

Environment, Food and Rural Affairs Committee

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

Tuesday 2 July 2019

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Members present: Neil Parish (Chair); John Grogan; Dr Caroline Johnson; Kerry McCarthy; David Simpson.

Questions 121 - 250

Witnesses

I: Rt Hon Michael Gove MP, Secretary of State for Environment, Food and Rural Affairs, Department for Environment, Food and Rural Affairs; and Dr Alexandra Cran-McGreehin, Deputy Director, General Licensing Review, Department for Environment, Food and Rural Affairs.

Written evidence from witnesses:

[– The Department for Environment, Food and Rural Affairs](#)



Examination of witnesses

Witnesses: Michael Gove and Alexandra Cran-McGreehin.

Chair: Thank you very much, Secretary of State, for coming to discuss the general licences with us. You also have with you—

Dr Cran-McGreehin: I am Alexandra Cran-McGreehin, the deputy director for general licensing since the beginning of May.

Chair: That is fine. Would you like to say a few words before we start, or do you want to go straight into questions?

Michael Gove: Straight in.

Q121 **Chair:** Thank you very much again for coming. Natural England has issued general licences since 2007 on a delegated form. Successive Secretaries of State were under a delegated form. How did you oversee the exercise of this power? Did you have much to do with it? Was it just one of these things going on in the background?

Michael Gove: Essentially so, yes. Natural England, as you say, has exercised this function under powers delegated to it by successive Secretaries of State. General licences, as you know, arose in the 1990s and were managed by MAFF and then DETR, before the creation of Defra, but Natural England has exercised that power for some time. The last review in 2014, as you are aware, led to one or two alterations but much remaining the same. We were coming up for another review, but that review was anticipated or pre-empted by the legal action that Wild Justice took.

Q122 **Chair:** You talked about what happened in 2014. Should there have been more alarm bells rung then?

Michael Gove: It is certainly worth the Committee looking at some of the decision making in 2014, yes.

Q123 **Chair:** Could you be a little more forthcoming on that, Secretary of State?

Michael Gove: It is important for context if the Committee has an opportunity to talk to decision makers who were in post in 2014, as well as the evidence you took from Lord Blencathra, Marian Spain and others.

Q124 **Chair:** Yes, because it was Lord Blencathra in particular who whetted my appetite. He said there was a call for more evidence on the general licences, which was never actually done. I am not quite sure to what degree, politically, people were leant on, you see.

Michael Gove: There is all sorts of speculation, of course, about previous decision making in Government, and indeed in Natural England and other bodies. It would be wrong for me to speculate. The only thing the Committee can fairly do, and of course it is within your remit and it is your choice, is to ask to speak to the decision makers at that time.



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Q125 **Chair:** As far as you were concerned, with the relationship between Defra and Natural England, until Natural England came to you and said it was going to have to withdraw these licences, did you have any problem with it? Did you have much liaison with them? Was it flagged up to Defra well before this happened?

Michael Gove: No. Again, obviously there was a fair amount of coverage around the time of the review in 2014, but the issue had not featured particularly significantly until Wild Justice issued its pre-action protocol letter in February of this year. I was alerted to that pre-action protocol, and subsequently Defra officials and Natural England officials discussed the handling of the action being brought by Wild Justice.

Q126 **Chair:** That links to the last bit of my question. Was Defra aware of any legal questions over the general licences before Wild Justice sent its pre-action letter in February, so just a little bit before that time? Were you or not?

Michael Gove: I was not.

Chair: You were not.

Michael Gove: No. Until the pre-action protocol was brought, I have to say that the issue had not been brought to my attention as one of concern or one that required particular attention. The pre-action protocol having been brought, Defra sought its own legal advice, as indeed did Natural England. Natural England took the decision subsequently to revoke the three general licences, which generated at the end of April a particular level of concern.

Q127 **Chair:** Do you not feel that perhaps you should have been alerted a little sooner? It has turned out to be quite controversial. It upset the industry greatly. I just feel that perhaps, when they were all of a sudden having to withdraw the licences, you might have been made a bit more aware of the situation. By February they were pretty certain that they were going to have to withdraw these licences. I am just amazed that they did not alert you to it sooner, because it is controversial. I suppose I could reword the question. Would you not have expected to be kept more in the loop?

Michael Gove: To be fair to both Natural England and Defra officials, as soon as the pre-action protocol was brought, or shortly thereafter, I was informed that it was coming up and that Natural England would have to take decisions as to how to respond. I and other Ministers were kept informed of Natural England's reasoning and, indeed, we received our own advice and our own legal advice. In the end, Natural England's decision was based on a combination of its legal advice and its board's reflection on the position in which it found itself. I had asked, in the run-up to the board making the decision, if the board felt it had to make the decision in this way, whether we could be in a situation where we could rapidly and effectively replace the general licences with a licensing regime that allowed people to control pests. I was reassured that was so.



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Subsequent to the licences being revoked, there were some issues about the means by which Natural England was handling them. I discussed with Natural England and with Tony Juniper what might be done, and Tony asked me at that stage if I would take back control of the licensing process, which of course we did. Then we issued new general licences, using the Secretary of State's powers.

Q128 Chair: We will drill down on those in a bit more detail in a minute. There was a changeover between chairs at that moment of time. Was there perhaps less liaison between you and Natural England because of that? I am still not convinced that it should not have been flagged up to you sooner that there was a problem. If I was sitting in your seat and there was something that was going to be a very hot potato, I would have liked to know when they were going to hand it to me.

Michael Gove: Proper scrutiny of Natural England's decision making, and indeed Defra's decision making, would be and is a good thing. In as far as it relates to the support I received, I had excellent advice from Defra officials and excellent legal advice as well throughout this process. More than that, there was some criticism of Tony Juniper's role by some, but, as you imply in the question, Tony arrived after the decision had been taken. I do not think there was any miscommunication between Natural England and me, but it is appropriate to look back at decision making in 2014 in order to satisfy yourself about the archaeology of this.

Q129 Chair: You are looking back at that, are you?

Michael Gove: Yes.

Q130 Chair: Hindsight is a marvellous thing, but I would have thought that it has not been the ideal situation. I must admit that, when we had Tony Juniper here, I had the press coming on to me. I was encouraged to say it was all Tony Juniper's fault, but I declined to say that because I do not believe it was. He was only just coming into that position. There is a bigger issue here that, with the problem coming about, dare I say it, Defra was slightly unsighted on it. It is about making sure that, in the future, it is not.

Michael Gove: I know exactly what you mean and it would be wrong for me to make a definitive judgment, because I am looking back myself at the some of the decision making that was made. All I would say is that, if we look specifically at the period from Wild Justice issuing its pre-action protocol through to the decision to revoke the general licences, to be fair to Natural England, it kept Defra fully informed of its decision making. We put various points to them, but they were and are an independent body and made their own mind up. It is a legitimate thing to say, "In advance of Wild Justice issuing the pre-action protocol, let us look back at some of the decisions that may have been made". Was it the case that, perhaps, decisions that may have been made in the past meant that, by the time the pre-action protocol was issued, both Natural



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England and Defra were in a less effective position than they might otherwise have been? That is a perfectly legitimate line of inquiry.

- Q131 **Chair:** They issued the final order to the court, their position, but the case had run on for quite some time. That is the bit we are still trying to drill into. When Natural England came, it did not say so in so many words but I had the impression that it was more concerned about the situation than perhaps Defra was over the case, and that Defra rather sat on it because it did not want to deal with it. I could be being unfair, but how do you see that?

Michael Gove: I do not think that is the case. Both Defra and Natural England took legal advice about the defensibility of their position. That legal advice is privileged and I have to be careful what I say, because it is also the case, as Chris Packham said on behalf of Wild Justice, that it may well be pursuing further action against either Natural England or Defra. In a nutshell, while legal advice might vary about the arguability or success of a particular case, if certain facts come to light, the legal advice might say, "If you did X you have a good chance of winning; if it is subsequently discovered that X did not happen, your chance of winning is less". Even if lawyers can take a different view about the chance of victory in a case in the abstract, on the law, if certain things have not been done your chances of winning a case diminish.

- Q132 **Chair:** It would be unfair to say that Defra was dozing at the wheel.

