

Environment, Food and Rural Affairs Committee

Oral evidence: General licences for controlling wild birds, HC 2190

Tuesday 21 May 2019

Ordered by the House of Commons to be published on 21 May 2019.

[Watch the meeting](#)

Members present: Neil Parish (Chair); Dr Caroline Johnson; Kerry McCarthy; Mrs Sheryll Murray; David Simpson; Julian Sturdy.

Questions 1 - 120

Witnesses

I: Tony Juniper, Chair, Natural England; Marian Spain, Interim Chief Executive, Natural England; Lord Blencathra, Deputy Chair, Natural England.

Natural England has provided written evidence to correct factual inaccuracies in this transcript. This can be accessed [here](#).

Examination of witnesses

Witnesses: Tony Juniper, Marian Spain and Lord Blencathra.

Q1 **Chair:** Welcome. Thank you very much for coming to the panel this afternoon. I wanted you all to come in quite quickly so that we could try to find out what the problem has been, how it came about and how we are going to put it right quickly, I hope, rather than taking a great length of time. Would you like to introduce yourselves? Lord Blencathra, would you mind if I called you David?

Lord Blencathra: That would be perfectly acceptable, Chair. I have been called David longer than Blencathra.

Tony Juniper: Thank you very much, Chair. It is very nice to be back before the Committee again. You will recall my first time here was during the consideration of me as the proposed candidate to be the new chair of Natural England. You were kind enough to endorse that proposal. I took over on 23 April, arriving the very same day that the announcement was made on the changes to the general licences. That is why today we have Marian Spain, Chief Executive, and Lord Blencathra with us, as they were respectively interim chief executive and acting chair at the time when these decisions were made, leading to the announcement on 23 April.

Literally, I arrived at Natural England, I had a health and safety briefing, I found out where the teapot was, and then it was announced that there would be an announcement. Up until that point, I am afraid I had very scant knowledge of the idea of general licences, but I will do my best to answer any questions that you have, including about the future.

Chair: I do accept that while all of us might be guilty of much sin, you are not necessarily guilty of this sin, as you got there so late in the day. Please take that in the spirit it is meant.

Marian Spain: I have been interim chief executive since October and I was a board member of Natural England before that, so I have been involved in this current episode, which started in January when we first received Freedom of Information requests, which then led to the legal challenge.

Perhaps just by way of an introductory remark, I would like to take a step back and put the broader issue in context, because it has become clear to me over the last few months that sometimes we forget something. This includes the users of the licences as well as those issuing licences. The starting point for me is that all wild birds are protected by law, provided for by the Wildlife and Countryside Act and supported by various pieces of European—



HOUSE OF COMMONS

Chair: That will be the first question. I would prefer you to wait for the questioning, please, because I do not want long statements, thank you.

Lord Blencathra: Just by way of introduction, I have been on the Natural England board since April last year. In August I was made deputy chair of Natural England and on 25 January, when the last Chairman retired, I took over as acting chair until a new chair was appointed. I relinquished that role when Tony Juniper officially arrived. I was the acting chair during all the time that this problem was brewing up in the end of January, February, March and April.

Q2 **Chair:** Thank you very much for that. The first question is about whether you can explain the purpose of the Wildlife and Countryside Act prohibition on the killing of wild birds and what the general licences were meant to achieve. Marian, you come in on that, followed by David. Tony, you are most welcome to jump in when you need to, but, like I said, because much of this happened before your time, we are just being careful about how we deal with it.

Marian Spain: As your question says, all birds are protected by law in the Wildlife and Countryside Act, as indeed are a number of other taxa. Licensing allows for those circumstances when, in effect, that legal protection is broken. The law, as well as protecting species, recognises that there are circumstances, in particular to protect human health and safety, to protect livestock and crops and to protect other flora and fauna, in which there is a need for lethal control of a number of species.

The general licences were conceived in the 1990s by MAFF to be a non-bureaucratic, non-burdensome system to allow common controls of non-conservation threatened species. They are intended to be broad and generic, covering a range of circumstances and a range of issues. There are a number of general licences, some for birds and some for other taxa, such as badgers, otters and so on. In particular, this challenge was about three specific general licences for 16 species of birds in the circumstances of risks to human health and safety, risks to livestock and crops and risks to flora and fauna. That was the particular challenge to the breadth and the level of discretion allowed within those broad licences.

Q3 **Chair:** David, the interesting thing is why the licences were suddenly pulled. Nobody appeared to see it coming.

Lord Blencathra: Nobody saw it coming, Mr Chairman; you are absolutely right on that. The system was invented by MAFF in about 1992 we think. DEFRA carried on the system. When DEFRA delegated it to us, we carried on with exactly the same system. The first question my board members asked when we met on 20 March was, "How has this happened? Why has it blown up? We have not changed a single thing in 25 years".

No one saw it coming. It had never been challenged before, but then we had to act quickly because the legal advice was so assertive. We all have different opinions of lawyers, but in all my time I have never seen legal



HOUSE OF COMMONS

advice that was so positive and definite as this. We were advised by our lawyers, who had seen the QC's advice. I thought I personally would read all 19 pages of the QC's advice and I found one or two interesting sentences. To quote one, the lawyer said, "For the reasons I have given, in my opinion the contention that the issue of each of the three general licences by Natural England was ultra vires is inarguably correct". That very firm legal advice that the licences were ultra vires drove our thinking that we had to pull them.

You asked why we pulled them immediately. We went back to the QC later for further advice, once we had concluded that they were unlawful. The QC also advised we could not just reissue them with a few tweaks, because they were so general that, it was impossible to add little conditions to them; they would have to be completely rewritten. We went back to the QC for further advice and he advised that, although Wild Justice said, "We only want to stop the licences from January next year", we could not continue for the next eight months with a system that we were advised was unlawful.

In fact, he said, "If a public authority has a power to revoke or suspend a licence that has been unlawfully issued which may still authorise further activities, it may not lawfully maintain it in force when it could not grant a licence for them". He also went on to say that we would be flying in the face of what Parliament ordered in the 1981 Act and that we would be thwarting Parliament's intentions if we tried to operate a licensing regime for the next eight months that we concluded was unlawful.

Q4 Chair: Lawyers are all very well, but I was a sheep farmer for some 12 years. I have seen crows peck lambs to death. I have seen them pick on ewes that are down and take them apart while they are still alive. I will be quite blunt with you: I would take action against that crow whatever, because I will not see that take a sheep. It is an animal welfare process. I know that crows and pigeons were the first that you relicensed, but I do not believe you should ever have taken that licence away, because it is an animal welfare issue and action needed to be taking place.

The trouble is that bureaucracy and lawyers are fine until the time you have to practically take action. I probably will not say what I said in the private meeting, but I probably might, and that is that if in that interim period there was a crow pecking the eyes out of a lamb I would have taken the necessary action to make sure that that did not carry on. This is what I am concerned about. Does Natural England realise the effect that some of this has? It is not just a game in the park. Who wants to come back on that one?

Lord Blencathra: Since you were looking at me, Chairman, I will answer first. It is not a game in the park. We did not want to be in this position at all. The countryside did not want to be in this position. It is not good for farmers and it is not good for conservation, having to make these decisions in a very short timescale, but we were left with no legal option. As a public body, you or I may not like lawyers in the circumstances, but



HOUSE OF COMMONS

when the legal advice is absolutely impeccable and irrefutable and when we have gone back a second time to the lawyers to consult them, we could not disobey what the law is.

Q5 Chair: Most of my constituents, and most country people in particular, think you just got rolled over and you did not fight the corner hard enough. I think that you probably did see some of it coming. You may have been completely unsighted, but I suppose the other question is why you were so unsighted. I cannot believe that your lawyers have not told you along the way that this case might well go against Natural England. Were you never given that advice?

Lord Blencathra: At my time at Natural England, until April last year, this had never cropped up. Our lawyers had not brought it to our attention. Our officers had not considered this was a problem. Bear in mind that the last time this issue cropped up was in 2014, when Natural England did a comprehensive study of changing the licensing regime; 65 questions were asked.

Q6 Chair: That action you took back in 2014 obviously did not satisfy the court, did it? Otherwise, you would not have lost this particular case. You did not lose the case, did you? You took this action before the case was finally made. Nobody seems to be entirely clear. I am going to bring Marian in. Do not forget she is acting chief executive now and was when it happened. David, you finish off and then I will bring in Marian.

Lord Blencathra: By all means. Thank you, Chairman. If we got advice that what we were doing was unlawful, we could not go to court and defend that case. Yes, some have said, "Could you not just get further legal advice and keep spinning it out to buy yourselves time?" What were we to say to the judge when we appeared in front of the judge on 25 April, which was the deadline given to us by Wild Justice? If we had legal advice saying it is unlawful, we could not say, "Your Honour, I know it is unlawful, but can you please let us continue the system for the next few months while we work alternatives?"

Q7 Chair: David, sorry but you are not answering my question. The question is not what your lawyer has told you now or before 25 April. Marian needs to come in on this one. Were they not telling you that the case was likely to go wrong? It is that question I want answered.

Marian Spain: That period, from the pre-action protocol letter arriving, the formal case being served and us taking the decision, was a period of about six to eight weeks. You will understand that during that time we took our own legal advice; we sought advice from DEFRA, and our lawyers consulted their lawyers on their legal advice. Remember that in this instance we are acting on delegated powers from the Secretary of State, so DEFRA is the ultimate policy decision-maker. We are acting on their behalf.

We considered two sets of legal advice to consider whether we had an option to fight the case. We also spent a large part of that period working



out what we would do in exactly the circumstances you described. A lot of what I was spending my time on was considering, if, at the end of this period of discussion, consultation and legal advice, we had to take the licences down, how quickly we could put in place a system that would prevent the circumstances you are describing and allow farmers and other users of the licences to continue to act lawfully.

