



# Public Accounts Committee

## Oral evidence: Environmental regulation, HC 1687

Monday 2 February 2026

Ordered by the House of Commons to be published on 2 February 2026.

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Members present: Sir Geoffrey Clifton-Brown (Chair); Mr Clive Betts; Anna Dixon; Rachel Gilmour; Rupert Lowe; Catherine McKinnell; Sarah Olney; Tristan Osborne; Blake Stephenson; Matt Turmaine.

Gareth Davies, Comptroller and Auditor General, National Audit Office, Rich Sullivan-Jones, Director, National Audit Office, and David Fairbrother, Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1-91

### Witnesses

I: Paul Kissack, Permanent Secretary, Defra, Sally Randall, Director General for Environment, Defra, Philip Duffy, Chief Executive, Environment Agency, and Marian Spain, Chief Executive, Natural England.



## Report by the Comptroller and Auditor General

### Environmental regulation (HC 1483)

#### Examination of witnesses

Witnesses: Paul Kissack, Sally Randall, Philip Duffy and Marian Spain.

**Chair:** Welcome to the Public Accounts Committee on Monday 2 February 2026. Environmental regulation is one of the key tools the Government is using to support the aims of its environmental improvement plan—the EIP. One aim of the plan is to streamline regulation to safeguard nature and drive economic growth. However, progress so far has been mixed, with the Office for Environmental Protection finding last month that the Government is likely to achieve only five of its 43 environmental targets and commitments.

The NAO's Report on this subject also found that the two largest environmental regulators, the Environment Agency and Natural England, face several challenges to regulating efficiently and effectively. These regulators are sponsored by DEFRA. Today we will look to assess the Department's readiness to address the challenges and potential significant reforms ahead. We will also examine how well DEFRA and its regulators support businesses to comply with the rules and to understand how they plan to target their regulatory work more effectively.

Welcome, everybody. Will the witnesses please introduce themselves, starting with you, please, Permanent Secretary?

**Paul Kissack:** My name is Paul Kissack. I am the permanent secretary at DEFRA.

**Sally Randall:** Good afternoon. I am Sally Randall. I am director general for environment at DEFRA.

**Philip Duffy:** I am Phil Duffy. I am the chief executive of the Environment Agency.

**Marian Spain:** I am Marian Spain, chief executive of Natural England.

Q1 **Chair:** Very good. Forgive me if I have got this wrong, but I think an especially warm welcome goes to Marian and Paul, because this is your first time in front of the PAC—Paul, you are here in your new role as permanent secretary. I know that Philip has been in front of us before, and I think Sally has too, but a warm welcome to all of you.

I will start by declaring my interest, as set out in the Register of Members' Financial Interests. I am a farmer, a chartered surveyor and the chairman of the all-party parliamentary group on shooting and conservation. Do any other Members wish to declare any interests?

**Rupert Lowe:** I should declare that I am, among other things, an active



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farmer and therefore come into regular contact with the bodies that these fine people run.

**Chair:** I don't know whether you are more active than I am but, anyway, we are both active farmers.

**Anna Dixon:** In addition to my cousin having a family farm, which is quite removed from this, the main conflict I wish to declare is that I personally know Dan Corry, the author of one of the independent reviews on environmental regulation for DEFRA that we are looking at. I believe he is also a member of DEFRA's board.

**Chair:** Thank you, Anna. We will start the questions with you.

Q2 **Anna Dixon:** Good afternoon to the witnesses, and thank you for coming in to speak to us. There have been a number of reviews, including the Corry review, which I just mentioned. In addition, there has been the so-called Cunliffe review, the independent review of the water industry. That touched on not only Ofwat, which was at a previous hearing in front of the Public Accounts Committee, but some of the responsibilities of the Environment Agency. We also understand that DEFRA itself has had an internal review of its own management and leadership of its arm's length bodies. Across those three reviews, there are some 149 recommendations to DEFRA. Why did it take all those reviews to identify what is not working when it comes to environmental regulation?

**Paul Kissack:** You are right. Over the last several months, we have had a number of important reviews. I would add to that list the Fingleton review on nuclear, which I think came out after or around the same time as the NAO Report. Actually, we consider the NAO Report itself to be a further review, which is helpful in this context. So we have a lot of analysis about what is going right and wrong.