Michael Gove: It would be wrong to say that Defra was dozing at the wheel, yes. Defra officials were very closely engaged with the decision making of Natural England and communicated a set of views about what could or should happen. Natural England is an independent body and we have to respect its independent decision making. In the end, knowing what it knew, Natural England took a decision that I believe led to some unfortunate consequences. I can completely understand why that decision was taken at that time.

- Q133 **Chair:** There is one final question. Again in hindsight, and in the future, would you expect Defra to inform you more quickly of what is happening so you are alerted more quickly than having to wait for February and then the licences being withdrawn in the beginning of April?

Michael Gove: Defra and Natural England were very closely engaged during that period. I do not think there is any fault on the part of Defra. Defra officials and Ministers took legal advice. That legal advice pointed to a particular conclusion, but then facts emerged that meant that conclusion was no longer as robust as we had hoped. I do not think there was any feeling of being asleep at the wheel. There is a legitimate question about what had happened in the past, which we are now seeking to uncover, which may point to why it is we ended up in the situation we did in 2019.

- Q134 **Julian Sturdy:** Michael, in answer to the Chair's question, you said you felt Natural England made the right decision, given the evidence in front



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of it. If that evidence was with you in Defra at that time, would you have made that same decision?

Michael Gove: Knowing what Natural England knew at that time and in those circumstances, it had little option but to acknowledge that the licences were, at that time, unlawful.

Q135 **Julian Sturdy:** Okay, so you would have made that same decision at that time.

Michael Gove: Yes.

Q136 **David Simpson:** I apologise, Secretary of State, that some of these questions overlap. Forgive me for that, but I know you will be able to handle it okay. Marian Spain told us that she was obliged under the terms of the delegation agreement to seek Defra's agreement before revoking the general licences. When did you agree that the licences should be revoked?

Michael Gove: On 23 April. I received a submission on 17 April outlining Natural England's proposed approach. I fed back on that submission. I asked some specific questions. My private office responded on the 23rd, knowing the 25th would be the date on which the general licences were to be revoked.

David Simpson: It was 23 April.

Michael Gove: Yes.

Q137 **David Simpson:** Did your lawyers agree with Natural England's lawyers that there was no alternative to immediately revoking the licence?

Michael Gove: I cannot reveal what the full legal advice is. It is the case that, by the time we had come to that point, even though legal opinion between Natural England and Defra was different initially, Defra's lawyers understood why Natural England had to take that decision and acknowledged that, in the circumstances, there was no alternative.

Q138 **David Simpson:** Did you or the Department discuss and agree with Natural England its approach to replacing the licences before it was announced?

Michael Gove: Yes.

David Simpson: You did.

Michael Gove: Yes.

Q139 **David Simpson:** Can you give us a date for that?

Michael Gove: I saw Marian on the 25th. I saw Marian that day and I explained specifically how Natural England should proceed at pace with the issuing of new licences in order to make good the problems that had or would inevitably arise.



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Q140 **David Simpson:** That was two days later, the 23rd to the 25th. Robert Goodwill, the former Minister, told Radio 4—

Chair: He is a Minister.

David Simpson: Sorry, he is a Minister. He told Radio 4 on 3 May that the revocation of the licences had been “a shock to us”. Does that suggest communications between Defra and Natural England were not good enough? Even the Minister says it was a shock.

Michael Gove: I do not think so. One thing to remember is that Robert had only just arrived in the Department at that time, following on from George Eustice’s resignation. To be fair to Robert, he was not the junior Minister, nor was George the junior Minister, who was most involved with this decision making. Ultimately, as Secretary of State, I am responsible, but no, Robert would have been less aware than other junior Ministers.

I should say that there was correspondence and meetings between Natural England and Defra all the time. There were earlier submissions alerting me to what Natural England might do, and I fed back on those. One of the concerns in particular was both communication to users and the speed with which new licences would be issued. My anxiety was to ensure that the move from the revocation of those licences to a new regime should be as smooth and as rapid as possible, with every stakeholder who had a legitimate concern knowing how to find out the information required in order to maintain pest control.

Q141 **David Simpson:** When Robert said that it was “a shock to us”, he was overegging it.

Michael Gove: It is perfectly legitimate for Robert, because he was, as I say, a relatively new arrival, to have been—what is the word?—discombobulated by the consequences.

Chair: Can you interpret that please, Secretary of State?

David Simpson: Yes, can we have a dictionary for that one?

Michael Gove: Robert was, as I say, a relatively new arrival. He is a brilliant Minister. One thing that is fair, and I do not want to make any undue criticism of Natural England, is that there is a difference between acknowledging that the licences will be revoked, accepting that the regime that will replace them will be arriving quickly and will be smooth, and then finding that the replacement regime is neither as quick nor as effective as one would have hoped that it would have been.

To cut to the heart of it, Julian asks whether, knowing what I know, I would have revoked the licences. Yes, but why did we then take back control? In the period after the revocation of the licences, the handling of the process fell short of what I had hoped we would see. One can argue that that might have been apparent to some beforehand, but it was



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because the handling of the process after the revocation fell short that I felt it was necessary to take back control.

- Q142 **Chair:** Secretary of State, I find it difficult to understand all the timing of this. You seemed to be fairly unsighted that the licences were actually going to be taken away until 17 April. Then on 27 April they are gone. I wonder whether you realised how important these licences were to the farming community, the keepers and everybody else. You only have to have crows attacking lambs. You have all the problems with nesting birds. If you had had it under your control, had it been under Defra, to be blunt with you, I do not think it would ever have got to the situation that the licences would have been revoked in the first place. That is what we are trying to get to. Naturally, you are being protective of Natural England, protective of Defra, and I would expect you to do that as Secretary of State, but if you had had that in-house I do not think you would have ever revoked those licences at all.

Michael Gove: I completely understand that line of questioning, but that is not where the heart of the problem lies. There are two problems. First, the decision to revoke having been taken, was there a system and a regime in place to ensure we could move as smoothly and as quickly as possible to a new regime? There was a failure of delivery at that point by Natural England. That is one of the reasons, as I say, why I took back control. I do not want to criticise any particular individual. That would be completely wrong and misguided.

- Q143 **Chair:** Surely, Secretary of State, you would not have taken it back into your control if you thought Natural England were handling it in the right way. You would have left it with Natural England. You cannot have the cake and eat it. You have taken back control, but surely, had you had control in the first place, you would not have revoked those licences.

Michael Gove: No, I think we would have had to. This is the second and more important issue. It became clear to us that certain steps that should have been taken were not taken, which meant that Natural England's board was confronted with a situation, as a result of the Wild Justice action in 2019, where it was left with little option. The live question is why Natural England's board was in that position. To understand that, one has to go backwards to look at decisions that were taken beforehand. That is what I am doing now. The fault does not lie with the Natural England board of 2019, as far as I can see. Of course, one can make criticisms of Natural England, and one can make criticisms of me, but the real problem is that, in essence, the general licences were not a seaworthy vessel, and the rot set in before 2019.

- Q144 **Chair:** One member of the board of Natural England—I will not mention his name but you can probably work out who it is—told us quite clearly that there had been a lot of political pressure put on them back in 2014 to go no further with removing these general licences. This is before your time as Secretary of State, so it is not you who is personally responsible. I think the Government of the day put a lot of pressure on Natural



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England at that moment. While Natural England might be in the dock, I think the Government Ministers were putting a lot of pressure on Natural England, and you are probably aware of that, Secretary of State.

Michael Gove: I was neither in Defra nor in Natural England at that time. I am attempting to find out, for Defra's own reasons, some of the decision-making of that time. In fairness, you can probably question the decision makers who were in post at that time and develop a proper understanding of what may or may not have happened and why it happened.

Q145 **Chair:** Finally, with the Robert Goodwill interview, there are members of the agricultural press present. They felt that Robert misled them along the whole thing, whether he did that wilfully or whether it just happened to be. They felt they were not necessarily being kept informed that these licences were about to be revoked. They feel that Robert knew before telling the press.

Michael Gove: That is emphatically not true. If a number of policies are under consideration but they have not yet been agreed, the press might speculate, entirely understandably, and say, "X is going to happen". Unless it has been decided, the Minister cannot say that it has been decided. To take a case in point, *The Daily Telegraph* speculated about a particular outcome. That was an outcome that was under consideration and eventually came to pass, but, at the time that *The Daily Telegraph* said it would happen, no final decision had yet been taken. I make no criticism of *The Telegraph*, because that is legitimate journalistic speculation. To coin a phrase from my old journalistic days, it was taking a flyer, and a well-informed one at that, but it was not the case that the decision had been taken definitively at that point.