We were preparing two things. We were preparing to decide whether or not we had to concede the case or whether we could fight it, and we were deciding what alternatives we would put in place, either if we conceded it or if we had taken it to court and lost the court case, because the end result would have been the same. The licences would have had to go down at a defined date. We were very aware of the circumstances you described. We were also very aware of all the other issues, including damage to pea crops at this time of year and risks to health and safety of Canada geese around children's play areas and public parks. We were very aware, particularly at this time of year, that there were some very high-risk scenarios.

Q8 Chair: You considered all this. You took all this and put it right. Why could you not have taken the licences down one day and put the new system in place the next day? We have not got most of these birds relicensed at the moment. How long are we going to wait for that as you fiddle while Rome burns?

Marian Spain: Again, if I just take a step back, I am going to explain to you why we could not simply put the licences back up again in a slightly reformed way. The essence of the legal challenge was that we had unlawfully, in effect, delegated our discretion to the licence user. The law prescribes that we need to make the judgment about whether the use of lethal control is necessary. The way the licences have been drafted since 2020, confirmed again in 2008 by DEFRA was that more of that burden of certainty was placed on the user and that was the part that it turned out retrospectively was unlawful.

I can address your point again in a moment about why we did not know that before, if you would like me to, but continuing on the point, once it looked highly likely that we would have to take the licences down one way or another, we looked at three options. We looked at amendments to primary legislation to issue a new form of licence. That simply was not tenable in the period and the level of public consultation that we would have needed to do to have new primary legislation was not possible.

We looked at whether or not we could simply re-issue the three existing licences with almost a cover note giving another layer of evidence, and that was the one we first hoped we would be able to do, because that one looked pragmatic, sensible and in the spirit of the licences. We could not do that because, in terms of the level of proof and the level of evidence and analysis we needed to draw together to give that certainty that the use of the lethal control was necessary—because of serious damage and because there was no alternative—the volume of work to do that for all



HOUSE OF COMMONS

three licences simultaneously would have taken some time. So we chose a middle path, if you like, which was to say that we would prioritise. We had a grid of species and circumstances, and we prioritised which licences we would issue first. We have done first those that we felt were needed most, because of the time of year, the volume of use or pressure from the user group.

We had to do three assessments to stay within the law. We had, first of all, to satisfy ourselves that lethal control was necessary. At the risk of repeating myself, that was about asking, "Are we certain that these birds cause serious damage? Are we certain that there is no alternative to lethal control?" That was the principal test. You can imagine that that is not a small exercise, even for a single species and a single circumstance.

Q9 **Chair:** Can I ask you a direct question? When this crow is attacking a sheep or a lamb, that is due reason to shoot it, is it?

Marian Spain: It is, and that is what the new licence now allows.

Q10 **Chair:** Have I got to prove to DEFRA that this crow is attacking this lamb?

Marian Spain: No, you have to satisfy yourself that the licence as prescribed describes those circumstances and describes the livestock. You have to satisfy yourselves that the crow is likely, because of past experience or what is happening elsewhere, to attack the lamb.

Chair: It is attacking the lamb. It is not past experience.

Marian Spain: In that case, that is fine.

Q11 **Chair:** Sorry, but the bit that is driving everybody absolutely crazy is this business that we all have to work out the intention. If the bird is taking the crop or attacking the lamb, we know what the intention of that bird is.

Marian Spain: We do. We also know that landowners do not wait until damage has happened. They have a year-round pest control process that looks at this. The idea that a single day is the only day you would make a decision to control that crow is not how most people operate in the circumstances.

If I finish what I was saying, we have to be satisfied that use of a licence is necessary. We also have to be satisfied that the species in question is not a conservation risk, which for most of them is pretty clear-cut. We also have to satisfy ourselves that the action is within the European legislation and that we have carried out appropriate assessments and so on. There is a volume of work to do for each licence.

What we chose to do was to take it licence by licence. We issued the timetable of when licences would be issued. Bear in mind that this is not just farmers; this is also pest controllers, local authorities and a whole range of people using these licences. Before the licences went down at



HOUSE OF COMMONS

midnight on the 25th, there were three options, or two and a half options, available to somebody who relied on the licences. They were to wait for the new bespoke licence, apply for an individual licence, and in the meantime, while you waited for your individual licence application to be determined, you could rely on a defence under the Wildlife and Countryside Act that you had to act in an emergency; that would be your defence should anybody challenge you. The circumstances you described should not have arisen. At midnight on 25 April, people could have applied and relied on the defence. By midnight on 26 April, there was a new licence available to control crows on livestock.

We thought very hard about what the practical way was of reinstating licences, so that those who could act lawfully beforehand could act lawfully now. That was the programme we started on with that published schedule. The first licence is up on the 26th. The next two are the following week. I will pause there, because then the situation changed when the Secretary of State took back the delegation.

Chair: Magpies and jays and all these other things are going to take much longer. Why is one fast and the other not?

Q12 **Mrs Murray:** Just to come back, you said you started to get Freedom of Information requests before the court case. Did this not flag up to you that you perhaps should have started to look at alternatives then, rather than wait for the judgment? Did you do any work and carry out any work to see if you could have prevented basically what is a break in the licence? Farmers were left in limbo, not knowing what was going to happen.

Marian Spain: We did, and the reason I was just putting my glasses on was to check dates rather than confuse myself. We receive a number of Freedom of Information requests. We receive a number from this particular challenger. They do not all lead to legal processes. We were certainly aware from the middle of February, when we had an application of notice, that we might have to act.

The first route we went down was to see if we could prevent that legal case coming, so we had without-prejudice meetings with the potential litigants to try to persuade them to think again. You will appreciate those were without-prejudice meetings, but some of the conversations that took place there were largely in the public domain because of other actions. Our first thing was to try to prevent this legal challenge forcing us into acting in an unplanned and unprecipitated way.

We had a review of licences planned for this summer anyway, which may well have flushed out some of the issues that the legal case was targeting, as well as others. The first thing we focused effort on was trying to prevent a legal case, which is never a satisfactory way of making public policy.



Our second thing, in parallel with that, was that, when it got into mid-February and we realised the chances of stopping the legal action were looking very low, we started looking at options of the nature I just described. We did not wait until we had to concede. One of the reasons we waited until what others have described as the very last minute to concede was to try to get as far down that path as we could have done. By the 23rd, when we informed people we would have to take the licences down, the vast majority of the work, both to set up the individual licence applications and to prepare the background evidence to issue new licences, was well underway.

I do not want to labour the point, but, being new to this myself, I was astonished when I realised just how much evidence and detail we needed. Each of these new licences is underpinned by a pack of detailed evidence, so it is not a small issue to issue a licence, particularly given the nature of this particular legal challenge and the fact that there would be subsequent challenges. These challengers have taken action against us in the past where they have been successful, so we took what might look like quite a risk-averse approach. We were quite conscious that it was better to get this right and have licences that would not be challenged again than rush something out that could be challenged again this summer.

Chair: Can we try to keep the answers a little bit more concise?

- Q13 **Mrs Murray:** Very quickly, just following up, you said there were certain pieces of European legislation that were very prominent in the court case. With the decision that was taken by the United Kingdom to leave the European Union, while we have to respect the welfare of these birds, would it give us more flexibility in being able to issue these licences? Would it give us more flexibility, or is domestic legislation as important in this court case as the European legislation?

Marian Spain: The European legislation is not specific to this court case. It is a piece of legislation that underpins all of our licensing. The short answer is that if the EU does as it has publically stated and adopts the effect of the habitat regulations into UK law, that would not change the situation. We would still have to check that on currently European protected sites the actions would not have a detrimental conservation impact.

Lord Blencathra: In both Houses, in looking at the EU withdrawal Bill, we are incorporating all of EU law into UK law. The only way this could change is if a case went to our Supreme Court in future, which then diverged from European law.

Chair: That is absolutely right.

- Q14 **Julian Sturdy:** Marian, I just wanted to pick up on something you said in response to the Chair's questioning. You talked about the individual licence applications that kicked in straight after you took the licences down. How did that process go? I have had very mixed reports, if I am



being honest.

Marian Spain: There were two initial hiccups, which we regret. One was to do with the way that the mailbox had been set up. It was not that the mailbox was not big enough. The operating system behind it put in a check. We had more applications than expected in the first 24 hours, which meant not all were received; some people had a bounce-back.

The second thing was that we had set up online PDF applications, which is the way we do all of our licence applications. Some users found they could not access those through Apple systems, so they could not access them through an iPad. By the end of the weekend we had resolved those two IT things. There was a period when some people were not able to apply, but that was resolved before the weekend was over.

Lord Blencathra: May I give you briefly a couple of examples that perhaps show some of the misconceptions that exist out there of what people can and cannot do at the moment. I talked to our officials in charge of this this morning and asked how individual licensing was going. They said they have had some applications from people who said, "I want to shoot pigeons. I use them in the food chain". Of course, you cannot shoot pigeons for food. If you shoot one as a pest, you can then eat it.

Another said, "I have pigeons in my roof and they are a nuisance. Can I shoot them?" Our officials, rather than dismiss it, went back to them and said, "How are they a nuisance? Are they causing serious damage?" They said, "No, they are just a nuisance". There was a perception among some members of the public and some users that they could shoot some birds for sport, for food or because they are a nuisance, and that is not the law. That is not what the 1981 Act says.

Q15 **Kerry McCarthy:** We have covered quite a lot of this ground. I should say that I am a former lawyer, but I am not offended by anything that has been said so far by my fellow Committee members. Can I go back to Wild Justice's role in this? You have already said that you accepted their argument that the licences were issued unlawfully. I am just trying to see in my notes. You said there was a 2014 review of 65 different questions asked, but at no point was the possible illegality discussed or flagged up as part of that.