One of the most important conclusions from all these reviews—or one of the starting points for each of them—is the importance of environmental regulation for both environmental outcomes and public health outcomes, and that bears repeating. A lot of the regulations we are responsible for are about human health, as well as the health of the environment.

One of the common conclusions across the reviews is that the regulatory system is achieving some good outcomes, but not as good a set of outcomes as we would want, either for the environment or for the economy and economic growth. All the reports touch on the importance of us being more outcomes focused, rather than process focused. There is a tendency in the way we work as regulators and Departments to become overly focused on process, and there is something about how we shift the system to be more focused on the outcomes that we want and that Government and Parliament want, as set out in legislation.

That requires us to work in a different way. In terms of some of the themes that come through—we will no doubt come on to different elements of them—there is something about accountability: how do we hold ourselves to account, and how does Parliament hold us to account,



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for outcomes as well as performance on inputs and activity? Are we being creative enough in coming up with solutions to difficult challenges? There are difficult challenges and trade-offs that come up. There are questions about risk; a lot of the reports talk about risk aversion, including the NAO Report itself, so how do we shift that culture?

Another theme is greater focus on the customer. Again, there are areas where we are getting that right and getting it better, but there are certainly areas where we have a lot more to do in being properly customer focused. Levels of complexity is another theme. Dan Corry talks about 3,000 regulations; they have grown up over time, and there is a lot of complexity. There is a final issue around consistency and predictability of regulator behaviour. There are lots of things in the 149 recommendations, but if I was trying to pull out the key themes, I would point to those.

**Q3 Anna Dixon:** As you say, we will come to a number of those, not least the one on complexity—or simplicity—with those 3,000 separate pieces of legislation. If you are on the receiving end of some of that, it can feel quite overwhelming and burdensome, which we will come to.

I would like to give an opportunity, particularly to Philip and Marian, to answer. There is a lot in these reports that relates not just to the Department, but specifically to you as regulators responsible for implementation, so what is the top lesson that you take from the different reviews we have highlighted?

**Philip Duffy:** The first thing I would say is that it is great to see the NAO recognising that we are really focused in the EA on improving our regulatory professionalism. I would not say that that job is complete, and neither do the NAO, but we are starting a real process to bring consistency and rigour into how we regulate, and raising the standards and professional skills of our staff who do that regulation.

It is worth noting in that regard that many of the biggest regimes we run—water is one, with our 10,000 inspections target this year, and farming rules for water is another, which has only really been bedding in over the last four years—are quite new regimes. Trying to establish them, target them and really understand the data behind them is a new endeavour for us. That is in stark contrast to our more established regimes, such as our nuclear work.

The second thing I would say is that we completely endorse the findings of many of the reviews you mentioned; in fact, we were heavily consulted in preparing them. As regulators, we also want more discretion, clearer guidance and for people to tackle some of the obsolete legislation we have to work within. Doing that is a way for us to unlock some of these difficult problems. If you look at where regulation gets stuck, it is where our frontline staff are trying to reconcile a whole range of different, conflicting agendas, and are finding that extremely challenging.

So there is a lot that we agree with, and we are very supportive of the NAO's findings that, over the next couple of years, our priority should be bringing more consistency to how we do these things. We are doing that in



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the EA by introducing a series of control strategies that have consistent data behind them and consistent approaches to how we regulate.

Q4 **Anna Dixon:** For some of your failings—for example, on water pollution, which you raised—are you blaming the fact that you have not had clear guidance or have had too many competing and conflicting agendas, or do you take some responsibility for having not done enough?

**Philip Duffy:** Water regulation is a great example. You will have heard me say on appointment that when I arrived at the Environment Agency only three years ago, we had only 91 staff members working on water pollution. We now have about 500; we have had support from successive Governments to expand that work.

On my colleague Mr Kissack's point about regulation working, you can see that the very deregulatory stance that was taken on waste water in particular did not work very well. We now publish all our inspection reports—you can find them on maps, and you can see your local community's results—and there are very troubling things in that data. In the last year, around a quarter of the inspections the EA undertook of waste water treatment works found that they were in some way non-compliant; often, they were not seriously non-compliant, but if you do not clear a trash screen, for example, more sewage will go into a watercourse than was planned for. Now that we are publishing that, we are seeing a response from water companies.