Q146 **Chair:** I suppose the question is how it was so well informed.

Michael Gove: One thing I would say is that I discussed with a number of people a number of options. It would be perfectly legitimate for a journalist to talk to some of those to whom I had talked, to have inferred from what they said that I was likely to do something, and then to say, "Well, if he is likely, I am sure that he will".

Q147 **Chair:** It is just that quite a lot of the agricultural press likes to play a fairly straight bat. I think they felt on this occasion they had not been told the whole truth.

Michael Gove: If anyone were to put to me the specific point at which they felt that the whole truth was not being shared with them, of course I would be happy to look at it. By definition, until a decision has been taken, you cannot and should not necessarily confirm or deny. The speculation was that we were taking back control. That was something we were actively considering, but the decision to take back control only followed a letter from Tony Juniper and the decision was only taken on a Friday evening, which led to the operation of Defra's executive control of these things starting the following Saturday morning.



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Q148 **Chair:** From the Wednesday to the Friday, you are saying it was just speculation as to whether that was going to happen.

Michael Gove: No definitive decision had been taken. It is perfectly legitimate to speculate and say, "Of all the options that I think are under consideration, this is the most likely", but there is no obligation, a decision not having been taken, for the Minister to confirm when that decision has not yet been taken.

Q149 **John Grogan:** I was interested in Natural England concluding that there was not enough evidence to license the killing of magpies and jays, concerning wild birds, or rooks for preventing damage to livestock, but yet the new general licences allow these activities. Why did you disagree with Natural England's assessment?

Michael Gove: We attach considerable weight to Natural England's evidence, but we also had an extensive call for evidence, which received thousands of replies. We looked at that. Alexandra and her team, analysts, scientists and lawyers, looked at a weight of evidence. As a result, we came to a conclusion about how general licences should operate. Those general licences are different from those that prevailed before revocation. It is the case, for example, that with lesser black-backed and herring gulls, and indeed with jays, there are exemptions in the new licences. It is also the case that the rationale for licences has narrowed as a result of the evidence we took. Natural England's evidence played a part in that, but we looked at all the evidence in the round before coming to a consideration.

Q150 **John Grogan:** You have not published your response to the call for evidence.

Michael Gove: We will publish that shortly.

Q151 **John Grogan:** If the next few weeks go to plan, so to speak, do you think we would expect that before the summer?

Michael Gove: Yes, definitely.

Q152 **Angela Smith:** Could you outline, Secretary of State, some of the exemptions and how they will work? They are going to be critical to all this. If jays are going to be differentiated on some occasions from crows, wood pigeons and others, how is that going to work practically on the ground?

Michael Gove: Those who make use of general licences, almost by definition, are people who are well acquainted with the importance of exercising force in a responsible fashion in order to deal with pests and predators. They know the circumstances under which they should or should not use force. It is the case that those who are likely to use force will be able to tell a jay from a crow in the way that, for the sake of argument, anyone who is taking part in game shooting will know there are certain legitimate quarry and certain other birds you should not shoot. Someone who is a farmer will know there are certain



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circumstances in which it would be legitimate to shoot and certain circumstances in which it would not be. By definition, the killing of wild birds is illegal unless there are specific conditions in place. General licences allow farmers, landowners and land managers to exercise that provision, but within the law.

Q153 Angela Smith: Is that by discretion, or are we talking about specific conditions laid down in the licences?

Michael Gove: There are specific conditions laid down in the new general licences that state the circumstances under which it is legitimate to make use of a general licence and the species that it is legitimate to employ the general licence to control.

Q154 Angela Smith: I just wanted to understand whether this is going to lead to different licences being issued to different farmers and gamekeepers up and down the country.

Michael Gove: It is the case, of course, that different licences are issued. As well as general licences, farmers and others apply for individual licences in specific circumstances. These general licences also state that you should not shoot on certain European sites because of specific protections, but if you feel the need, in order to control predators on those sites, you can apply for an individual licence. Individual licences have been and continue to be issued by Natural England for those specific circumstances. A gamekeeper on a particular piece of moorland will well understand exactly which species constitute a threat and will apply for an individual licence, or rather the owner of the land will do, on that basis.

Q155 Kerry McCarthy: I will return to the 2014 consultation, which we have touched on a bit. As I understand it, the consultation closed on 19 May. It was considered by Natural England on 16 July and pulled by Natural England in September. I know you have been saying we should look to your predecessors to ask them what went on. I think Owen Paterson was in post until 14 July and then Liz Truss took over, so when the decision was made to pull the consultation it was Liz Truss in post. Is it her you are suggesting we ought to seek answers from, or would it be a junior Minister?

Michael Gove: I shall not single anyone out, but it is decision makers at that time. It is only appropriate to look at the decision making of Natural England at that time. Previous Secretaries of State may help, but it is Natural England that was the decision maker. That is where the focus might properly be addressed.

Q156 Kerry McCarthy: Our concern about the 2014 review being pulled was these suggestions that there was undue political pressure put on Natural England to withdraw it. I think Lord Blencathra said to us that the Defra Minister's decision to close down the review in 2014 had a chilling effect on Natural England's work on licences from then on. I guess we can get people from Natural England to say political pressure was applied, but if



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we want to get to the bottom of why the political pressure was applied, it would be former Ministers that we would need to talk to.

Michael Gove: It is not necessarily the case. Obviously, I do not know. If we are talking about political pressure, it is not necessarily the case that we are talking about Ministers applying that pressure. It may well be the case that, in a climate where strong views are expressed, people feel that, in those circumstances, those strong views expressed not by Ministers but by others should cause them to reflect on whether the course of action they were intending to take is the right one.

Q157 **Kerry McCarthy:** Looking at what has gone on around the Wild Justice case, in particular the intimidatory tactics that have been used, I am sure you will join me in condemning what happened to Chris Packham when dead birds were hung up at the door of his house and so on.

Michael Gove: Yes, of course.

Q158 **Kerry McCarthy:** We are in tricky territory if the fact that there is this febrile atmosphere and there are lots of strong views on either side stops a public body from reaching a decision because it is just too difficult to go there. I take what you are saying, that that is slightly separate perhaps from a Minister saying, "Do not go there".

Michael Gove: Yes, that is fair.

Q159 **Kerry McCarthy:** It is quite important that we get to the bottom of that, whether Natural England was scared off by how controversial things had become, and whether it was perhaps intimidated into dropping the review, or whether it was a political decision to pull that review.

Michael Gove: Again, that is a perfectly legitimate line of inquiry. In those circumstances, the right thing to do is to ask the Natural England team at that time about its decision making. It is important to say that there is no evidence that the review was shut down. It is the case that there was a Natural England consultation. Conclusions were drawn, but it is Natural England that one would have to ask about that.

Q160 **Kerry McCarthy:** It basically said the case for change had not been sufficiently made, but it did not act on the responses to the consultation. In terms of where you are now, no matter who is making the decision, how do you deal with the fact that this is a very controversial area? I have to say, I get far more abuse from the shooting lobby than from any other sector. It is pretty unpleasant. There are strong views on both sides. To what extent do you feel that hampers either your ability to take this forward or Natural England's ability to take it forward?

Michael Gove: It does not hamper. We have to be aware of the various sensitivities here. You have given me an opportunity to say that the behaviour of people towards Chris Packham has been appalling. You might disagree with Chris on particular points of view, but he is a very distinguished campaigner, naturalist and wildlife broadcaster, who has contributed an enormous amount to deeper understanding of the



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environment. The sort of behaviour he had to put up with is terrible and disgusting.

It is not a balancing item; it is an “as well as”. It is also the case that farmers deprived of the opportunity to safeguard their crops or to deal with predators that are preying on lambs in lambing season are in a terrible position. I sympathise with the difficulty that Chris Packham faced as a result of people who were behaving appallingly, but I also sympathise with farmers who found themselves, at a critical time in the farming year, without the protection they needed.

Finally, while of course shooting overall and game shooting in particular is controversial, I believe that game shooting plays a very important part in conservation and our rural economy. It must be properly policed and there are legitimate issues to raise. That is a consideration that needs to be taken into account as well.

Kerry McCarthy: I was agreeing with you until that last bit, but there you go.