Lord Blencathra: I believe that is the case. I spent some time looking at all of the papers I could—I asked officials to dig them out—that related to the consultation in 2014. There was no suggestion then whatsoever that what one was doing was illegal or unlawful. People say to us, "Why did Natural England not follow up on this?" I have a quote here from the June minutes of 2014; the minutes say, "We acknowledge there was strong political interest in the consultation and that DEFRA had indicated that withdrawing the full consultation could be considered by the board, but that there might be alternative, more appropriate ways forward".



HOUSE OF COMMONS

When the board had further papers on this consultation, in July the minutes said, "The media response, political pressure and the strong and polarised views expressed are presenting difficulties in producing a proper evaluation and a pragmatic response to the consultation". None of us were there, but it is clear that at that time Natural England was under enormous political pressure from the then Ministers to drop the then consultation because it had provoked a lot of hostile reaction, some of it quite wrongly and unfairly. It was characterised as "shoo before you shoot", which was apparently not what we were saying at all.

In 2014 Natural England apparently, as the minutes euphemistically say, were told, "Back off. Leave this alone. Do not touch it. It has caused too much political trouble". There was no question, then, of Natural England doing any further investigation of it, until we were ready to do our fuller review this year.

Q16 Kerry McCarthy: While we are on that point about the response, while we are here there is a Westminster Hall debate going on about intimidation in public life, which Simon Hart, who has close connections with the Countryside Alliance, is leading. I am not quite sure what his angle is, but I would have quite liked to have been there. There is a lot of hostility around these issues. We have seen what happened to Chris Packham with the crows hanging, and presumably you would all join me in absolutely condemning that sort of response, because they did go down legal channels. Could you just place on the record that they were perfectly entitled to do what they did, in terms of questioning the legality of this?

Tony Juniper: Yes, of course. What happened to Chris was completely unacceptable and is to be condemned, and we did do.

Lord Blencathra: We deplore it.

Marian Spain: Just building on your point, the issue that Natural England is grappling with here is one we grapple with almost on a daily basis. We issue a number of licensing consents that are all exactly in this judgment we are having to make now, about how we balance our statutory duty to protect wildlife with our responsibilities to ensure sustainable development and that people can continue to operate legitimately.

Our officers carry out expert judgments on this on a day-to-day basis. It becomes harder in the face of a very hard legal challenge, and that is why all the timeframes felt very constrained and the debate became very heated and very polarised. Our case officers in the field are making these judgments day to day with farmers, debating issues. It is exactly your point: this is about judgments within a legal framework.

Q17 Kerry McCarthy: Perhaps this is a question for Tony going forward. How do you avoid a situation like what happened in 2014? Perhaps if you had been able to conduct that consultation in the way you wanted to, you



HOUSE OF COMMONS

might have uncovered some of these issues, if it was just a case of looking at the evidence. How can you take the heat out of it? People have strong feelings either way and we want them to be able to communicate those feelings, but how do you avoid it getting unpleasant and, in effect, stopping you doing your job?

Tony Juniper: One thing that I would note as the incoming chair is the need for the board to have a very clear view of risk that is there for Natural England, in terms of how we might be distracted or challenged on certain subjects, and to try to anticipate those. On this one, we have found, sometime ago, after this was originally flagged in 2014, that there was a real risk there. It was not captured in any of our documents. Now we can hopefully learn from the full constellation of things out there that may come and bite us into the future. Just being very clear about that is one of the things that we have to do.

As Marian said, we have had several cases brought over the last several months. In the case of Wild Justice, they have been successful. This has then attuned us to the extent to which there are vulnerabilities for Natural England's work and we do need to pay attention to that.

The one thing I would say, for an organisation that is very thin on the ground in terms of the scale of cuts that we have experienced over the last five years, is that the last thing we want to do is to spend our precious and scarce resources on litigation and fighting legal actions. This has taken up a great deal of my time since I came in, when I would otherwise have been thinking about strategy rather than firefighting around this stuff. Looking into the future, just being clear about where these risks are and managing them in advance of them blowing up is probably the thing that we have to do.

As Marian said, we are sitting at the junction between many different stakeholder perspectives. In this case you can see the two extremes, with the people who have been very angry about the withdrawal of the general licences and, on the other side, the people who brought the legal action in the first place. We are sitting in the middle, trying to do this difficult challenge of delivering sustainable development on behalf of the country.

This is one of many places where we are trying to do that, in relation to agriculture, in relation to planning, in relation to infrastructure and in relation to licensing. This is what Natural England needs to do. It needs to be the expert adviser, sitting in that place where we can see all the stakeholder perspectives and hopefully doing a good, professional job, informed by science, to be able to come to good conclusions that are compliant with the law. It is very complicated and it requires us to be able to master all of these different challenges in a way that reflects the complexity. That is where, at the moment, we have quite a big challenge, having had our budget cut in half over the last five years.

Q18 **Chair:** David, I want to bring you back in, because you talked about what



HOUSE OF COMMONS

happened in 2014. With the benefit of hindsight, what should have been done then? I am tempting you, I know, but you probably know a little bit more about it.

Lord Blencathra: I must not be tempted, Chairman.

Chair: No, you are here giving evidence before the Select Committee. You must definitely be tempted.

Lord Blencathra: I can be tempted, but I cannot speculate on what may have been said by DEFRA Ministers to Natural England in 2014. I can perhaps have a guess, but I cannot speculate on that. It was entirely a political decision that was made at the time. It may have been for the best of reasons, but it certainly stopped Natural England and Natural England civil servants doing any further work on this issue.

Q19 **Chair:** To reword the question, if the necessary action was taken by Natural England to gather the evidence that these particular species of bird need to be culled at certain times, then this court case would not have been successful.

Marian Spain: I do not think that is quite right.

Lord Blencathra: That is possible. It is impossible to say. Natural England consulted on about 65 different questions in 35 areas. Admittedly, it was a wide-ranging consultation, but I would say in hindsight it was probably too wide-ranging. We should maybe have concentrated on a few key issues. It is impossible to say from all the responses what decisions would have been made on the highly contentious political stuff.

The problem was that some of those who were perhaps more interested in the shooting side of country life considered the 2014 consultation as an attack on shooting, which it was not at all. That coloured a lot of their input at the time. Theoretically, yes, if the Government, DEFRA at the time and Natural England had made lots of different decisions, this may not have happened, but it is so hypothetical that it is impossible to say.

Marian Spain: Just to directly address Kerry's question and link those two points, there was not at that time a legal challenge that made us question the basic premise of the licences. That was the difference. At the time, there were some of the same issues we have seen played out in this debate, in terms of the balance, but at that time we had not had a legal challenge that led us to feel we needed to take QC's advice. We did not see this coming because we had inherited a system and we had operated it effectively for 10 years. It was only a specific legal challenge that led us to understand that there was a missing piece in the way the licences had operated since the 1990s.

Q20 **Kerry McCarthy:** If the consultation had not been closed down in 2014, there might have been more scope to explore some of the issues that were raised.



HOUSE OF COMMONS

Marian Spain: I am not sure. We might have been further along the solution we now have, having that more detailed understanding of individual species, for example.

Q21 **Kerry McCarthy:** The Wild Justice challenge was what led you to look at it this time.

Marian Spain: Absolutely.

Q22 **Kerry McCarthy:** Can I just ask another specific about it? I know you have said that they were not asking for the licences to be dropped this year. They were talking about 2020, but your view was that it had to be done now, because once it is deemed to be unlawful it is unlawful. Leigh Day solicitors made the legal point that a court taking a pragmatic approach to disposal of the matter could, for instance, have made a prospective declaration or may also have suspended the making or effect of any such declaration, leaving existing licences intact until their renewal in 2020. They cite the case of the British Academy of Songwriters, Composers, and Authors—I do not know what that case is about—and another case. They are lawyers saying that it did not actually have to happen; that was a letter of 24 April to Natural England. I do not know if you have had a chance to reply to that.

Marian Spain: We have.

Q23 **Kerry McCarthy:** I have a letter from you dated the 23rd, which was before that. Is it your view that you took legal advice and their legal advice is not correct?

Marian Spain: Frankly, yes. We have now replied to that letter. They have had a reply from us in the last few days. David covered this point earlier. If we, as a public body, come to understand that we have acted unlawfully we cannot simply allow that to continue, and Wild Justice was made aware of that on several occasions.

Lord Blencathra: It is disingenuous of Wild Justice to say, “We did not want Natural England to pull the licences immediately. We were quite happy to let them continue until next year”.

Q24 **Kerry McCarthy:** Their lawyers say that there is a precedent. It has been a long time since I practised as a lawyer, but there probably is a precedent for saying, “You have discovered that this is in breach of the law, but you have a certain amount of time to act upon it”, if the licences are already in effect and have been in effect for a long time. I am probably getting out of my territory.

Marian Spain: The risk I was very aware of, not least because a number of the user groups raised this risk with me, was that if we had knowingly allowed the individuals to do something, it would have been the individuals that were at risk. That was a risk I was not prepared to take. It was not inconceivable that an individual using one of our licences, which we had publically declared to be unlawful, could therefore be at



HOUSE OF COMMONS

risk of prosecution. It was a very difficult judgment to make, but we certainly explored leaving it open until next year. We just could not. We could not take that risk for the 50,000 or so people who use these licences.

- Q25 **Kerry McCarthy:** Can I just ask a final question about working with organisations like Wild Justice going forward? It absolutely makes sense to try to avoid litigation. They have been set up as an organisation that brings legal challenges. I know, Tony, that you came under a cloud of suspicion; I do not know if that is the right phrase, but I got a phone call saying, "He knows Mark Avery. Can you denounce him? That is clearly why this has happened". I told the journalist that it was a load of nonsense and that I thought it was quite good that the chair of Natural England actually knew some environmentalists.