The latest data I have shows that we did about 4,500 inspections last year, and in nearly 7% of cases we saw very serious breaches that could lead to prosecution. This year, that is down to about 3.5%. It is a bit early to declare victory on that, but it is a good example of how that form of sustained, consistent inspection of what these companies are doing can drive better performance.

Q5 **Anna Dixon:** Obviously, knowing that it is happening is the first step and enforcement is the second, but I am sure we will come back to this. I want to give Marian an opportunity to answer the same question: what do you take as the top priority for your regulator from the various reports?

**Marian Spain:** Perhaps I can echo what my colleague said: we very much welcome the various reports, and the NAO Report. They were being developed at the same time as Natural England was doing a fundamental reset of its organisational strategy, so we were able to iterate together. The two or three things that we are particularly focused on are about being clear on the outcomes we are trying to achieve, and having clarity on why society, the economy and our national resilience need a healthy environment and thriving nature. That helps us to focus how we regulate.

I expect we will return to this theme throughout the afternoon, but regulatory reform is not a once-and-done job. This has been a continuous system of improvement, and we will continue to improve. Once we have finished the immediate action plans, I think more issues will come up. That is partly because of how society is currently reacting to nature and the



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environment; we will need to change our approach to nuance our outcomes.

Of course, we are working in a system that is complex in its own right—ecosystems are complex. This cannot be done by a single regulatory intervention. That is perhaps another theme we might return to. The other is that while we are continuously looking at how we regulate, it is by no means the only tool any of us—the Department or the regulators—use to achieve those environmental outcomes.

Q6 **Anna Dixon:** I recognise, Permanent Secretary, that you are quite new in the Department; Sally, I think you have been there a bit longer in your role. Again, I am sure that many of the things in the reviews were familiar to you. Clearly, all this points somewhat towards DEFRA and your ability, or lack thereof, to offer strategic leadership of environmental regulation in making sure that your ALBs and the regulators are co-ordinated and aligned, and to ultimately take accountability. What do you take as the top priority, where you as a Department recognise that you may have fallen short and need to change?

**Sally Randall:** One thing all these reviews say in some way is that we need to draw a stronger connection between the activities we ask our regulators to undertake and the outcomes we are looking to achieve. We have been strengthening that over a number of years, since the original 25-year environment strategy in 2021. We have just published a new environmental improvement plan, which sets out, for I think the first time, a clear set of connections between that regulatory activity—the role we expect it to play in delivering on outcomes—and, as Marian says, how it sits alongside other activities.

For us, that is a real cornerstone of the direction we can give to our arm's length bodies—being able to say, "These are the things we need you to prioritise." That is alongside publishing strategic policy statements, as we hope to soon, or our Ministers, when they write to chief executives setting out their expectations, saying, "This is the approach and stance we expect you to take in your regulation. This is where we want you to be flexible. This is where we want you to take a robust approach."

Having that really clear connection between the activity of regulators and the outcomes we want to deliver is something we have been working on for some time. It comes out quite clearly in all those reports; it certainly does in Dan Corry's review and in the advice we got from Heather Hancock, and I think in the others too.

**Anna Dixon:** I will leave it there, Chair, for others to follow up.

Q7 **Mr Betts:** Clearly, there are big challenges and pressures currently on the work you have to do. Coming down the track, there is a lot more change—probably legislation, and changes to the framework and to how you operate. Do you have the skills and resources to deliver what you are doing now and to take on the new challenges you will face over the next few years?



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**Paul Kissack:** I have been in the Department for three months. There are lots of areas we need to improve and strengthen, but overall the answer to your question is yes. We have a set of big reform agendas—we are starting to get into some of them, whether that is around the environmental improvement plan or the water reforms, which you were talking to witnesses about a week or so ago. We also have a big set of changes likely, depending on where we get to in negotiations with the European Union around SPS. Later this year, we will also be setting out a farming road map. All these things help to tilt DEFRA towards greater clarity on its strategic outcomes which, as we were just talking about, are one of the things that has been underplayed.