Michael Gove: I know.

Kerry McCarthy: I will leave it at that.

Q161 **Chair:** Secretary of State, when Lord Blencathra was here giving us evidence, he made it quite clear that, had Natural England been allowed to carry on and get the necessary evidence that this is needed for crows that attack sheep and lambs, for pigeons, rooks and all these other birds that attack crops—as I believe, and I think you believe, it is needed—we would not have had to pull these licences. This is the issue for us. I fervently believe that, for good or bad, Defra probably sat on this consultation and sat on the evidence it was taking. That is what led us to you—Defra and Natural England—having to withdraw the licence back in April.

That is where we have to make sure somehow or other that this does not happen in future. Either Natural England is dealing with it or Defra is dealing with it. In the future, are you going to hand it back to Natural England? Are you going to keep it in Defra? What is happening? The evidence Lord Blencathra gave is legitimate. He was quite candid about it, that Defra sat on Natural England and stopped it taking the evidence so it could have won the court case. That is what it is all about, is it not?

Michael Gove: I do not think that. If one goes back to the 2014 consultation, one of the issues that arose then, and again this is at the heart of it, was the suggestion that alternative methods should be deployed before having recourse to shooting. At the time, there was the whole “shoo before you shoot” controversy or debate. This is the essence of the legal and policy position. Is it Natural England that should satisfy itself, or Defra for that matter, that there is no alternative to shooting, or the individual who is responsible? Without going into the weeds of the legal argument and without revealing privileged legal advice, that is at



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the heart of the issue. That was an issue in 2014 and it was the issue, of course, that created difficulties for Natural England once Wild Justice brought its action.

Q162 **Chair:** I have seen rook scarers deployed in fields. Once the rooks get used to these rook scarers, they will fly up in the air, stay there for a few seconds and then land again, because they have got used to the bang going off. Therefore, lethal shooting and the rook scarers need to be deployed. Had one had that sort of evidence to put in place, surely it would have helped to defend the case in the courts. That is the sort of thing where I feel not enough was done.

Michael Gove: I can completely understand that opinion, but the suggestion that somehow Natural England or Defra were insufficiently aware of what the consequences would be if licences were revoked without replacement is wrong. We absolutely understood what the consequences would be. The key difficulty lay in the legality of the licences on the basis of that particular point of law.

Q163 **Chair:** Of course, the case revolves around gathering evidence and presenting to the court. That is the bit where we will never be 100% clear who sat on it and who was responsible for not gathering this evidence. Then we would not have needed to take the licences away.

Michael Gove: It is less a matter of evidence being gathered about the individual application of the operation of licences in particular areas. It goes to another issue.

Chair: We will park that there for the time being.

Q164 **David Simpson:** Secretary of State, just for a point of clarification, why did you ditch Natural England's approach of issuing the 33 individual licences for each combination of species and purpose, and move back to the three omnibus licences?

Michael Gove: In essence, I felt that Natural England was not delivering a regime that provided those in the field with what they needed. There was specific criticism in the days after Natural England issued its first replacement licence, not just from shooting organisations but from the NFU and others, that made me concerned that Natural England's sincere hopes that this new regime would work were not resulting in the confidence of those in the front line whom it is Defra's responsibility to support and help.

Q165 **David Simpson:** You were not convinced.

Michael Gove: No.

Q166 **David Simpson:** Natural England told us its legal advice was that the old licences were inarguably unlawful and could not just be reissued with a few tweaks. Can you explain how your licences are different to the old ones and why you consider them to be lawful?



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Michael Gove: Yes. We took a huge amount of evidence, and indeed we will publish our response to the call for evidence shortly. There are specific exemptions. I mentioned earlier that, in the general licences that cover public health and safety and the risk of serious damage, the jay is no longer included. In the serious damage general licence, it is also the case that the lesser black-backed gull and collared dove are no longer included. It is also the case that, in the conservation general licence, GL34, the feral pigeon and the lesser black-backed gull are no longer covered. It is also the case that there are specific exemptions for EU sites, for special areas of conservation, SPAs and Ramsar sites, which are treated in UK law—

Chair: We are going to come on to those in a minute. I do not want to steal the last bit of Caroline's question.

Q167 **David Simpson:** Can I just ask where pigeon or woodcock fit into all this?

Michael Gove: I think woodcock is a game bird, so it is—

David Simpson: Perfectly legitimate.

Michael Gove: Yes.

David Simpson: That is all right. I just wanted to check that.

Q168 **Chair:** I have to put a little more pressure on you. Looking into it, is this going to be a long-term solution, reintroducing what looks to me, with a few tweaks, very similar to the system of licensing you had before? Can you give us it in blood that this is not going to be challenged again by Wild Justice and that you will not be back in the dock, probably, dare I say it, when you have moved on to another job?

Michael Gove: I hope I will not be moved on to another job. In the meantime, I am sure that Wild Justice will want to test this. I absolutely take your point, but these are not the pre-existing general licences with tweaks. They are general licences that have been subject to both the weighting and the analysis of a significant amount of evidence, which is why there are significant changes to them. They are intended to be a temporary regime while we conduct a more fundamental review of licensing with Natural England, in order to ensure we can get to a position that is legally robust.

Q169 **Chair:** This is a temporary situation that leads on to something different.

Michael Gove: Yes.

Q170 **Chair:** I put my farming hat on now. In many ways, farmers perhaps believe the general licences before gave us more rights to shoot than we probably had. Politically, this is quite difficult to do. Are you being completely clear to farmers, gamekeepers and others exactly what they can shoot and when they can shoot it? Without being too facetious, we now have to work out whether those birds' intentions are honourable or



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not. Are they going to attack that crop or are they not? How much more information has to be out there? I am not entirely sure we are clear on that. There is a little mist there.

Michael Gove: No, I understand. The regime at the moment is serviceable. Most farmers, gamekeepers and others, even if they might wish the regime were different, understand why it is the way it is and how it can be operated. As I said earlier, if you are at a driven pheasant shoot and the gamekeeper is there, that gamekeeper or someone else will tell you in no uncertain terms if you try to shoot something that is illegal. Farmers know well how to use the old general licence regime and understand the new general licence regime in order to deal with predators and to exercise pest control. Generally, there is a good understanding of it, but we need to be certain, in the review we are now undertaking about what the new regime will be, that it will be as legally robust as possible.

Q171 **Chair:** If you are farming, you have crows attacking lambs. I have had them attack ewes that are on their back—a horrendous sight. I was challenged on this: did it ever happen? I said yes, it certainly did, because I have seen it happen with my own eyes. Are you absolutely certain now that farmers are legitimately able to shoot those? The other question is, if you have pigeons, crows and rooks attacking your crops, whether you can take action against those pests without having to inform Defra. If you have to wait to inform Defra, most of this damage will be done.

Michael Gove: No, you do not need to. If you are worried about serious damage, the general licence will allow you to shoot carrion crows, jackdaws, magpies, pigeons or rooks, and of course the small number of invasive species that it is also legitimate to seek to control.

Q172 **Chair:** In that respect, they are very similar to the previous licences. I suppose it goes back to repeating the question, then: are you confident that Wild Justice will not be able to challenge that?

Michael Gove: The point at issue I think for Wild Justice is, as we touched on earlier, a question of who has to satisfy themselves that alternatives have been considered. In general, it is not the case—and lawyers might contest this—that every time a farmer chooses to shoot in order to protect livestock or crops, they have to go through a complicated process. That farmer will know, broadly: “In order to protect my livestock, I have given this some reflection over time, and I know that I need to shoot. I know that, in these circumstances, I do not have to wait until it is too late. I can take the appropriate action”. Provided a farmer or landowner has given appropriate reflection at some point to what the alternatives are and has fairly and safely concluded that there is no alternative to shooting, that farmer can, as soon as he feels it is appropriate to take that action, take that action without having to fill out a form, ring up Defra or conduct some form of complicated triage process.



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Q173 Chair: If I come across a crow attacking a lamb, I can actually shoot it. I do not have to wait to try to shoo it off for it to come back and attack that lamb on a later date. Where is the law? It is not facetious. This is quite serious because farmers and gamekeepers are wondering whether they are inside or outside the law.