Tony Juniper: Indeed. I know some farmers. I know people who go shooting. I know people who go deerstalking. It depends which people I know that you want to pick out to prove a certain point. Anyway, we all had a good laugh at that story, apart from anything else.

- Q26 **Kerry McCarthy:** Exactly. It was seen as, "Shock, horror, we have uncovered the fact that he once wrote an article with Mark Avery".

Tony Juniper: Mark wishing me happy birthday was the worst thing.

- Q27 **Kerry McCarthy:** That is definite incrimination, is it not? I certainly think that you should still be talking to people such as Mark Avery. How are you going to manage that relationship going forward? I do not just mean him, obviously, but others.

Tony Juniper: Do you mean with Wild Justice specifically, or all the stakeholders?

- Q28 **Kerry McCarthy:** It just seems to me to make sense that, if they have an idea that they might be pursuing some illegal thing, you want to get them in the room and talk with them beforehand.

Tony Juniper: I will answer that, just building on something I said earlier about the stakeholders and Natural England being at this triangulation point between very widely held views among different groups and the extent to which hopefully Natural England can be a force that brings people together, because what this whole episode has done, unfortunately, is to polarise once more the conservation and sporting and farming interests, when in fact farmers, conservationists and other people with sporting interests in the countryside are, 90% of the time, on the same page.

Natural England, certainly through the work of the board and the senior team, will be doing everything we can to bring people together, to work in partnership and to solve problems together. That is the default position for Natural England, certainly while I am there as chair. Unfortunately, this has been one of those things that has slightly blown us off course.



HOUSE OF COMMONS

We will be working as hard as we can to build bridges with people at both ends of the spectrum, in order that we can be as united as we can be.

Lord Blencathra: Before Tony's arrival, at our board meeting on 20 March, where we first considered a detailed paper on this, many board members said they regretted this polarisation of apparent conservationists as opposed to country people who wanted to shoot, control pests and so on. There was a wish to pull this forward, so that we could have this review of licensing generally and then we might get some consensus, or at least we might have one side understanding the other.

We cannot pull that further forward. We are in this position now, but I hope, when we do conduct that general review, we will get a wider understanding among all people in the countryside, including conservationists, farmers, pest controllers and the lot, and get some sort of consensus on what needs to be done to protect farmers, to protect livestock and to protect wildlife. We will not get complete agreement, but if we can get a bit more middle ground, it would be very helpful. That was a driving concern among most of our board members.

Q29 **Dr Johnson:** Before I ask my question, if it is all right, Mr Chairman, on behalf on my very rural constituency, I wonder if you would like to rephrase the phrase that you both just used: the difference between, on one side, the conservationists as opposed to the country people, and conservationists versus sporting interests. Farmers are the biggest conservationists of our land in this country. The countryside is like it is because that is how farmers have made it over generations. I am a farmer's wife, but a towny born and bred. There is nothing that farmers want to do more than to ensure that the land goes down to hopefully one of their children in great condition for them to run their own farm. It is not something between conservationists and farmers, because farmers are conservationists.

Lord Blencathra: I agree entirely, 120%. I was trying to characterise the criticism that is coming from sides at the moment. I, like you, believe that there should not be two sides in this, as Tony Juniper has just said. As people are feeding into the Secretary of State's consultation at the moment, people are feeding in totally contrary views, which are perceived to come from different sides of the argument. That is absolutely wrong. I hope we could have consensus that we are all on the same side.

Q30 **Dr Johnson:** I hope we could have consensus that farmers are conservationists who preserve the land and the wildlife that lives on it.

Lord Blencathra: Yes, I agree with you 120%.

Chair: Well done, Caroline. It is a good point.

Q31 **Dr Johnson:** I will move on to my question. I want to look through the dates of all of this. You said you asked 65 questions back in 2014 and that the review stopped slightly earlier than you would have hoped. Of



HOUSE OF COMMONS

those 65 questions, did any of them relate at all to the legality of the licences that you were issuing? Were any of them related to legality?

Lord Blencathra: I believe not. I looked at the summary of the responses and a few long papers in 2014. I do not think there was any suggestion then whatsoever about the legality. There were lots of arguments about the technicalities of different species and so on, but no one raised a single issue about the thing being illegal then.

Marian Spain: The review was much more broad brush. What the review concluded, which partly relates to some of the things we are hearing now and are still facing today, is that the views were so dispersed that there was no overwhelming majority that suggested any changes to the detail of the licences we made. There was not at that point any formal challenge to the legality. Some of the issues that this current situation is throwing up are issues that we discussed then. I am simply telling you what I read. There are also issues that will come up in the review that we will carry out later this summer.

Q32 **Dr Johnson:** In terms of the burden of proof of whether the licences are necessary and whether controlling animal species in that way was necessary, that was a topic of discussion, but whether it was legal was not. At the same time, the level of your review into the detail of whether it was necessary was not enough to satisfy the law. Is that where we were?

Marian Spain: Absolutely.

Q33 **Dr Johnson:** Thank you for that. The other question is about the QC's advice. Much emphasis has been placed on the QC's legal advice and, Lord Blencathra, you read some of that out. The overwhelming advice, as you said, was that the licences were illegal. On what date was that advice first received by Natural England?

Lord Blencathra: The first legal opinion from the QC was received on 21 February 2019. That was relating to the legality of what we were doing. We had also asked the QC if we could next-day-tweak the licences and reissue them and he said, "It seems to me impossible to conceive of a condition that could be imposed on the width of these general consents that could possibly make them lawful".

Q34 **Dr Johnson:** Sorry to interrupt you. Both of those pieces of advice were received on the same day.

Lord Blencathra: Those two pieces of advice were on the 21st.

Q35 **Dr Johnson:** Just to be very clear, they told you both that the licences were unlawful and that they could not be tweaked on the 21st.

Lord Blencathra: They were ultra vires.

Marian Spain: That was in the opinion of that particular QC.



HOUSE OF COMMONS

Lord Blencathra: In the opinion of the QC on 21 February they were ultra vires and they could not be tweaked by just adding a few conditions.

Q36 **Dr Johnson:** You went and asked somebody else.

Marian Spain: We then spoke to DEFRA and sought their legal and policy advice.

Q37 **Dr Johnson:** When did you receive that?

Marian Spain: That happened much later. That happened closer to the time of our 20 March board meeting. Just to finish the question, if you will forgive me, Lord Blencathra, the second opinion was received from our QC.

Lord Blencathra: Yes, that was on 18 March. Before our board meeting on the 20th, we had the second opinion from the QC and that was specifically, "Could we continue operating throughout the rest of this year with unlawful licences?" Again, the advice was very robust indeed. In fact, he also added a point that none of us had considered. He said, "Failure to revoke the licence when the authority is not so satisfied about satisfactory solutions would thus thwart Parliament's intention in Part 1 of the 1981 Act."

Q38 **Chair:** I am sorry to interrupt. Would you publish that advice? Are you prepared to do that?

Marian Spain: We made a summary available. It is legally privileged, so we would not publish it as such, but under certain circumstances we share it.

Q39 **Chair:** I think we are entitled to see it in full.

Marian Spain: I think you are.

Chair: It is not just what you decide to give up, to be perfectly frank. Perhaps I will press more clearly that we do get that, please.

Q40 **Dr Johnson:** When did you consult DEFRA? When did you approach DEFRA and on what date did they come back to you?

Marian Spain: There were a number of conversations with DEFRA throughout this period.

Q41 **Dr Johnson:** When was the first?

Marian Spain: Forgive me. I will double-check the date rather than mislead you.

Q42 **Dr Johnson:** When did you first inform DEFRA that there was this legal challenge?

Marian Spain: Can I come back to you on that? We have been in regular contact with DEFRA throughout this, with informal discussions, formal lawyer-to-lawyer and formal exchanges and submissions to the Minister.



HOUSE OF COMMONS

Q43 **Chair:** I am sorry to be difficult. You are coming here today to give evidence of what happened. You should have the information to know when you met with DEFRA. It is a pretty legitimate question.

Marian Spain: 21 February was when our lawyers spoke to DEFRA lawyers. I can read out the full dates, if you would like me to, or we can provide those in a written note, if that would be more helpful.

Q44 **Dr Johnson:** Written would be more helpful. The key thing is that you first got the information that this legal challenge might be valid and that these licences might be illegal, or even were illegal, on 21 February. You then spoke immediately, the same day, to DEFRA to inform them, but the licences were not removed until the end of April. When you did so, you were able to reinstitute some of the licences quite quickly.

Chair: Sorry to interrupt, but we have to follow the question a bit more.

Dr Johnson: This is the question.

Q45 **Chair:** Sorry, no. We have to find out what happened at the meeting on 20 March, because already you had all this information back in February. You then had another meeting on 15 April. Our suspicion is that you knew a lot more about it and DEFRA sat on it. What was the truth?

Marian Spain: The truth was that on 20 March I took a paper to the board, which Lord Blencathra chaired; I will let him comment on what the board judged. The information we gave the board then was that we had had a QC's opinion, which told us the licences were unlawful.

Q46 **Dr Johnson:** You had had two by then.

Marian Spain: No.

Q47 **Dr Johnson:** You said 21 February and 18 March.

Marian Spain: I beg your pardon, yes. It was on the first point about whether they were unlawful. On 20 March our board knew that it looked as if they may be unlawful. We discussed at the board seeking further views, seeking further consultation with DEFRA about that point, continuing to explore legal options and continuing to explore whether, although they were unlawful, we could mount a defence. You will appreciate the important difference there.