When I look at the capacity within the Department, I think we do have the capacity to do that. We are set up increasingly to oversee those as a set of discrete programmes, but we also have some cross-cutting capability, and we have a director-led group looking at how we are undertaking regulatory reform across the piece.

If I were to think about where we have historically lacked skills, it would be in digital and data. One thing we may come on to is the NAO's conclusion that we are not moving fast enough on that, but even there I think we have made quite substantial progress over the last couple of years.

You are quite right: it is a very big agenda of change. If I am honest, I have never worked in a Government Department that did not have a very big agenda of change, and I would not want to. My overall sense is that the Department is well set up to deliver this, both in terms of the core Department and the main arm's length bodies.

Q8 **Mr Betts:** The two agencies?

**Marian Spain:** We have also invested in our ability to run change. We have set up a new programme management and change management unit led by a director, and we have organised our work under four big, critical reforms referred to in the Report.

The other thing that gives me some comfort is that the way we are prioritising and the changes we are making first—we cannot do all the changes at once—will produce benefits for customers through simplification and clarity. They will also often bring benefits for us; if it is easier and quicker for our customers, it is easier and quicker for us, so we can contribute to our efficiency targets. They are also often the changes that have the greatest impact on nature, because we are better able, as a result of the reforms we are putting in place, to focus on where there are big risks and big opportunities.

Without repeating my previous answer, we will be constantly looking at the bulk and volume of change we have, prioritising within it and looking at the things where we will make the biggest difference.

Q9 **Mr Betts:** Environment Agency?



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**Philip Duffy:** First of all, since 2010, the EA has grown considerably. It has gone from around 10,000 FTE to nearly 13,500 FTE and has taken on a lot of new functions. It has also had quite generous settlements from DEFRA on IT over that period, and the total sum of money across both SRs is about £190 million. It is therefore very hard for us to say that we have not got the resources we need to make the changes we are looking for.

However, we also have, at a slightly finer grain, a small number of very technical skills that are hard for us to fill. We have also had to invest very heavily in improving our general IT capacity and our service transformation capacity. Like Marian, we are trying to put the service user—the citizen, the correspondent, the person wanting a permit—at the heart of how we think about our services: can they have an easier experience, and what would that look like? That is an area where we have been slow, and where we are desperately trying to improve our performance. That includes automating forms, removing paper forms, ensuring our customer services are quicker, and simplifying guidance—all those areas. So I think we have the skills and the structures now, but as the NAO finds, we still have a long way to go in some of these areas.

Q10 **Mr Betts:** That would not necessarily be the experience of my constituents, I have to say, regarding whether you have the capacity to do what you are supposed to do now, very often the problem is also that you are reactive: you are not looking ahead or seeing a general plan. I have some examples. We will probably come on to farming as a specific issue later; in my constituency there are a couple of farms, but it is about older industrial areas and often small bits of workshops that are occupied by illegal car repairers, scrap metal dealers that are not following the rules, and firms that are creating pollution through dust in the environment. Trying to get your people along to engage is sometimes difficult. When they do engage, they can be very good and effective, but people always have to come and get you. You do not seem to have a plan and a strategy going forward.

**Philip Duffy:** I am sorry to hear that you have struggled to get hold of us in your constituency. Last year, 100,000 incidents were reported to us. The single message that I would have for anyone is: if there is an incident, please tell us. We are not some omniscient organisation that knows about every single site across the country, and we are trying to target our resources in areas where there is the greatest risk. At this point you might say, "Well, Mr Duffy, do you not want more people working in some of these areas?" Of course I would like that, because the demand for our services is extremely high, particularly in waste. I think that you were going to come on to risk, Ms Dixon, but one of the issues that the Environment Agency has to tackle very seriously is whether it should take more risk, particularly in waste, by closing sites that have long-running problems.

To give you a sense of the scale of that issue, we categorise waste sites in bands A through to F. It strikes me that you should not be in the bottom three bands year after year without something being done. As of last year, we had about 460 sites across the UK that had been in that category for



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more than one year. My challenge to my staff is: can we take a few risks and say, "If you do not comply by improving your management of dust or noise, or comply with your permit, you are at risk of having your permit first suspended and secondly revoked." We have revoked some permits recently: that is a new thing for us. We revoked at Walleys Quarry in Stoke-on-Trent. That was very risky for us to do but I think it was the right thing to do because it met the expectations of that community, which for many years had experienced noise and disruption to their areas.

