemes and without farmers having the money to do it, we are not delivering things we really ought to be doing on the ground. We are going backwards from where we were, and that was not a good enough place anyhow. I know there are a lot of good people working on it. I do not know the answer to the question of how quickly they can get into place and complete the work.

Q60 **Chair:** The short-term answer, naturally, is to keep the HLS schemes and run them on, so we do not get people coming out of environmental schemes unnecessarily. That is the simplest way of dealing with that particular situation. You also said, and I quite agree with you, a new system needs to be piloted. Of course, it needs to be piloted quickly, though. We have to have farmer, landowner and everybody's input into this if we are going to make them work in the long run. Otherwise, we bring in a new system and very often we seem to fall into the same holes that we fell in with the previous system. Do not forget; this is a whole new direction now. The whole agricultural policy is going to be turned upside down: 80% of the money that was going towards the basic farm payment will now be going towards environmental schemes of one sort or another. I speak as a farmer now. I declare an interest as a farmer. You are not terribly confident when what is going on at the moment is not good.

Andrew Sells: I might disagree with the last clause, because looking back it is not good, but looking forward—

Chair: It can be.

Andrew Sells: It can be.



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Chair: That is provided we get it right.

Andrew Sells: Yes. We have identified the right tools. We have not talked about natural capital, but that is a way of taking decisions. I have touched on net gain. I have not talked about some of the bigger, better, joined-up things we know we need to do, the nature recovery networks. We know what the solutions are. We need the will to implement it and the working car to get us there.

Q61 **Chair:** You talked about natural capital then. This is a very interesting one for me. We talk a lot about natural capital. We do not seem to have actually valued it in monetary terms. In some ways, I do not see quite how we are going to deliver a new environmental policy without having a value to natural capital. Do you value a tree? Do you value a hedgerow? Do you value acres of permanent pasture and permanent grassland? Where are we going with this? It is all very airy-fairy, as far as I am concerned. Alright, I am a little sceptical on these things, I know. Until we value natural capital, I do not see how we can devise these schemes and put a monetary value on them.

Andrew Sells: Defra and Natural England are working very hard on metrics for valuing the components of what we hope to deliver by way of environmental gain through these schemes. Natural capital does not deliver cash per se. Natural capital tries to improve your decision-making, places value on things and makes you understand the value of nature, the value of rivers and everything. Net gain, to take you back there, says to the developers, "You are building a shocking great new stadium here. We do not want just a few flowerbeds around the edge of it. We want you to do something quite serious locally". It delivers cash. With great respect to my friend Professor Helm, I am more interested in net gain because it delivers the cash to do the conservation work. Natural capital should help you make the decisions.

Q62 **Chair:** Surely you could do that with farmland as well. If you want to have a net gain on biodiversity, you can value what you have. Surely you can value where you want to get to and then actually pay for the outcome. That is another issue, what we want with conservation. Are we actually getting what we are paying for? At the moment, I do not really see the means of exactly getting there.

Andrew Sells: We need to see the metrics and how it is going to work. Natural England is in a very strong position to do this kind of work and be able to deliver what you are talking about.

Q63 **Chair:** Do you think you have the expertise for it? At the moment, natural capital is not being valued, is it?

Andrew Sells: I think we have the expertise, yes.

Q64 **Chair:** You do, and you are confident Natural England can deliver that.

Andrew Sells: Yes.



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Q65 **Chair:** Thank you. Especially with the whole direction of the agriculture Bill and policy in the future, we will need to get this right. This is the value of having you here this morning with your experience.

Q66 **Angela Smith:** Andrew, what do you see as the greatest challenges on the horizon for Natural England?

Andrew Sells: Once you have the context of our financial cuts, the single greatest challenge, in a way, is to find a voice, which we have talked about, and a role in a fast-changing world. That is what you have to do. You have to find some new ways of funding, develop all the ideas we have been talking about. The Chairman has been talking about natural capital. There is net gain, the nature recovery networks. Somehow, you have to take this brilliant organisation with brilliant people in it and make it deliver for nature, for conservation, for the countryside, and pay the farmers to do the work we want to do. Remember, without paying the farmers and the landowners, you will have very poor outcomes, so you have to do that. That is the single biggest challenge.

There is a secondary challenge that follows from that. Staff morale has taken rather a severe hit as the cuts have come through, with continuing uncertainties. If you find a sense of direction and you know where you are going, that will pull back.

Q67 **Angela Smith:** Do you think the NERC Act 2006 gave Natural England sufficient powers to intervene? For instance, there was a case in my constituency 10 years ago nearly now in which unimproved grassland was ploughed over for allotments, despite Natural England's strong objection, but Natural England had no power to intervene and stop, I think it was, the local parish council from just agreeing the land could be ploughed over.