Q48 **Chair:** You informed DEFRA of this on 21 February. We are now on 20 March; we are a month later. The decision was then not made until 15 April. That is two months, virtually, from the time that DEFRA had the information. Who sat on it: you or DEFRA?

Marian Spain: Nobody sat on it. During that period we were looking at, as I said, three options: whether there was any other legal opinion we should take into account, including that received by DEFRA; whether there was any possibility of mounting a defence should the case go to court; and whether there was any possibility in seeking to persuade the litigants not to pursue the case and, in parallel with that, looking at what



HOUSE OF COMMONS

our options would be should we ultimately conclude that they were unlawful. In March, our board did not conclude they were unlawful. They concluded that we needed to do more work.

- Q49 **Dr Johnson:** In March, your board, despite having been told by the first legal opinion that they were illegal and by the second opinion that they were illegal and should not be operated for the rest of the year because they were illegal, still decided they were only possibly illegal. On what basis did they decide the opposite to the two legal opinions they had paid so much money for?

Lord Blencathra: I am sorry; I do not understand.

Marian Spain: I do not understand what you are getting at.

- Q50 **Dr Johnson:** If I have misunderstood you, I am sorry. You said on 20 March the board took the decision that they were possibly illegal, but you sought two QC barristers' advice on this, who both told you that they were illegal. Which barristers told you that they were legal in order for you to form a position that they were only possibly illegal?

Marian Spain: The point was not so much whether they were illegal. It was whether or not we could mount a decision. It was whether we could do enough to mount a defence or whether we could do enough to quickly reissue in more or less the same form. It was about how we would respond to that legal advice and how we would take it into account.

Chair: Can we get to the crux of the matter about when it was decided to revoke the licences? Sorry, but Sheryll wants to come and she has to go.

- Q51 **Dr Johnson:** You have had this meeting on 20 March and then you have taken until 15 April to revoke the licences. What took so long?

Marian Spain: At the risk of repeating myself, the three things that were going on in that period were checking with DEFRA's lawyers whether there was a different opinion or a different aspect that we had not taken account of, so we were looking at other legal opinions. We were looking at whether there was a lawful defence, so, even though they were unlawful, whether we could defend their unlawfulness should the case come to court. We were waiting to see whether or not Wild Justice would formally mount the case. At this point, they had not formally served the case. We were also working out a strategy for dealing with it should we ultimately conclude they were unlawful.

- Q52 **Dr Johnson:** When you issued some of the licences, particularly the ones for crows pecking out lambs' eyes, quite quickly, was the work to establish the evidence in process before you revoked the licences and, if it was, when did you start the process of collating evidence?

Marian Spain: Yes. Soon after the 20 March board meeting.

- Q53 **Dr Johnson:** How soon after?

Marian Spain: Within days.



HOUSE OF COMMONS

Q54 **Chair:** Can you be a bit more specific than “soon after”?

Marian Spain: What our board received in March was a paper that pointed out the legal issues.

Q55 **Dr Johnson:** The farmers and land people who use these licences in my constituency and around the country want to know, once you worked out that the licences were not lawful, when you started to get the evidence in place to make them lawful? Did you wait until 15 April, did you do it on 20 March or did you do it on 21 February?

Marian Spain: No, as I was saying, our board considered both the lawful point and the handling strategy should they have to be revoked, noting that it looked likely that they might. What were our options for getting them back up and running as quickly as possible?

Q56 **Mrs Murray:** Before the current problems arose, how much engagement did you have with DEFRA on how you were carrying out your responsibilities for issuing these licences? The Secretary of State delegated them to you. It has been going on for a long time. What consultation did you have with DEFRA, either their lawyers or the Secretary of State, before this arose? It seems a very long time.

Marian Spain: The powers have been delegated to us for some years. Most years, we reissue the licences in more or less their same form, and DEFRA is aware of that. The terms of the delegation require us to notify and agree with DEFRA if we are planning any significant changes to the licences. This was clearly a significant change, so we notified them of the change and sought their agreement for our approach.

Lord Blencathra: I am not aware of any discussions with DEFRA before that, in my time on the board, about licences. If there were discussions between officials, we would need to go and dig that out and supply it to the Committee. In any of the papers I have seen, there was no suggestion that this was discussed in general terms with DEFRA before it blew up.

Q57 **Mrs Murray:** You never had any enquiries—because the responsibility was delegated to you—and there was never any follow-up from DEFRA either.

Marian Spain: We reissue these on an annual basis. As I say, the terms of the delegation require us to notify and agree any significant changes with DEFRA. That is part of the delegation. If the licences issued this January replicated licences issued the previous January, that would not suggest to me there was a need to seek DEFRA approval. We would have kept them informed, because we had day-to-day working relationships at policy level, but the specifics of the delegation was to notify and agree if there were significant changes.

Q58 **Mrs Murray:** They delegate the responsibility to you, but they do not follow through whether the system is working themselves.



HOUSE OF COMMONS

Marian Spain: I could not say that on their behalf. I do not know, because I was not involved in the previous years, what previous discussions had taken place. Again, if that is a point you would like us to come back to you on, we can. There are a number of issues in which we act on delegated responsibility for DEFRA. You will understand that a delegation flexes according to the significance.

Q59 **Chair:** Who does this negotiation, on behalf of Natural England, with DEFRA?

Marian Spain: It is the relevant policy officials, depending on the circumstances.

Q60 **Chair:** You do not know who they are.

Marian Spain: I do. I could name the names of who has worked on it now.

Q61 **Chair:** You have come here to give us evidence on what happened and then you do not seem to quite know what has been going on. I am not entirely sure whether that is quite right.

Marian Spain: No, that is not what I am saying. If you are asking me to name the policy officials who we have worked with on the basis of this legal challenge, of course we can do that. I thought I was being asked a slightly different question.

Chair: What we are trying to drill down on is how much consultation you had with DEFRA. Is it DEFRA that decides to overrule you when the time comes? We cannot work it out really.

Q62 **Mrs Murray:** It just seems as though this has drifted for a long time, until the legal challenge was flagged up decades after. It just seems to me to be quite strange that there are not any checks and balances in place.

Marian Spain: I would not use the word "drifted". For me, it feels more as if this had worked perfectly well for a number of years. This had been running for 20 years, a number of which had been under Natural England's delegated powers. There had not been a need to fundamentally review and have those very detailed—

Q63 **Chair:** Since 2006 it has been under delegated powers, has it not?

Marian Spain: Yes, I am sure you are right.

Chair: That is not all that much time.

Marian Spain: If you would like me to talk more about what has happened this time, I can do that. Because this legal challenge led to us having to consider a significant change, we then did obviously discuss in detail with DEFRA what we were planning.



HOUSE OF COMMONS

Lord Blencathra: I am not aware of any discussions that happened before that time, because it all seemed to be working smoothly. One does not discuss things that are working well.

Marian Spain: We have a number of other circumstances in which we issue under delegated powers for DEFRA, in licensing and on a number of other issues. The nature of the delegation, if it is working smoothly, is that it is a periodic check, not a regular policy-to-policy discussion.

Chair: Caroline, I want to bring David back in, because he also wants to ask his question, and then if there are points you want to finish off relating to your previous question, please do so.

Q64 **David Simpson:** This is probably just clarification that I am looking for, because we have dealt with the licensing issue quite a bit. Just to clarify the position, why did you have to cancel the existing general licences prior to having some or all of the new ones ready? The individual licence application forms came online a few hours before the general licence expired. On reflection, do you think this gave farmers and conservationists enough time?

Marian Spain: That is a very fair question. We touched on some of this in response to earlier questions. Continuing that story about when decisions were taken and when we knew, paraphrasing what we were saying, yes, of course we were aware that this was likely to have to happen. We were starting to plan on a contingency basis, in terms of what we should do if we eventually had to revoke. The volume of work needed to do that simply could not be completed by 25 April, when we had to settle the legal case. It could have been completed by now.

Our timetable that we set out on the 23rd that showed when the new licences would have been in place would have been finished by about now. We had plenty of work in place that gave me confidence that that timetable would work. If we had been able to push the date of the legal case forward, we would have had all of the new licences ready. Because of that hard legal deadline, we did not have that luxury, unfortunately. That would have been the desirable situation. We would then not have even needed the individual licences. We could have had new bespoke licences in place.

Q65 **David Simpson:** You can understand the difficulties it brings to the farming community and others having to make decisions.

Marian Spain: I absolutely can. The thing that I regret most is not just the practical difficulties but the concern and the confusion. In the area I live in, with the farmers I talked to, it was simply the confusion because of conflicting stories that were in the public domain. There were some very confused stories coming out. I absolutely acknowledge the confusion. We would not have done this if we had had any choice. We were dealing with a legal case that we could not win, a deadline we could not manage and a volume of work that could not be completed safely and in a clear enough way for the users. We were caught.



I was having to make a daily judgment as to whether to issue a licence that was good enough, if not perfect, to allow the vast majority of users to operate, while also having some other user groups pulling me back, saying, "Wait, we do not like it yet". That was what was going on in the period after the licences were revoked; we were trying to get that balance of certainty for enough people versus perfection for everybody.

Q66 **David Simpson:** David, do you want to make a last point on that?

Lord Blencathra: Some have said, "Why could you not have just consulted longer—rather than pull the licences, tip them off that it was going to be illegal and then do some consultation with them?" You cannot do that. You cannot say to user groups or anyone else, "I think what we are doing is illegal. We are going to continue doing it for a few more weeks while we consult and build a new system". If you conclude it is illegal, aware of that court deadline, then you have to withdraw them at very short notice. I hated having to do that. It was a decision the board did not want to make, but we had no option but to do so. We were driven into that position by the court deadline set by Wild Justice.