Around the country, in other quarries, we have long-standing issues with very non-compliant sectors. In some cases, those people are going into criminality and there is a limit to what we can do in the environmental permitting area, but in other areas a revocation of a permit would be appropriate and would nip those issues in the bud, so I have some sympathy with the direction that you are going in, Mr Betts, and I think that we could do more on that agenda.

Q11 **Mr Betts:** Some sympathy with it?

**Philip Duffy:** A lot of sympathy with it because I see it from the point of view of your constituents, who are putting up with noise and smell time and again. One question that comes up elsewhere is: is it right that we do so much inspection of the permitted sites? It is, because permitted sites are a principal source of people's complaints. Last year, 40,000 of the 100,000 calls that we took were about smell and disruption from permitted waste sites; that is a lot, across the country. We need to make sure, though, that we have the legal backing and capacity to deal with what can be a very litigious process of closing sites that are non-compliant.

Q12 **Mr Betts:** I raised the point about being a bit more proactive, when there are clear examples in an area, in going in and actually starting to inspect some of those sites. They will not have permits; they do not operate like that.

**Philip Duffy:** Are you asking what we do about illegal sites that have no permit?

Q13 **Mr Betts:** Such as car repairers where the cars are being repaired in the middle of the road—that is clearly an environmental issue, as well as an issue for other organisations. I suppose that the follow-on question is about your ability to work with other organisations such as, in that case, the council, the DVLA and the police. I do not know how long it takes to get all those organisations together at the same time.

**Philip Duffy:** I totally agree. In our current corporate strategy, we talk about putting the citizen at the heart of what we do: caring about the community. In all frankness, I have seen examples where other agencies are passing things around between them. We should stop that. We have a good partnership with the LRFs—the local resilience forums—around the country. We should be plugged in to local government and the other partners; we have seen that work well in many areas.



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I think that your question is getting into illegal waste sites that are not permitted. That is a more complex question because, as we are the permitter, if we have an out-and-out illegal site where there is no permit, there is a different set of issues to deal with.

Q14 **Mr Betts:** Okay. You do not permit illegal car repairers. In fact, they should not be permitted.

**Philip Duffy:** Exactly.

Q15 **Mr Betts:** The issue that I am trying to get at is: do you have the resources to engage proactively and talk to all those other organisations? You don't know how hard it is to get your staff and the DVLA together at the same time.

**Philip Duffy:** Nine and a half thousand of our staff live and work in constituencies throughout England. We are one of the very few genuinely regionalised organisations in England, alongside your good selves, Marian. We have 190 offices, and we are present in your constituencies, understand those partners and work with them very well.

There are times—perhaps cars is one of them—when there are gaps in the regulatory provision. We should talk about that. We would always like to have more resources, but the truth is that what we need to do as leaders is get the best out of the teams we have got. They work incredibly hard around the country, and they are focused on delivering for your citizens.

Q16 **Mr Betts:** It would be helpful, if there are gaps, for you to let us know what they are and what needs to be done to bridge them and put them right.

**Philip Duffy:** Illegal car recycling might be one of them.

**Mr Betts:** Okay, perhaps you could prepare a note on what should be done to deal with that.

Q17 **Chair:** To follow up on Clive's question, Mr Duffy, the illegal sites are worse than the legal ones, and there have been recent reports of this one in Oxfordshire, where you were criticised for being too slow to act. Do you want to comment on that and say what you can do to improve? If somebody is creating a huge site, you should be in there pretty quickly stopping them, shouldn't you?

**Philip Duffy:** Yes. Look: the question of illegal waste sites is broader than the Environment Agency. We are here to permit sites. We have, over the last three years, set up functions to help tackle illegal sites and criminality in the waste system. We had them 10 years ago and we lost them. We have rebuilt them now. They are quite new functions.