Andrew Sells: That was presumably not an SSSI, was it?

Q68 **Angela Smith:** No, it was not an SSSI. There are loopholes around weaknesses in the powers available to Natural England.

Andrew Sells: I think the evidence we gave to Lord Cameron's committee is we did not feel we needed any new powers. I think that was our evidence. I think I remember the example you have given. I do not know whether one case justifies requiring new powers. I think we felt at the time we had most of the powers we needed.

Q69 **Angela Smith:** It is just that occasionally it is advice rather than the power to intervene. You are at the mercy of other statutory authorities in effect. That is the question. What advice would you give to your successor?

Andrew Sells: You need to show a passion and a love for the countryside and for nature, and a commitment to it. I hope that I have that sufficiently. Although I come from a business background, I care passionately about it and I have done everything I can. My successor needs to do that. You should treasure and nurture the staff, because they



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are brilliant. I might also pay tribute and say we have about 2,000 volunteers who do a huge amount of work. We have an awards ceremony every year and try to respect them. They are our greatest asset. As we touched on before, it is very important to remember you are chairing a public body, not part of Defra.

Q70 Angela Smith: Just to finish, exactly on this point of independence, do you think your successor should sit on the board of Defra?

Andrew Sells: I am very glad you asked that question. When I was originally asked to go on the Defra board by a senior civil servant, I said I did not think I should. I said I thought it presented a conflict and I should not do it. About two weeks later I got a call back from the same lady who said, "I think you should know the Prime Minister", which was David Cameron, "thinks you should and it has been approved by him, and Philip Dilley", the then chairman of the Environment Agency, "has agreed to do it". I felt under pressure to do it and I did it. The point about the conflict turns out to be not very real. The Defra board virtually never discusses Natural England, and certainly not its budget or anything like that.

Q71 Angela Smith: Really?

Andrew Sells: No. That seems to get decided somewhere else. I have never had to leave the room because of a conflict of interest, but I feel slightly that it is part of this creeping control, if I can use that. It may be a bit too strong, but you know where I am going. The other thing that happens is that, every Friday, I get a pack from Natural England of all the paperwork and stuff I need to sign, read, do and all that. Now the pack from Defra is even bigger. I am thinking to myself, "I should be really concentrating on the Natural England stuff".

Q72 Angela Smith: Also, you are effectively, as an individual and in your capacity as chair of a public body, signing up to decisions made by the overarching body, the Government Department, with this pack of papers.

Andrew Sells: It is interesting. It is a big point. The powers in Defra lie with the Ministers, vested in them by Act of Parliament, or the civil servants. The Defra board brings together some very good people. I would say to Michael Gove that he has made the Defra board entirely functional and worthwhile, brought in interested, hardworking people and put them on individual projects. He is making the Defra board work. Until he arrived, the Defra board itself was verging on the dysfunctional. It is not a board that actually takes all the key decisions. It is much more an interchange of ideas, discussion and how to tackle issues.

Q73 Chair: To get a straight answer, should your successor be on that board or not, in your view?

Andrew Sells: It is in the job spec that they want him or her to do it. The reason my team would advise me to sit on it is to go and get intelligence, know what is going on and have the opportunity to make points. As you can tell, I am ambivalent about it.



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Q74 **Angela Smith:** That is absolutely fine. The fact you have never had to leave the room suggests that Natural England does not rank very high on the list of priorities within the Department.

Andrew Sells: I do not think you should infer that, Angela. It is the way it talks about the problems and the very big issues. I do not think the chair of the Environment Agency has ever left either.

Angela Smith: That is fascinating. That is really fascinating.

Chair: It is interesting about the way the board works, so thank you for the insight into that, Andrew.

Andrew Sells: I hope I have not been too indiscreet.

Chair: You have not. In some ways, you have not been quite so indiscreet as I might have liked you to have been. Thank you for being very open and frank with us this morning. We have questioned you quite strongly and you have given us your very honest and open answers. Thank you also for the work you have done over the last five years. Can I thank you personally? You have always been very helpful to me with individual cases I have had and things I have taken to you. Therefore, I have had, personally, a very good working relationship with you. You will be a loss to Natural England, but I wish you much success in your retirement, if that is what you choose to do, or if you go on to do something else. Total retirement is not a great option, in my view. I always think it is best to keep something going and keep the brain cells working. We wish you well for the future and we very much appreciate you coming in this morning.

Andrew Sells: Thank you, Mr Chairman. It was very kind of you and very kind words. It has been a privilege to serve Natural England and a great pleasure, most of the time at least. Thank you very much indeed.

Chair: That is most appreciated, and we are most appreciative of you coming in this morning. Thank you very much.