Q67 **Dr Johnson:** Going back to the details of this timetable, you were good enough to meet with myself, Neil and a number of MPs after the licences were revoked to talk about what you were putting in place for them. One of the things you said was that all of the licences that were there before would be in place again. You said they would be the same and you said they would be in place by July. You have replaced two species.

Lord Blencathra: Three.

Q68 **Dr Johnson:** It is three species now. That leaves you 13 to go. Is that right? Do you still anticipate having all of that work complete by the summer?

Marian Spain: That is now a matter for DEFRA. As a result of the exchange of letters between Tony and the Secretary of State on 4 May, we have had to pause issuing new licences while the Secretary of State looks at whether there is an alternative that he can be satisfied with. As you say, by 3 May we had the first three out on timetable. We would have had another four ready for 7 May, but those have all been paused now. The assessment sits there and the licences could be issued.

Q69 **Dr Johnson:** The three that you have got are not quite the same, because there is an additional comment of the SSSI. What my farmers and constituents are asking me is whether, when somebody shoots a crow because it is attacking a lamb, the fact that there is an SSSI for a species of grass 300 metres away makes any legitimate difference whatsoever to whether that bird was going to attack that lamb or whether it is going to do that lamb damage. Is the fact that the farmer is only 300 metres away from the SSSI and the bird lands maybe even a little bit further away from the SSSI realistically going to have any effect? What evidence do you have that that will have any effect on that SSSI at all, or that the crow is going to do any less damage to that lamb at all



HOUSE OF COMMONS

because there is an SSSI 300 metres away? Why not 400 metres, why not 100 metres and why at all?

Marian Spain: This is an example of one of the areas of confusion. Taking a step back, one of the things that has made this a very difficult and contentious process is that there has clearly been quite a bit of misunderstanding about the condition of the previous licence. I will come back to SPAs in a minute.

Q70 **Dr Johnson:** SSSIs are particularly important in Lincolnshire, because quite a lot of our verges between the farm-owned hedge and the road are usually the property of the council or the highways, rather than the owner who owns the farm. They are saying that the field the other side is not affected by it. Why should we stop the shooting that is happening on the other side of the hedge?

Marian Spain: It is different. The previous licences allowed controls to be carried out in protected sites, SSSIs, SPAs, SACs and in some cases Ramsar sites, as long as the landowner had a consent to carry out that action in the SSSI. That has not changed. The previous licences still required you to comply with the protected site legislation. The new ones do as well. The point about the 300-metre buffer applies to the habitat regulations assessments we had to do on SPAs and SACs. I will pause there and see if you want me to explain that in a bit more detail.

The SSSI situation had not changed. Again, that has been one of the misunderstandings. A number of people have said to us, "You have added extra conditions to licences." We have not. They are on the face of the licence so that they are clearer, rather than tucked in an appendix, but they have not changed.

Q71 **Dr Johnson:** If you are a person who shoots birds to protect your livestock, your crops or whatever, and it happens that there is an SSSI a kilometre away from you, what process do you have to follow to be able to continue to protect your crops or your livestock in that way?

Marian Spain: You do exactly the same as you did under the previous general licence, which is to have a consent from Natural England to carry out those activities on an SSSI. If you have a consent to carry out lethal controls, including shooting and trapping, on a protected site under the previous licences, that has not changed.

Q72 **Dr Johnson:** You are saying on a protected site; 300 metres away from a protected site is not necessarily on it, either where the bird falls or where the bird is shot from.

Marian Spain: That relates to the SPAs. Forgive me because this could get a bit detailed, so stop me if I have said enough.

Dr Johnson: It is quite important detail.

Marian Spain: It is important.



HOUSE OF COMMONS

Chair: It may be best to give some of this detail in writing.

Marian Spain: The generic point that has led to that subtle difference is that, in order to issue licences now that affect European protected sites, we have had to carry out a habitat regulations assessment. Because this is a general licence that is very broad brush and carries a very wide range of circumstances, we have had to carry out a broad and therefore quite precautionary habitat regulations assessment. That led to a judgment that said that activities very close, within 300 metres of an SPA, could be at risk of causing damage to that SPA, affecting the interests on it. That is why, in order to have a general generic licence, we have had to put quite a precautionary approach. That is a change, and we appreciate it is not an insignificant change for those affected.

Q73 **Dr Johnson:** All of the farmers that were affected by that will now need to go to Natural England to apply specially.

Marian Spain: No. The terms of the three new licences we have issued make that clear. If they have a consent already, they can continue to operate. This could get very detailed and it might be better if I give you a note on it, because there are some very specific issues.

Q74 **Dr Johnson:** If you want to submit it in writing, that is fine. What we need to know is, if you are a farmer who is within 300 metres of an SSSI, what do you need to do?

Marian Spain: It is not a SSSI. It is an SPA or an SAC.

Tony Juniper: They are SSSIs as well.

Marian Spain: You are right, thank you. Yes, you are absolutely right.

Q75 **Chair:** Just before I bring Julian in, you talked about three other species that you were about to license on 7 May. That is interesting. What were they?

Marian Spain: That would have been feral pigeons affecting health and safety, and magpies and crows predating other birds, so for conservation reasons.

Q76 **Chair:** That is actually being held up now because DEFRA has taken it back into hand.

Marian Spain: If you remember, on 25 March, when we took the other licences down, we published an indicative timetable of all of the ones that would come. They were the next on that list, if you like. We were ticking our way through the list and have had to pause that work.

Chair: You have no idea when DEFRA is actually going to issue those licences.

Q77 **Julian Sturdy:** This is just a follow-on on the new licensing side of things. Assuming DEFRA takes broadly the same approach that you were taking and it provides the same coverage on the existing licences that



HOUSE OF COMMONS

you were going to take, are there going to be any gaps? This is the main concern. After the first licence you issued, you had to amend it four times before it actually went out there. If DEFRA takes the same approach you have taken so far on the first three licences, are we looking at gaps in the new licences? If so, what are those gaps going to be?

Marian Spain: I cannot tell you what DEFRA is doing. I genuinely cannot tell you what DEFRA is doing. The Secretary of State has had his call for evidence. He is considering that evidence. He will use that to judge whether he follows a different or a similar approach to what we had judged was right. I honestly cannot tell you.

Q78 **Julian Sturdy:** You were in the process of going through all of those licences, were you not?

Marian Spain: Yes.

Q79 **Julian Sturdy:** Before DEFRA took over, you were hoping to have issued all 30 of those new licences, were you not?

Marian Spain: By about now.

Julian Sturdy: We do not know what line DEFRA are going down.

Chair: We are going to have the Secretary the State here, hopefully.

Q80 **Julian Sturdy:** Yes, so hopefully we will find out at that evidence session. What I am trying to drill down on is, if they follow the same process you were following, are we anticipating gaps in the new licences?

Marian Spain: I find that hard to answer without repeating myself. We were working our way through that prioritised list. We had not yet completed the evidence-gathering process ourselves for the ones towards the tail end of that list. We have paused that because of the Secretary of State's decision. I could not tell you for sure where we had got to. I certainly cannot tell you where DEFRA has got to.

Lord Blencathra: No one aims to have gaps in a licence, but inevitably looking at all of the licences it is possible that either us, Natural England, or DEFRA may have an inadvertent gap, which it will move rapidly to cover.

Q81 **Julian Sturdy:** Taking it back to the licences that you did issue, would you not say that the new licences are more burdensome than the old licences?

Marian Spain: That is a conversation that I have had several times with some of the user groups. I am minded of something you said a moment ago, Caroline, about what we said to you on the 23rd. I hope I did not say then that the licences would be identical, because they certainly could not be. The intention is that the licences have the same effect of allowing people to continue to act lawfully. That is what we were aiming for. We know that they cannot be identical. If they are identical, we could not have met the legal challenge.



Q82 **Dr Johnson:** Was the legal challenge not that you provided the proof that it was necessary, rather than that it was different?

Marian Spain: Let me just say very quickly that the three tests we now have to pass in order to issue legal licences are us being satisfied of necessity, serious damage and no alternative; us being satisfied a conservation species is not a threat; and us being satisfied that on European protected sites they would pass the necessary tests to comply with the European regulations. The reason why the licences look more burdensome is that we have had to put quite a bit more detail in them to satisfy those first two.

Q83 **Julian Sturdy:** One of them is twice as long, is it not?

Marian Spain: It is. That is because in order to meet the challenge that we are taking the judgment on whether a lethal control is necessary, we have had to write out the circumstances in which we think it is necessary. We have had to define when we think serious damage is likely, to pick up one of Neil's earlier comments, and also what we think satisfies "no alternative". The actual effect of that is that we have taken that burden off the user. We have said to the user, "If these are your circumstances, you are good to go", in effect.

I know many of the user groups do not see it like that. I am having this conversation. My team and I are talking to them daily, and this is a lot of the debate we are having. They think that we are constraining their discretion. We sort of are, because that is what the legal challenge required. The legal challenge said, "You as the licensing authority cannot leave that decision to the user".

Q84 **Julian Sturdy:** In essence, you are admitting that they are more burdensome.

Marian Spain: They are not more burdensome.

Tony Juniper: They are more specific.

Marian Spain: They are more specific, thank you. The user does not have to do anything else other than satisfy themselves that their circumstances meet the circumstances we have defined. If they do not, they apply to us for an individual licence and we make that judgment with him or her on an individual basis.

It is perhaps just fair to say at this point, if I might, that we are getting a very different view from some of the user groups on this. I have hinted at this before. The professional pest control organisations are quite happy to have that discretion taken off them. They are asking us for that specificity. The organisations that are perhaps more aligned to shooting for sporting interests are the ones that are the most concerned. They are most concerned that their individual members might then be vulnerable to challenge, because the nature of their business means they have been



HOUSE OF COMMONS

vulnerable to challenge and public action before. That is driving some of the mood amongst the different user groups.