Kidlington specifically is an interesting story. We actually did not get confirmed intelligence on Kidlington until 30 June last year. We were on site on 2 July, and we took immediate action. When we got to the site, the people with the diggers ran off, so we have some pretty clear examples of us turning up having an effect. I am pleased to report to the Committee that we made our fourth arrest in that case this morning.



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However, the local community tells me that they had seen suspicious activity on that site for many weeks previously, so there is clearly a gap in getting the intelligence from whoever has got it to the people who can take action fast enough.

Elsewhere around the country, we have just introduced a checklist to make sure we have a consistent approach to illegal waste sites. Once they are there, it is not our job to clear them, but we can make sure we show up quickly, do the environmental assessment of risk—for example, is there a flood risk or a fire risk?—and consider more routinely whether we can put blocks around the site and exclude them.

We cannot always do that. It varies around the country, but often fire services are very nervous about that because they want to make sure that they have got access to the site to deal with a fire—and these sites can catch fire. We are trying to be robust and quick in that area.

What we have to do on illegal waste sites, however, is go upstream, because the waste at Kidlington had been through a trommel, shredded, and had the metal removed. The question we have been asking is: where was that waste processing done? Where did that waste come from? Was there corruption further upstream in the waste process that allowed this genuinely appalling thing to take place?

Q18 **Chair:** What we want to get out of this session, very clearly, is that if a member of the public gets hold of your team, they will at least get an answer as to whether the site is illegal, whether or not it is permitted and what action is being taken.

**Philip Duffy:** That is such an important point, and we have just changed how we are handling illegal-waste-site intelligence flow to make sure that it is not emailed, but rung through to the staff. They can do that triage. Quite often we already know about it, or we have another agency there, but if it is a completely new site to us, we need to be asking more questions faster.

Q19 **Rupert Lowe:** I would like to go back to the beginning, please. I read the NAO Report entitled “Environmental regulation”, which concluded that DEFRA’s largest environmental regulators, the Environment Agency and Natural England, face several challenges to regulating efficiently and effectively. These include the constraints of the regulatory framework they operate within, a lack of strategic support from DEFRA, outdated IT systems, data limitations and a risk-averse culture. Forgive me, but I am from business: if I read that in a board report, I would say, “Should we be starting again with a clean piece of paper?” Should we be starting with a clean sheet of paper? Are you able to put this right?

**Paul Kissack:** I don’t think we need to start with a clean sheet of paper; that is what I would say. Actually, although your view is a challenging view—rightly so—and a fair view of where we were at when I looked at the system coming in, we are in a better place than we would have been two or three years ago. If you look back at the NAO Report from 2023, which I did, we have actually made quite a lot of progress, and the NAO



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recognises the progress that has been made and indeed some of the systems that we have set up since 2023.

As ever, this will never be a finished entity. Regulatory reform and improving the regulatory system, responding to customer feedback and getting better IT, is, as you will know from the private sector, a constant piece of work and change for us.

On the first point that you made about the limitations of the underlying regulatory framework that EA and NE are asked to implement, in essence we have a rolling programme to review and evaluate the legislative basis on which EA and NE do their work. So in many respects I think that you could see the Report that we were talking about earlier as an example of taking a systematic look at different chunks of the regulatory framework, be that water or other elements that Dan Corry looked at.

I should say that we have also done over 100 post-implementation reviews of different parts of the legislation. I think that when my predecessor appeared here three years ago, there was a large backlog of about 60 post-implementation reviews. That has now been cleared, I think, with the exception of one or two. We have actually done over 100 post-implementation reviews, and in around a third of those we found that we need to make some substantive change.

That takes a number of forms. Sometimes, of course, that will be a primary legislative change: the outcome from the Independent Water Commission; the setting-up of the new regulator; the commitment to consolidating the underpinning legislative framework around the environmental regulations, which will be primary legislative change; and the Planning and Infrastructure Act that has just gone through, which again is primary legislative change. Also, we always have a very active programme of secondary legislative change. I think that DEFRA took through between 60 and 70 SIs last year. We will have a very active rolling programme of secondary legislation in the coming Session as well.

Q20 **Rupert Lowe:** Is this a long way of saying, "We don't need to start with a clean sheet of paper?"