Michael Gove: In essence, you are completely within the law if it is perfectly reasonable that you should shoot in those circumstances. As I say, it is not the case that you have to go through a complex checklist or flow diagram. A farmer will know that, in certain circumstances, there is no alternative or no reasonable alternative other than to shoot. That was the case beforehand and it is the case now. I think that is relatively well understood. One of the issues was that there was a degree of legal uncertainty in the immediate aftermath of the revocation that caused understandable disquiet. This hearing and the communication that Defra and NE have been responsible for is there to reassure people. You do not need to have gone through an exhaustive process every time you see a threat to crops, livestock or any other risk of damage.

Q174 Julian Sturdy: Michael, I wanted to come back to something you said earlier. Are we saying that you are going to revisit these licences, or Defra is going to revisit them?

Michael Gove: Yes.

Q175 Julian Sturdy: They are temporary. When are you planning to revisit them? What is the timescale?

Michael Gove: I hope by February of next year.

Q176 Julian Sturdy: Was this really an exercise of making sure these were legally watertight, just to get it off the desk and move it on, rather than making the licences an effective framework for land managers to use?

Michael Gove: We believe, and all the evidence showed, that, in the absence of general licences, land managers were not able to exercise effective pest control. We wanted to have a regime that was as robust as possible in order to act as an interim regime, acknowledging that it was not perfect. Then we will take time to ensure we provide the very best regime in the future. Farmers and land managers should be reassured that they are in no danger if they operate the general licences in the clear fashion that farmers do. The legal issue is for me and Defra to ensure we have a regime that is absolutely robust and fit for all purpose next year.

Q177 Dr Johnson: Secretary of State, my question is about the new licences, some of which has been covered already. One is about the length and complexity of the new licences. The GL04, which was the old licence for preventing a number of species causing serious damage or disease, was only five pages long. The replacement, 26, covers only carrion crows, only for the purpose of preventing damage to livestock and runs for 11 pages. There are an increased number of conditions on farmers. You said



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that farmers will know, but farmers also want to know they are following the law. They are law-abiding citizens. It says, instead of just being satisfied in themselves that things are right, reasonable endeavours must have been taken. If a policeman or policewoman comes across a farmer who has just shot such a carrion crow, because they believed that crow was about to attack their new-born lamb, for example, how does the farmer demonstrate, what evidence does he or she need, that they have made reasonable endeavours? Do they have to keep a record of when they are using these little crow scarers?

Michael Gove: No.

Q178 **Dr Johnson:** Is just their word enough? How does one prove that reasonable endeavours have been made?

Michael Gove: All a farmer needs to do—I say “all”—is say, “I gave some thought, of course, to what the best means would be of making sure I protect my livestock or crops, and I know it would be ineffective to have a crow scarer”, for the reasons Neil pointed out earlier, that it would have only limited utility. “Therefore, this is the most effective means of doing so”.

Q179 **Dr Johnson:** The farmer does not need to be able to prove that. He just needs to be able to believe that is true at the time he shoots the bird.

Michael Gove: Yes, but it would always be helpful for any farmer or land manager to be able to say, “This is the reasoning that I have deployed before coming to this conclusion”. If a farmer said—not that I imagine any farmer would—“I will just shoot what I want”, that would put the individual in a difficult position. If that farmer said, “I have given some thought to this and the alternatives to protecting my livestock or crops would be X or Y. X would not work. I thought about Y. My neighbour tried Y. That does not work. That is why I am now engaging in this form of pest control”. That would be a perfectly reasonable thing to do.

Q180 **Dr Johnson:** The anecdotal evidence, “It did not work for my neighbour”, is an acceptable level of evidence.

Michael Gove: You have to show you have given some consideration to it. One could see people who were behaving unreasonably in certain circumstances. There is a fundamental restriction, and it is illegal to kill wild birds willy-nilly, but if you can show good cause I cannot imagine a single court in the land would say that a farmer who demonstrated they were acting to protect their livestock and crops would face any penalty at all.

Q181 **Dr Johnson:** When would they need to be able to demonstrate that? At the time they are stopped by the police officer with their gun in their hand, do they need to have already-written evidence on this explaining why they have done it, or is it enough to explain afterwards what their thought process was?



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Michael Gove: They would be well advised to have given consideration beforehand. I am sure that they can explain to the police officer concerned. To take a couple of steps back, the law is the law is the law, and it is vitally important that the law is upheld. Wildlife crime matters, and that is one of the cases that Wild Justice has brought to our attention. It would be a curious chief constable who thought that they should prioritise their resources by having police officers pursue farmers who were protecting their livestock.

Q182 **Dr Johnson:** Another thing that is different about the new licences is for protected sites.

Michael Gove: Yes, exactly.

Dr Johnson: You cannot kill birds within 300 metres of the boundary of special protection areas and sites of special scientific interest where birds are qualifying or interest features. Three-hundred metres is quite a distance. If you are standing with your back to the site of special scientific interest when you shoot, what effect is that realistically having? What is the evidence that you had in making the decision that that was necessary?

Michael Gove: You have to take account of an action that may have an effect on a protected site. Whether it is constructing a new building or undertaking pest control, if it might have an effect on that site, you have to give appropriate consideration to that. The rubric by which we have operated in the past, Natural England's rubric, has been that, within that distance of a special protection area, there is a danger that there may be an impact.

For anyone who feels the need to exercise pest control on such a site, it is possible to apply for an individual licence. It is the case that, since the new general licences have been issued by Defra, we have had 51 applications for individual licences, which suggests that there is a need in certain circumstances for that, but in many cases individual licences would already have been granted. For the sake of argument, if you are the owner of a grouse moor and by definition some of that is SSSI, I imagine you would have secured an individual licence beforehand for some of the pest control that might have been required.

Q183 **Dr Johnson:** Those still stand. You talked about the specific licences. That moves on to the other part of my question. Natural England, as I understand it, is responsible for those specific licences. You have only taken back control of the general licence.

Michael Gove: Absolutely.

Q184 **Dr Johnson:** That is correct. How are you ensuring that those specific licences are fit for purpose? It turned out that the general ones were not, so how are you ensuring that they are doing this part of their role correctly?



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Michael Gove: There was some initial concern when people were applying for individual licences, for a variety of reasons, from the online platform not working in the first 24 hours to other problems. There were some real issues there. Subsequent to that, we have not had, but I would be grateful to the Committee if it could bring to my attention, any evidence of significant disquiet either from licence users or from others about the operation of individual licences.

Again, while I had concerns about Natural England's handling of the replacement general licences, and we took a different view there, I have to say that that is the specific area of concern I have had. I believe Natural England's handling, apart from that 24-hour blip, of individual licences has been broadly effective. To zoom out, as I mentioned in response to Julian's question earlier, while I regret that Natural England was compelled to revoke the licences, I understand why the board was in that position. I would not want any criticism of Natural England to be broader than that specific concern.

Q185 **Dr Johnson:** You are satisfied that the process is happening at a rapid enough rate in a user-friendly type of way.

Michael Gove: Yes.

Q186 **Dr Johnson:** Are you happy that the licences that are being issued are robust?

Michael Gove: Yes.

Q187 **Dr Johnson:** They will stand up to legal scrutiny.

Michael Gove: Yes.

Q188 **Chair:** When you apply, do you get an immediate response, a yes or a no?

Michael Gove: You get a fairly rapid response. It was not the case in the immediate aftermath of the revocation of general licences that people were getting that response. I remember going on to the Natural England website, from the hotel I was staying at in north Wales that evening, and expressing my frustration to my private office team and others that I, with a valid shotgun licence and as Secretary of State for Defra, was not able to get through. My frustration was communicated in polite and measured tones by my private office to Natural England.

Q189 **Chair:** You had broadband coverage at that stage to be able to get on, did you?

Michael Gove: I was in a very nice hotel in Abergele in west Clwyd.

Q190 **Chair:** The serious part of the question is that I no longer grow wheat in this particular area, but part of my farm is in a site of special scientific interest. It is in the flight path of the Canada geese. They actually like some crops grown, because when the geese land they usually land in the wheat, because in the winter there is more to eat on the wheat. I would



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have had crops in those sites of special scientific interest, which are legitimate to grow. If you had your new crop of wheat being attacked by pigeons, crows or rooks, you would not want to have to wait days to get a licence.

Michael Gove: That is perfectly fair.

Q191 **Chair:** Can you reassure farmers who might have been in my position that they are not going to wait days for that special licence to come through?