Q85 **Julian Sturdy:** In the licences that you did issue, did you assess the environmental and conservation impacts?

Marian Spain: Yes, that was the second test of those three I have just described.

Q86 **Julian Sturdy:** That was the second test that you went through quite rigorously. What you are basically saying is that DEFRA is going to have to go through all of the same tests that you went through on issuing the new licences.

Marian Spain: All I can say is my board took a decision based on our risk appetite and our perception of challenge. In taking that judgment, which some people perceive as risk-averse, we were minded of all of the other legal cases that have been brought against us in similar territory over the last few years. If I can put it this way, we know where our vulnerabilities might be, so we were absolutely clear that we had to make those tests vulnerability-proof so we did not have another challenge a few months down the line. We admit we have taken quite a precautionary approach, but for reasons that we did not want to leave users again facing the legal challenge that they would be caught in the middle of.

Q87 **Chair:** I want to ask you a question. Do these new licences contain much, "You have to try to use non-lethal methods of control"? Take rook-scarers on a crop. I have seen the rooks fly up and down when the rook-scarer goes off and immediately come back again. You have to have both the rook-scarer and some lethal shooting to make sure that the rook knows that when there is a bang it could be quite fatal; otherwise, it just says, "That is an interesting bang. Let's stay there".

What is the situation now? I know a lot of people are very worried that they have to prove that they used the non-lethal methods before they used the lethal one. Is that the case? These are the licences now that you have reissued and you are going to have to reissue quite a lot more, or DEFRA is going to.

Marian Spain: They should not be that different.

Q88 **Chair:** You say that they should not be. We have been talking quite a lot about the law. People are a bit worried that the burden of proof goes back on them. That is what I have been told. David, do you want to say anything?

Lord Blencathra: There is a misconception among some farmers, which has been promulgated by some organisations, that when a farmer sees pigeons descending on his field, before he can take any action he has to try to scare them off or get the crow-scarer going or do a whole lot of things. That is not the case. If it is his experience or his neighbour's experience that these things have been tried in the past and have not worked, he can go straight to shooting them immediately.



HOUSE OF COMMONS

One of the best articles I saw in the press recently was a farmer who said, "I mix and match. I have my crow-scarer. I have scarecrows out and I have other things. Occasionally, I let off a shot. By mixing and matching in that way, I manage to deter many of the crows and pigeons". That is a good description of what the policy is, if I may say so.

- Q89 **Chair:** For the farmer who is wanting to stop some of the crows, pigeons and rooks—of course, at the moment you are not licensed to shoot a rook—if he or she takes that decision to shoot the pigeon or the rook, once the rook is licensed, then he or she will not be in breach of the law. You can categorically reassure all of the people watching this session this afternoon that that is the case.

Marian Spain: Let me give you two extreme scenarios that might help. If he simply says, "There is a rook. I have never seen a rook here before but I will shoot it just in case", he probably would be in breach of the law. The other extreme scenario is we are certainly not expecting him to try every other alternative method in a sequential basis, tick them all off and say yes or no.

- Q90 **Chair:** Playing devil's advocate, you have got lots of pigeons coming; they are taking out your rows of wheat in the autumn, or whatever, and they do. What happens if you shoot one of those on its way home? Are you in breach of the law at that moment?

Marian Spain: If you can tell yourself, and therefore us or anybody else who might ask you, that you know that these pigeons routinely do this, so you know they cause damage—

Chair: It goes home, comes back the next day and has another go.

Marian Spain: My colleague gave an interview to *Shooting Times* that set this all out quite recently. Quite a lot of this is common sense. Again, we are going back to where we started. The law protects birds. Birds are shot by exception. An exception is if they cause damage to your crops and nothing else is working. That has not changed from the previous licences. That was the premise on which the previous licences were drafted. The wording is very similar. It may be tighter to make that absolutely clear. The law has never allowed you to shoot on sight, as it were, to shoot as a first resort.

I am from a farming family and I live in a farming area. I live in a rural area. The farmers around me have a year-round pest control of species. They do not simply rely on being able to shoot as a one-off event. They are doing a number of things to keep the populations across their groups of farms in control. The new licences do not change that approach.

- Q91 **Chair:** Many stakeholders have strongly criticised how the original decision and its consequence for people using licences were communicated, and have accused you of expecting them to communicate to rural communities for you. How do you respond directly to that question?



HOUSE OF COMMONS

Marian Spain: The very fair challenge is we could not tell people until we had settled the legal case. We could not give people a lot of notice. Again, that is back to that problem where we were absolutely constrained by some court dates that we could not move. Until we had definitely settled the legal challenge by exchange of letters, we could not go public on what we had done. That made life very difficult. We told people simultaneously about that. We told people as soon as we could.

Q92 **Chair:** I do not think you did, but I am not entirely sure that this is your own fault, Natural England. You knew exactly what you had to do and I think you were held off saying that while you had these various meetings between yourselves and DEFRA for someone to make the decision to release that information.

Marian Spain: That is not what I have said.

Q93 **Chair:** I do not suspect you are going to say “yes” to that for one moment, but I still have my suspicions. You did know from 21 February, you had this meeting on 20 March, another one on 15 April and then it was nearly the end of April before you actually said anything to the farmers, the shooters and the conservationists. Why was it? We have had this out, but why was it so long? Then when it was communicated it was not done as well as it could have been. Let us rephrase the question: if you had this over again, what would you do better to communicate better with the farmers? That is perhaps a more positive way.

Lord Blencathra: I will let Marian answer that specific point. I was going to make a point about an earlier part of your question, in terms of why it took so long. The court case was on Thursday 25 April. By the time we concluded, “We have probably got to concede this. We have not got a legal leg to stand on”, we had used that time to try to put together an alternative system and work out the evidence base for the licences we were able to issue. We used every minute of that time, but by 25 April we knew then that we had to concede in court and we could not make any announcement before 25 April. That was on a Thursday. Unfortunately we were going into a bank holiday weekend, which was not the best time to communicate with farmers and other users. That is why we used every minute. It is not that it took so long. We were delighted to be able to use that time until we had to go to court, hold up our hands and say, “Yes, the system is illegal, my Lord”.

Marian Spain: Or not to go to court, indeed.

Lord Blencathra: Or not go to court because we had conceded by that stage.

Q94 **Chair:** You had plenty of time, then, to work out your communication, because you had all of this time. Why was it not better?

Lord Blencathra: We could not tell people in advance.

Q95 **Chair:** I know, but you could still work out what you were going to tell



HOUSE OF COMMONS

them when you did.

Marian Spain: Simultaneously with the exchange of letters between our lawyers and their lawyers, if I can use a slightly pejorative term, at the same time as that happened we issued a press release, which I think was as clear as it could be, that said, "This is a change to the licensing regime. This is not a ban on shooting. This is a temporary change because of a legal challenge". It was extremely unfortunate that a number of newspapers chose to report that as, "This is a ban on shooting". Headlines of "This is a ban on shooting" were certainly not the message we had. We were putting out daily messages. We were rebutting press comments. We were putting out daily messages through blogs, through direct communications and through information on our website rebutting that story. This is not a ban on shooting.

Q96 **Chair:** You no longer have a press officer, do you?

Marian Spain: I have access to a very large press team in the DEFRA communications team, who we worked closely with. They worked to me on this.

Q97 **Chair:** It is not the same. Do not forget we had Andrew Sells here before us. It is not the same as having your own press officer. You have to go through DEFRA. There are time lags here through the whole thing. You can feel the slack being taken up. I am sorry, but I do not accept that there is no time lag. It is either your time lag or it is a time lag between negotiating with DEFRA, with Ministers and with press officers. Where is it? You can look at the whole process and you can see there is a time lag.

Marian Spain: The time lag was not to do with any of that. The time lag was the one David just described. We could not go public until we were sure the case was settled. I am very aware of the conversations you have had with Andrew about communications in DEFRA. In my time as interim chief exec, I focused a lot of my time on making that work. We now have a written protocol with the press office that I and my chairman, whether my temporary chairman or permanent, control the messages. The DEFRA press office helps us get the messages out. Nobody in the DEFRA press office has told me what I could or could not say about this or stopped me saying it. We could not have done it without them.

Q98 **Chair:** Before I bring Julian in, I have had some of the agricultural press say to me that they were very misinformed about the Secretary of State taking over the process from Wednesday to Friday of a particular week. I am not sure that you were necessarily directly involved in that, but it is quite a well-known journalist, who I have a lot of time for, who felt that they were misled. I am not accusing you of misleading, but the whole thing has the feeling that it was sat upon.

Marian Spain: In terms of the decision, that was not Wednesday to Friday. That happened over a Friday night to a Saturday morning.



HOUSE OF COMMONS

Tony Juniper: That was a Friday to Saturday, in terms of the decision taken by the Secretary of State to rescind the decision-making on those delegated powers that Marian mentioned.

Chair: It is better for me to ask that direct question when we have the Secretary of State in. I suspect it was more ministerial than it was yourselves.

Q99 **Julian Sturdy:** I just have a quick question. I am sorry if this has been covered already. When you took the decision to concede the court case, were DEFRA Ministers and the Secretary of State aware at that point?

Marian Spain: Yes.

Q100 **Julian Sturdy:** They were completely aware at that point.

Marian Spain: That point I made earlier was that we consult and agree any significant changes. They were aware.

Q101 **Julian Sturdy:** Then we hear that DEFRA Ministers were coming out and saying they were shocked by the decision.

Marian Spain: I cannot comment on that.

Tony Juniper: I cannot comment on that.

Julian Sturdy: That is something we will have to clear up at the next session.

Chair: Fair has got to be fair.

Q102 **Julian Sturdy:** If that is the case and that is true, then something within the communication did not work, did it?

Marian Spain: All I can tell you is what I know.