**Paul Kissack:** It is.

Q21 **Rupert Lowe:** Is that what you are telling me?

**Paul Kissack:** As I said at the beginning, I don't think we need to start with a clean sheet of paper and nor can we, when you have 3,000 regulations. The right thing to do is systematically assess whether they are working, what is working well, what is working less well, and make changes as required, either to the legislative framework, or to the guidance that supports it—we are making changes there—or to the culture of the organisations that are implementing it.

Q22 **Rupert Lowe:** You say that, but at the beginning you said you were driven to improve an outcome-based sort of situation, which I agree with; that is what you need. However, I read, as you say, three pieces of



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legislation increasing the complexity of the regulatory landscape. Then I read that DEFRA is largely reactive to “short-term...or high-profile issues”.

I also read in your school report that “3 out of 10” is the “number of goals in the government’s Environmental Improvement Plan that have largely improved”—again, that is a subjective judgment, by the look of it—“in recent years, including cleaner air and reduced exposure to chemicals”. And “9 out of 43” is the “number of government’s environmental targets and commitments that are likely to be achieved”—they have not been achieved, but are “likely to be achieved”.

So who will set these outcomes and how will they be judged? Will people be penalised if they do not deliver against them?

**Paul Kissack:** The strategic outcomes are set by the Government and they are set out—

Q23 **Rupert Lowe:** Do you think they are setting them correctly?

**Paul Kissack:** The environmental improvement plan was published in December. That sets out 10 goals, with numerous commitments underneath, and each one comes with a theory of change as to how to get there and a set of metrics to judge whether we are making progress.

It is worth saying, as Marian said earlier, that regulation is only one of the tools at the disposal of any Government in terms of influencing behaviour change. A lot of what we are seeking to do, and maybe we will come on to this with farming, is through payments—for example, through the environmental land management schemes, etc. It might be supporting innovation grants, it might be through communications, or it might be through advice; actually, some of the inspections that we run are advice-led inspections. There are all sorts of ways in which we seek to shift the overall system towards the outcomes.

However, it is the Government’s job to set out those outcomes, while being accountable to Parliament. I think the Government have done that when it comes to the environmental improvement plan. It is starting to do that much more in the water system, and there is a commitment in the water White Paper to set out a strategic view, both over a five-year period and over a 25-year period.

We have not yet done as much as we want to on farming, and there is a commitment to a farming road map to come later this year. Again, that will set out the outcomes that we want to see. And in all these areas, the job then is to work out: what is your theory of change? How are you going to get to those outcomes? How are you going to measure it?

As I say, the EIP that we published in December—Sally may want to say more about this—is a very good example of where DEFRA is starting to show how a set of inputs, including regulatory inputs, can feed through to the sort of outcomes we are describing.

Q24 **Rupert Lowe:** I hear all that. I declared my interest as an active farmer, and I have to tell you that my experience of DEFRA is a very poor one.



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Most farmers would agree with me that DEFRA is not fit for purpose. Your rulebook mutates like a virus. Half the time you shut your schemes within 24 hours because you have got it wrong, and everybody is claiming legume fallow in this case. How can an industry that is based on long-term planning respond when you do not know your own rulebook?

The other thing you have a problem with, in my view, is that you cannot keep staff for more than a nanosecond. They all disappear. One minute you have a contact you speak to; the next you have a new temp who does not know the rules themselves.

I am sorry, but I really think that, rather than giving us a lot of spiel, somebody needs to get their head down and have a plan to sort this out, because farming is a crucial industry to this country. As a farmer, I can tell you—and I have adequate intelligence—that I find it very hard to follow your homunculus-like rulebook, which changes like the weather. It is terrible.

**Paul Kissack:** Perhaps I can pick up a few of those points in turn, and just for your reassurance, we have got our head down and are trying to sort this out. I recognise some of the challenges you are raising, and, specifically, I think you were referring to the closures—

**Rupert Lowe:** Are you? You are giving me lots of aspiration—

**Chair:** Order. You have had your question, Rupert.

**Paul Kissack:** On the very specific point about closing funding windows, I think that is in reference to the closure of SFI last year. You are quite right; there are lessons for us to learn. Ministers have been very clear that that was a breach of trust; we lost a lot of trust with farmers when that happened. They have been equally clear that they want to take their time to ensure that we set up the SFI windows for this year—the first of which will open in June—in a way that gives much more clarity, certainty and transparency over the money, so that we are never in a situation where we have to close a window unexpectedly. It is a fair criticism, and one where we are changing our systems.