Michael Gove: Yes.

Chair: Yes, they are, or no, they are not?

Michael Gove: Yes, I am confident that individual licences are being issued rapidly. We would prefer it to be even faster. We will continue to press for rapidity.

Q192 **Chair:** Secretary of State, spring goes into summer and summer into autumn. How long is rapid? What do you mean? What is rapid? How long is rapid?

Michael Gove: Days.

Q193 **Chair:** Days? Good Lord, by the time you have had days you will not have a crop left. No, I am serious about this. If you are going to have specific licences to stop something attacking particular crops, do not forget that sites of special scientific interest are put in for all sorts of conservation reasons. They are not all into grass. Some of them are into crops because they actually want the crops for the particular species they are trying to maintain. It is a serious point that I put to you. Days is not good enough, to be honest with you.

Michael Gove: By definition, any farmer or landowner who has an SSSI will be aware of that. They will now be aware that they may need an individual licence. They will also be aware when Canada geese or other birds are likely to be in the area, so they can then apply for the individual licence well in advance. It would be a curious farmer who would see the Canada geese flying over and say, "My Lord, I had no idea they were around at this time of year. This land I have is an SSSI. I suppose I had better get on to Natural England now and apply for an individual licence". It is a bit like a farmer being surprised that you might need to do harvest in August and September.

Q194 **Chair:** You are misunderstanding me. I do not know whether it is purposefully or not. The Canada geese are why you grow the corn, so that they can eat it in the winter. It is not them that are going to come and attack the crop when it is coming up. It is going to be the rooks, the crows and the pigeons, because they do not recognise sites of special scientific interest. They do not just leave them alone and leave it for the Canada geese. I would have needed a licence to shoot crows, rooks and pigeons that are attacking that crop of wheat. That is why I am saying to



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you when you have sown it that you cannot wait days for a licence.

Michael Gove: Why not apply for a licence before you have sown it?

Q195 **Chair:** Because I do not know, do I? Do not forget, the whole idea of the licence regime is that you have got to know what these birds are going to do. I do not know that they are going to attack that crop. They do not always attack every crop. Therefore, I am going to pursue you on this one, because it is not one that you can just kick away. It is a valid question.

Michael Gove: As a farmer, you think, "I will sow this field, but it is only when I see a crow or a pigeon that I then decide that I apply for the licence". Surely you would be aware that crows and pigeons might take an interest significantly beforehand. Given that you know that you are going to sow that field several weeks before you do, why not apply for a licence at that point?

Q196 **Chair:** You have walked neatly into my little trap, because as far as I am aware, when you go for a special licence, you have to have a reasonable proof that those birds are doing damage to your crop. Therefore, I should not legally and legitimately get a licence in advance.

Michael Gove: You would be perfectly entitled to a licence in advance.

Chair: A farmer is perfectly entitled to get a licence in advance.

Michael Gove: If you wanted to apply for a licence on the basis that you were seeking to protect a particular crop in those circumstances, yes, of course. The judgment would be made on each individual basis. As I said earlier, it is no surprise that we have crows and pigeons in the United Kingdom. They are native species. It is no surprise that they might well want to engage in filling their boots. In those circumstances, a prudent farmer would have taken appropriate steps beforehand.

Q197 **Chair:** I entirely agree with you, Secretary of State, but this is the point I am making. Can that farmer, whoever he or she may be, apply for a licence in advance when you are not 100% sure what those rooks and pigeons will do? They might decide to go and attack somebody else's crop.

Michael Gove: They might do, but you do not have to wait for damage to occur in order to get a licence to then prevent damage. If it is the case that a farmer secures an individual licence in order to make sure that, in an SSSI, they can use this method of control, and that individual farmer then shoots other species willy-nilly because he thinks that individual licence gives him a right to behave like the Clint Eastwood of Somerset, that would be a problem. It would be a remarkable farmer who would be so naïve as to think that they would not need to think about the preventive measures they might want to take at that time.

Chair: I am quite happy, because you put on record that we can apply for a licence in advance. When we have planted our crop, we can apply



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for a licence in case the pigeons or crows attack that crop. I am quite happy with that situation.

Q198 **Julian Sturdy:** As a quick follow-up on that, if you are applying for a licence due to the fact that you believe that crop might come under attack, do you have to provide any historic evidence that the area has been attacked by crows in the past, for example? I use crows because crows usually have a set flight pattern, so they will have an area where they will be flying to and from on a regular basis. Certain areas are more under threat than others.

Michael Gove: If you have a European protected site and you think you may need to use the principles that a licence allows you to operate under in order to protect it, you can apply for that individual licence and say, "Were such a situation to occur, I could legitimately do that". You would not need to demonstrate that there was an inevitability that it was underneath a crow's flight path. You would merely say, "I am growing crop A in this site. I want an individual licence in order to protect it", and, were those circumstances to arise, you would be able to make use of it.

Q199 **Chair:** Can you get a licence in advance?

Michael Gove: Yes.

Q200 **Dr Johnson:** Mine is a very quick question related to that. How often do the licences need to be renewed, or do they not? Do the licences have to be renewed?

Michael Gove: Individual licences?

Dr Johnson: Yes.

Michael Gove: If there is a change of circumstance, yes.

Q201 **Dr Johnson:** Once you have applied to look after the wheat crop or whatever that you are going to plant in your SSSI this year, in advance, it will then apply next year, the year after and the year after, provided you are planting the same crop in the same place and protecting it from the same pest.

Michael Gove: It all depends on the circumstances of the individual licence. When you apply for an individual licence, you will say which species you want the licence for and what the specific circumstances might be. Is it to prevent serious damage? Is it for conservation purposes or otherwise?

Q202 **Dr Johnson:** Then it applies indefinitely, as long as the circumstances are the same.

Michael Gove: Individual licences need to be renewed when circumstances change, and individual licences are time-limited as well.

Q203 **Dr Johnson:** How long are they time-limited for? If, at the beginning of



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the year, the farmer decides to plant his or her crop, and they apply for a licence six weeks before they sow it, as you suggest, that protects them so they can shoot the birds that are going to trouble it. If they do, the farmer acts appropriately. Then the following year they intend to plant the same thing. Does the licence still apply or how often do they need to review the licence?

Michael Gove: It all depends on the specific circumstances. Assuming that it is the same, they would need to reapply at the end of each year and/or season, as it were, for which the licence was issued. By definition, with individual licences, you put forward specific circumstances that relate to the species you need to control, the evidence you might need to control that species, and then the licence is granted. We have not had, as far as I am aware, specific circumstances where, apart from the blip I mentioned earlier, people have said that individual licences are not being granted in circumstances where the individual landowner, land manager or farmer considers it reasonable to apply.

Q204 **Dr Johnson:** They have to renew them every year; that is what you are saying now.

Michael Gove: They generally last for a year, but if circumstances change they can change the way in which they choose to apply. Ultimately, it is Natural England's decision.

Q205 **Chair:** There is some evidence coming to the side of you here. Do you want to put it on the record?

Dr Cran-McGreehin: I was just going to say the details are for Natural England in this case. This is what we understand about the situation, but we would have to ask them for more detail about exactly how they do it.

Chair: Perhaps we ought to have that in writing.

Q206 **Dr Johnson:** It is worth looking at, because if a farmer plants a variety of crops at different times of the year and protects the different crops from different pests, it would be quite time-consuming if farmers had to repeatedly apply throughout the year at all different times for all different species.

Michael Gove: I do not know anyone who does that.

Q207 **Dr Johnson:** They did not have to do that before, did they? They did not have to in the same way, because the general licences were covering more things than they are now.

Michael Gove: It would be interesting to see. As I say, we have had 51 applications. In the same way as any farmer would take a view about which crops they are going to have in their rotation, which pesticides, fungicides or fertilisers they might need, if you think that you need an individual licence in those circumstances, you will apply to Natural England and it will weigh up the reason. What we are thinking of here is



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a specific set of circumstances where the statistical likelihood of the situation you described would be small.

- Q208 **Angela Smith:** Secretary of State, you quite rightly pointed out that licences need to be issued prior to the need for the practices that they cover. However, a position statement issued by Defra to accompany the licences states that users need to be able to demonstrate compliance with the conditions of the licence, if asked by enforcement or police officers, enforcement clearly being Natural England.