Q103 **Chair:** That is because you have not got a press officer.

Lord Blencathra: We have access to a lot more press officers than just one, if we had one ourselves.

Q104 **Chair:** It works better for you without a press officer, does it?

Marian Spain: No, we have a press officer. They happen to be employed as part of the bigger DEFRA group.

Q105 **Chair:** You are singing various songs here. I am not convinced by them.

Marian Spain: I am very happy to come back and talk about this another time, when the heat of this issue is out.

Lord Blencathra: We have an excellent press officer. He cannot work 24 hours a day, seven days a week.

Q106 **Chair:** He is not your press officer.

Marian Spain: Yes, he is.



HOUSE OF COMMONS

Lord Blencathra: Yes, he is.

Chair: You had one that was directly yours.

Lord Blencathra: We have access to a press office team.

Marian Spain: There are no paid press officers in Natural England. All of our communication work is done by a very large team that supports the whole DEFRA group. We have access to a highly skilled, highly professional and well-resourced communication team.

Q107 **Chair:** You are well defending the indefensible.

Marian Spain: I am very happy to share the written protocol that makes it clear that it is my message, not theirs.

Q108 **Dr Johnson:** I just have a small technical question. You said at the beginning that Natural England needed to make sure of two things. One was that control was necessary. You said that the problem with the current setup, prior to you removing them, was that the burden of proof was placed upon the user. As I understand it, if a farmer or other person wishes, as we speak now, to shoot a species for which a licence has not yet been reissued, you are advising them to do so on the basis of their belief. That is exactly putting the burden back on to the user, is it not? How is it legal for you to say that it is okay for a farmer to shoot a bird on the basis that it is their belief that that is the right thing to do at that moment, but it was not all right to issue a licence that said exactly the same thing?

Marian Spain: I am not sure I quite follow that. The situation now is that they are either operating under one of the new general licences that make it clear what the circumstances are in which they can operate, or they have applied to us for an individual licence and in that application they have told us why they think it is necessary and we have agreed with them, or they are using the Section 4 defence. That is a defence that the law prescribes for being able to act urgently before a licence is issued. It is a defence, not a licence.

Q109 **Dr Johnson:** It is still putting the burden back on the user, is it not, which is what you said was illegal?

Marian Spain: I am trying not to use the word "emergency". It is for urgent situations. This provision applies outside the general licensing regime. If, as a member of the public, not even a farmer, I feel I have to take very urgent action because something is being damaged, my safety is at risk or something like that, I apply for a licence. I have made my declaration, "I think it is necessary. Will Natural England please confirm that it is necessary?" That is what we do in issuing a licence. If you cannot wait and you have to act, the defence you would then use, should you then be challenged, is that you had made your case and you could not wait. It is a defence.

Q110 **Dr Johnson:** Just to be clear, if you are a not particularly wealthy



HOUSE OF COMMONS

member of the public in my constituency, who needs to control a bird species, either because it is the job that you are paid to do or because you have a small land-holding, perhaps even an allotment, you are now vulnerable to these legal groups who could sue you with the force of very expensive lawyers. People have no way of defending themselves other than to mount this defence, but they have not got the money and the backing to be able to mount a real defence. Have you left farmers in a very vulnerable position?

Marian Spain: No, I hope we have not. That is what this has all been about.

Chair: Provided that general licences, Caroline, come back, then we should be able to defend ourselves.

Dr Johnson: In the meantime, you are relying on your own—

Q111 **Chair:** I have given you all a pretty hard time this afternoon, but then you were probably expecting that. Let us finish on a positive note, in terms of the work that you have done to get these licences in place. I know that DEFRA has now taken it over, but you were ready to issue for three more species. Can you remember what they were?

Marian Spain: They were magpies and crows predating wild flora and fauna, usually ground-nesting birds. The other one was feral pigeons causing health and safety issues. There is another longer list, which I am happy to give you. There were seven more ready.

Q112 **Chair:** While DEFRA may have taken it over, and the Secretary of State may, for better or for worse, have decided to take over the decision, you are still feeding in to DEFRA, naturally, the work that you have already done. What is worrying us now is how long it is all taking. While I very much respect the Secretary of State for taking the decision to take it in-house, it almost looks like it is delaying the situation. It is not actually making it faster. Are you feeding that information that you have done into DEFRA, because you have no idea when DEFRA is going to issue these other licences?

Marian Spain: We have two roles in the DEFRA process. One is to provide evidence, the way that any other call for evidence would. The other is our role as statutory adviser to the Secretary of State. Those are the two roles we are playing in supporting him in making the right decisions.

Q113 **Chair:** You were dealing with all of the lawyers. Do not forget, because you were dealing with this beforehand, you have dealt with all of the lawyers. You have got the advice. You are a little more than just the average consultee. How is it now working? You should be a seamless operation, between yourselves and DEFRA. Is it seamless?

Marian Spain: As I have described, our lawyers had access to each other's legal advice throughout the process. The DEFRA lawyers know



HOUSE OF COMMONS

what our lawyers knew. You will appreciate the Secretary of State will have taken additional legal advice to inform his own decision.

Chair: I hope you are working with them, because the sooner we get those licences back, everybody is going to be happier.

Q114 **Julian Sturdy:** To follow up on that, I just wanted to ask whether you felt it was correct that the Secretary of State took over this process.

Chair: That is a leading question.

Tony Juniper: I will take that. We had conversations with various colleagues in DEFRA.

Q115 **Chair:** You wrote to the Secretary of State, did you not?

Tony Juniper: Yes, I wrote to the Secretary of State following conversations we had with DEFRA colleagues, to understand the different options that we had in what became a very angry and very heated situation, for reasons that we have discussed today. Some of those reasons were misunderstandings based upon some misreporting as to what the situation was. It had got to the point where various stakeholders were asking us to do things, for example reissuing the original general licences, which were things that we could not do according to the legal advice that we have had that has just been explained in some detail.

We explored with DEFRA colleagues what would be the options under those circumstances. We felt that the best one would be to invite the Secretary of State to resume the decision-making powers under the general licence regime that had previously been delegated to us. He agreed with that. Then he put in train a one-week process of evidence-gathering, which concluded a week ago last Monday. He is now engaged in a process of sifting that information and will then come to a conclusion. I would expect that what he has received there is an enormous amount of information from different stakeholder groups, with probably no single clear view coming through as to what the answer will be.

Q116 **Julian Sturdy:** Will you be expecting to be consulted on that before he comes out with his decision?

Tony Juniper: Discussions are going on, are they not?

Q117 **Julian Sturdy:** You will still have to potentially enforce those licences, will you not?

Tony Juniper: Yes.

Q118 **Chair:** Will you actually issue those? Will you still issue those licences or will they be issued by DEFRA?

Marian Spain: The letter makes it clear that the Secretary of State will, unless he chooses to give the delegation back to us.

Tony Juniper: We suggested it was a temporary arrangement.



HOUSE OF COMMONS

Q119 **Chair:** When the paper is cooled off, it will get handed back to you, or it may get handed back to you while it is still hot, depending on what the Secretary of State decides, I expect.

Lord Blencathra: We are used to that. We are used to being in the hot seat. Before we conclude, Mr Chairman, can I make one point? I do not mind taking flack for the decisions I took while I was interim chair. Marian and Tony are used to taking flack, as is the board, but our staff have been absolutely brilliant in this. They are absolutely blameless. I do not think the rest of us are to blame, but they have been working flat out on this, working on bank holiday weekends, 24 hours a day, to try to do those licences, and with the input from our people on the ground. Some 20% of our staff are graduates, PhDs in technical specialties. They are passionately devoted to the environment. They are the lowest-paid part of the DEFRA family group. Everyone else gets paid more than Natural England staff. They are absolutely dedicated, and I want to put it on the record that I defend them entirely for all the work they have done.

Q120 **Chair:** David, I appreciate that and that is on the record. I also thank, on behalf of the EFRA Committee, the work that they have done as well. We have just got to get a conclusion. That leads me neatly into the very final question. Tony, in one or two newspapers you were guilty of the whole thing. I do not believe you were, because you only just came into place. Coming in as the new guy, what will you do in the future to try to make sure this does not occur again?

Tony Juniper: In relation to these kinds of circumstances, I would hope that what the board can do, as part of its governance function of Natural England, is to have a rigorous and strong risk identification process, whereby we can have these things in sight before they blow up and with plans to manage in advance of it turning into a difficult situation, as this has done. There are already protocols there, but evidently we could have done better, looking back into the period before I arrived, which obviously is quite a blurred picture, from my current perspective. This probably shows that we could have done a little more in advance to identify those risks. Risk identification is a board function, so hopefully we will do more of that.

I would hope that over time we can rebuild the strength of Natural England so that it could be covering its very broad remit with more depth. What I have seen in the first four weeks of being in office is an organisation that now is spread very thin. It is cut beyond the bone in certain places. If the country would like to have strong delivery for the natural environment, we need to invest in that. The benefits that come back to society from investing in the natural environment are considerably bigger than the investment required to achieve those dividends. Hopefully, over the coming months and the spending review in particular, we can be making the case for rebuilding nature conservation delivery in England.

Chair: Naturally, environmental schemes and stewardship schemes are



HOUSE OF COMMONS

all under pressure, and farmers are not getting paid. Not all of that is down to you, but the whole thing needs to be tightened up. We look forward to working with you in the future. Hopefully, it will not be firefighting all of the time. We appreciate all of your evidence this afternoon. I hope that we will be getting the Secretary of State in in June. Like I said, some of the points that you have made to us—do not worry—we will be putting to him or to the Minister for Agriculture, whoever comes to give us evidence. We thank you very much for your forthright answers. There are parts that we asked for in writing. Could you make sure that we have those as well? Thank you very much.