The key question is this. Is enforcement going to be effective and robust on the part of Natural England, or are you going to be requiring the Home Office to ensure that sufficient wildlife crime capacity is in place to ensure that compliance is indeed at a very high level? There is a degree of trust here on farmers, landowners, the public sector or the water sector, which needs to cull occasionally for public health reasons. Are you or Government going to put the resources necessary into place to ensure that there is a high level of compliance?

Michael Gove: Yes.

- Q209 **Angela Smith:** There is going to be more resource for the wildlife crime capacity in the police force and in Natural England.

Michael Gove: There will be sufficient resource.

- Q210 **Angela Smith:** There certainly is not at the moment.

Michael Gove: That is a matter of opinion.

- Q211 **Angela Smith:** It is not a matter of opinion; it is a matter of record. Wildlife crime enforcement is at a very low level in this country. The Wildlife Crime Unit has no guarantee of a long-term future. Are we guaranteed a long-term future for the Wildlife Crime Unit in our police forces and at national level? Is Natural England going to have enough resources to ensure that this new licence regime works properly?

Michael Gove: Natural England will absolutely have enough resource. When it comes to making sure that general licences or, indeed, individual licences are used appropriately, that is a matter for local police forces.

- Q212 **Angela Smith:** Are you going to be talking to the Home Secretary to ensure that wildlife crime is given sufficient priority?

Michael Gove: People know how strongly I take the issue of wildlife crime, but it is the case that my officials have already been in contact with the National Police Chiefs' Council in order to ensure that it appropriately polices the general licensing regime.

- Q213 **Angela Smith:** You think at the moment the wildlife crime capacity is sufficient in the Home Office.

Michael Gove: If we are thinking about general licences in particular, yes.



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Q214 **Angela Smith:** In general, but there is going to be an extra burden here, because the bar is going to be raised in relation to the use of general licences. I defend the licences. I defend the need for landowners and farmers to cull and to deal with pests and predators. Nevertheless, the bar is going to be raised, so clearly we need to know that the capacity is going to be there to enforce the raising of this standard. I go back to the question.

Michael Gove: I go back to my answer.

Q215 **Angela Smith:** That is no answer at all then, Secretary of State.

Michael Gove: No, I have contacted the National Police Chiefs' Council—rather, my officials have—in order to say it is important that they continue to ensure that the general licensing regime is effectively policed. I am sure they will do so.

Q216 **Angela Smith:** You consider it as being effectively policed in the past.

Michael Gove: I think it is the case but, if you have specific concerns, I would love to know them.

Chair: We had better park that one there.

Q217 **Kerry McCarthy:** It is just a quick question from me. There is still going to be this review of the longer-term general licensing arrangements. Natural England was under the impression that it would be carrying it out. It told Wild Justice, having told the Committee on 21 May, after the whole Wild Justice thing became public, that it was going to do it. Then Defra said in June that Defra will lead the review. The quote says, "Defra will lead a review of the longer-term general licensing arrangements and intends to launch an initial public consultation in the summer. Defra will work closely on this review with Natural England". Who is actually leading on it?

Michael Gove: We are.

Kerry McCarthy: Defra is leading on it.

Michael Gove: Yes.

Q218 **Kerry McCarthy:** Why was the decision made that you would lead, rather than Natural England?

Michael Gove: It was made after we took back control of the general licences.

Q219 **Dr Johnson:** I wanted a quick supplementary. You are going to consult on the review of the general licences yourselves. You are leading that. Some of the farmers in my constituency have asked me which species that will cover. Will that cover all the species currently covered by the general licence? Will it cover just some of them? Will it cover any additional species that are not covered by the general licences and whether they need to be controlled?



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Michael Gove: It is the full spectrum of wild birds. If evidence is put to us that some birds that are not currently covered should be covered, we will look at that evidence. As I mentioned earlier, the evidence suggested that the jay, which as you know is a shy woodland bird, should have been exempted from two of the general licences. We took that evidence on board. It may well be the case that there are other birds that fall within, whether they are invasive species or others, the purview of future general licences. I would welcome any evidence from farmers in your constituency or others on how they think future general licences should apply and why.

Q220 **Chair:** So species are likely to be taken off or added on.

Michael Gove: We will be guided by the evidence. It is not the case that I have a little list of birds that I would like to add or take off. It is the case that the evidence put to us suggests that excluding jays from two of the general licences would be a wise thing to do, given the nature of that species and its status.

Q221 **Angela Smith:** I love jays. They are wonderful birds.

Chair: They are destructive, though.

Angela Smith: They can be, yes. You have taken away Natural England's responsibility for issuing licences, and you have already taken away the Countryside Stewardship scheme and given it to the Rural Payments Agency. How did Natural England get here, into this position?

Michael Gove: That is a very good question.

Q222 **Angela Smith:** Can you answer it?

Michael Gove: You will have to ask others.

Q223 **Angela Smith:** No, I am sorry; I think you have to give the answer. You have been in post, Secretary of State, for how long?

Michael Gove: Two years.

Q224 **Angela Smith:** You must know the answer. You know the Department well. You know all its structures. You know how it is resourced. You know its history. You must be able to give an answer to that question.

Michael Gove: It would be unmannerly for me to do so.

Angela Smith: Unmannerly?

Michael Gove: Yes.

Q225 **Angela Smith:** I am sorry; this is not about ladies and gentlemen. This is about answers to serious questions.

Michael Gove: You can draw your own conclusions.

Q226 **Angela Smith:** That is not acceptable. This is a Select Committee. We expect a reasonable answer to a reasonable question.



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Michael Gove: That is my answer.

Q227 **Angela Smith:** That is staggering, Chair. It is nothing to do with the 47% cuts to budget since 2010.

Michael Gove: Absolutely not, no. The steps I have taken reflected the fact that aspects of the organisation were not working. Therefore, I stepped in. It would have been wrong not to.

Q228 **Angela Smith:** It is interesting, that one, because one of the key aspects of the organisation, communication, was absorbed within Defra. You have defended the decision taken by Natural England, and I understand why, but the communicating of that decision was appalling. Is Defra going to take some responsibility for what happened?

Michael Gove: I will take full responsibility for everything that happens in the Department. This Committee has gone down this route before. There are two points. First, Natural England is absolutely independent. Either we respect its independence and respect the decision making that it has, or we do not. Secondly, on this point about Natural England communications and all the rest of it, it is a line that the Committee has gone down before. It is nonsensical. Natural England and its board are perfectly capable of communicating what they need to communicate when they need to communicate it. There has never been an issue with Natural England.

Q229 **Angela Smith:** There was here, Secretary of State. There was in relation to this. I have never known major landowners to come storming to my office to complain about what was going on in my 14 or 15 years of being in Parliament. I have never known such a reaction.

Michael Gove: It was not a communications issue. It was a delivery issue.

Angela Smith: A delivery issue?

Michael Gove: Yes.

Q230 **Angela Smith:** Secretary of State, it left farmers, landowners and licence holders up and down the country in a state of shock. How can you say that was well communicated? It was a dog's breakfast of a communication.

Michael Gove: It was a delivery issue. It does not matter how effectively it would have been communicated. It was a delivery issue. I am not sure how the chimera that this Committee has pursued of whether or not Natural England should have had its own press office relates to it. It was about the actual policy. Let us be clear: Natural England at critical points has failed in the delivery of particular things. You and this Committee must decide why.

The idea that it is because of funding cuts when Defra family agencies have had broadly the same level of funding cuts, I am afraid, is not the



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issue. It is an issue about the management and leadership of that organisation in the past. You as a Committee are perfectly at liberty to talk to those who have been responsible for those decisions in the past.

Q231 **Angela Smith:** So it is nothing to do with you, Secretary of State, or any of your predecessors. You deny responsibility. There is something clearly amiss.

Michael Gove: I do not deny responsibility. I have taken responsibility by making sure that I took responsibility for the general licences. I took responsibility away from Natural England over the delivery of Countryside Stewardship. We have a new and outstanding chairman of Natural England, and that new leadership, I know, will lead the organisation very effectively in the future.

Q232 **Angela Smith:** Why have you left the chief executive in place for another year? There was supposed to be a recruitment process, but it seems to have stalled.

Michael Gove: We were trying to find exactly the right person for that role. It is because it is so important that we need to find the right person.

Q233 **Angela Smith:** You clearly cannot find the right person.

Michael Gove: We are seeking to find absolutely the right person.

Q234 **Angela Smith:** It seems to me that you know full well what has gone wrong here and you are refusing to tell us.

Michael Gove: What do you think?

Q235 **Angela Smith:** It is not for me to answer that question. It is for you, Secretary of State. You are in charge.

Michael Gove: That is why I have taken action.

Q236 **Angela Smith:** Natural England is accountable to you. Can you tell the Committee? You clearly do know in detail what is going wrong at Natural England. You need to tell us, and you need to tell all the people who are watching this and all the people who are taking notes in relation to this.

Michael Gove: I have taken appropriate action, Angela, which is to make sure we have an outstanding new chairman leading that organisation. Aspects of delivery that were not working have altered.

Q237 **Angela Smith:** The fact that we do not have a new chief executive suggests that work is only half done, but I will leave it at that.

Michael Gove: You do not need to. The whole point is that we want to get the right chief executive. It was the case that a number of people asked why it took so long to find the right chairman. We have found the right chairman, an excellent chairman. If you want to look into things that happened in the past, talk to the decision makers in the past. If you



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want a Secretary of State who will actually take action in order to ensure that we have improved delivery, that is what I have done.

Q238 **Angela Smith:** Secretary of State, it is not for members of this Committee to talk to decision makers in the past.

Michael Gove: Yes, it is.

Q239 **Angela Smith:** No, you are the Secretary of State. You are the head of the Department. Natural England is accountable to you. It is to you that we look for the answers and we are not getting them. I will leave it at that.

Michael Gove: If you ask the wrong questions, you will not get the right answers.

Q240 **Chair:** Angela has pursued some questions that lead quite nicely on to mine. As you say, you have a new chair of Natural England and he has stated that Natural England is cut beyond the bone. He is a very good chair of Natural England, but he is going to need more resources. Following on from Angela's question, a lot of the work of the stewardship schemes has been taken to the RPA. We took evidence recently and that has improved. Whether it was Natural England's problem or whether it was a communication problem between Natural England and RPA, we are not entirely certain.

I have to ask you quite clearly: what is the purpose of Natural England? If you take away a lot of the stewardship schemes from its responsibility, then take away general licences from its responsibility and put them back into Defra, it is quite a legitimate question to ask you. What is the role for Natural England?

Michael Gove: It has a massive role. It is not just a statutory adviser on making sure that we maintain our natural heritage and natural capital. It is also responsible for helping us to ensure that we deliver on the 25-year environment plan's ambitions to restore so much of this country to a greater state of environmental enhancement. In everything from local natural capital plans to our plans to restore heathland and peatland to its appropriate condition, to making sure we bring species back to a certain state and level of health, to developing our new environmental land management contracts and the allied schemes, they have a critical role to play. As I say, aspects of what Natural England was delivering in the past were not effective. Delivery needed to change and I took the steps necessary in order to ensure that change occurred.

Q241 **Chair:** That is all very laudable, but you must accept that the problems farmers and landowners have found with the stewardship schemes: first, they have a job to sign up to them; secondly, they are very complicated; thirdly, they do not get paid. This has put a lot of people off the environmental schemes. You want to drive an agriculture policy in an environmental direction, which is very laudable. If you are not careful, farmers and landowners will be suspicious of signing up to them,



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because they are not sure they are going to get paid.

Are they going to be simple to deliver? We have been assured by the previous Minister of Agriculture, George Eustice, that the new systems will be much less complicated, but I am not sure they will be. Will you get paid in time? Will the process actually work? In respect of the last few years, we still have people waiting to get on to stewardship schemes and most people have now been paid because you stepped in and said, "They must be paid most of their money and then we will sort it out afterwards". The Treasury has coughed up money in order to deliver that, but it is not exactly the best way of delivering the policy. You would accept that, would you not?

Michael Gove: All those points are very well made.

Q242 **Chair:** You are confident, then, as you move into your new world of an agricultural environment policy, that you will have a system that can both deliver for the environment and deliver payments on time.

Michael Gove: That is what we are aiming to do. As I say, we found that there were failures of delivery and we have taken steps. You are quite right; those steps have included the Treasury being generous enough to advance us the cash in order to make sure that farmers get the money they deserve and they have not had. In the future, we need to have systems that are both simpler to access and more efficient in the way in which public money is allocated. Farmers and others need to be given the money in a timely way. Those are all absolute priorities for any new scheme, yes.

Q243 **Chair:** While we are on those and while we have you in front of us, there is talk on the ground that some of the pilot schemes put in place by both Natural England and Defra to look at new systems have slightly stalled at the moment. That is a polite way of putting it. Are you absolutely committed to having proper pilot schemes that work in a practical way? I want to be certain that we can deliver a new policy that is practical. If it is not practical, the farmers and landowners will not sign up to it.

Michael Gove: Yes, that is a very fair point and we are seeking to make sure that we pilot, test and trial appropriately. There is a legitimate question about whether we are investing enough in those pilots, tests and trials at the moment. That is one of the things that I am reviewing, along with a greater degree of transparency about what we will pay for and how much we will pay.

Q244 **Chair:** It is essential that we have proper pilots. I do not want this to be a box-ticking exercise: "We have delivered an odd pilot or two. It must work". We have a real chance now of developing an environmental and agricultural policy that really delivers for both food production and for the environment. We have to go into it with our eyes open and a proper pilot, not just say, "We have done that bit", and then impose it. I do not want it imposed on the farming, landowning and conservation communities. Are you confident that proper pilots will be done?



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Michael Gove: I am now. One of the concerns I had was that some of the thinking was being done in the abstract, as it were, without talking to those people with soil underneath their fingertips. Whatever concern I might have had about that, I am now being reassured that we are engaging very closely with those who will have to deliver the schemes and, therefore, whose confidence we have to win if the schemes are ever going to be effective.

Q245 **Chair:** Thank you for that reassurance. Very quickly, when will we see the full environment Bill and when will we have a response to our report on the draft clauses?

Michael Gove: The response on draft clauses is delayed at the moment, because, across Government there is still some discussion about what the correct policy response should be in one or two areas. I hope that, before a new Prime Minister is chosen, we may have a happy consensus so we can share that with you. We would hope to publish the environment Bill in good order thereafter. One of the challenges is that, with a new Prime Minister, they may want to augment or to alter what is in the Bill. My confident expectation is that we should be able to have the Bill ready for the Queen's Speech. I expect that any new Queen's Speech will be this autumn.

Q246 **Chair:** On the Office for Environmental Protection, which we are particularly keen on being independent and robust, are you reasonably confident you can get that through Cabinet?

Michael Gove: Yes.

Q247 **Chair:** We will hold you to that, Secretary of State. When will the agriculture and fisheries Bills be returning to the House? I know you assured me the other day they were oven ready, or agriculture was. I did ask you whether it was in the oven and whether the oven was turned on. Where are we on that?

Michael Gove: They are ready to go at any time. We just need to make sure that we pass the Withdrawal Agreement and Implementation Bill first.

Q248 **Chair:** Yes, you do not want them lost in the House of Lords, I suppose, because then the Bills will be lost themselves.

Michael Gove: Exactly.

Q249 **Chair:** Finally, will you appear before us in September to discuss preparations for leaving the EU at the end of October, especially if it is going to be without a deal?

Michael Gove: I hope that I will be able to, as Secretary of State. If for any reason I am removed from office by the new Prime Minister, I hope that you will accept my application to be a member of this Committee, Mr Chairman.



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Q250 **Chair:** I shall look forward to you being a member of this Committee, but I hope you are not lost from the Cabinet, because you would be a great loss to Government. Can I thank you very much for this afternoon? The issue of tariffs on food and agriculture products is a very serious matter. Whoever replaces you will need to deal with that very seriously. Otherwise, we could see agriculture and farming in a very difficult position.

Michael Gove: I quite agree and there is a standing invitation to all members of this Committee, if you want further briefing from officials or others in Defra, to come into Defra at any time in order to be reassured, or indeed to question us about preparations for a no-deal exit or any other eventuality.

Chair: I might well take you up on that offer. We might try and get in to see Defra before we recess. It is not long now, but that would be very useful. We appreciate that and we appreciate your co-operation in that matter. Thank you very much, both Alexandra and the Secretary of State, for coming this afternoon.

Michael Gove: Thank you very much.