On the overall complexity of regulations that farmers face, again, that is true. It is something that Baroness Batters talks about in her review of farming profitability. Therefore, it is one of the reasons why we have the process I was describing of continually reviewing and assessing where we can simplify regulations. Actually, the Department for Business and Trade is just starting a review particularly on farmers around the clarity of guidance, the amount of data that is collected and any regulatory barriers to farmers being able to take up new agri-tech. That is a good example of a particular piece of regulatory review.

The final point you raised about the risk of regulations changing a lot is a really important one too, and something you have to hold in the balance as a Department alongside the appetite for getting on with regulatory change. Just to take an example, across my desk last week were the responses to a consultation we have recently been running on



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environmental industrial permitting, where there were various proposals for how we improve and streamline that system. Some of the responses from business, understandably, were, "Yes, that might make it better, but do you know what? We'd rather you just didn't change it, because there is a cost to us from changing it."

In the same way that we have to hold lots of other things in balance, one of the things we have to hold in balance is the degree to which you provide stability and certainty for people who are regulated, and also the opportunities, when they arise, to improve and simplify regulations.

**Chair:** Rupert, please do carry on.

Q25 **Rupert Lowe:** I have one more question on this for Philip. I find that, at the Environment Agency, you all trip over each other, so I do not think DEFRA is giving you the leadership. It is not entirely your fault; you come in under its umbrella.

Giving you a personal example, I have had two problems. Part of the River Colne runs through my farm. For a start, we have Thames Water, whose storm drains, when we get a storm, lead to raw sewage flowing into the Colne. Nothing gets done about that, and I think the Environment Agency is too soft. In my view, you are as soft as a boiled maggot with Thames Water. You should deal with that.

**Chair:** Okay. You have made your point.

**Rupert Lowe:** Equally, the other issue was that there was a fire at a chemical store on the banks of the river. There was hydrochloric acid, and the fire brigade could not therefore put the fire out. This hydrochloric acid got into the river. It took you five years to deal with it.

**Chair:** Rupert—

**Rupert Lowe:** Sir Geoffrey, there is a lot that needs to be dealt with.

Q26 **Chair:** No, I agree. Philip, do you wish to answer that?

**Philip Duffy:** Where would you like me to start—hydrochloric acid, storm spills, IT? What would be best?

**Rupert Lowe:** Thames Water.

**Chair:** Water quality.

**Philip Duffy:** Let us start with that. First, we have to follow the law as it is, not as we would like it to be. I remind the Committee that in many cases a sewage spill during a period of extremely high rain is lawful. I recognise that that is not a popular position, but that is the law. Quite often, people say, "Why have you not prosecuted this company?" and the answer is that a storm overflow that takes place during a wet day can be lawful. That may be the case in that area.

Secondly, I want to make a point about criminal prosecutions. We do do them. We are a very strange regulator, in that we lack the civil



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prosecution powers that our colleagues in Ofwat have. That is a key finding of the Cunliffe review: you need to level up the civil penalties, which are faster and cheaper. We have cases where we are taking a water company to court, and the court listing is three years away—that is the time it is taking before we get to court. There is a genuine issue there about whether a criminal prosecution structure is going to be an effective deterrent against such offending in the water sector.

The answer to that, of course, is to bring in more civil penalties. They were proposed in the Water (Special Measures) Act; there is a thing called a variable monetary penalty. DEFRA will need to introduce the secondary legislation, and we are waiting for that to happen later this year. Under the Cunliffe proposals, the new super-regulator may have the ability to levy more civil penalties on water companies, which we in the Environment Agency currently cannot do.

There is clearly a justice and enforcement gap—no one is denying that—but it is a bit harsh to attack my frontline staff, who are doing their best to try to bring those cases to court; it is very challenging. All that said, we do do prosecutions against water companies, and we have done quite a few of them.

**Rupert Lowe:** It took you five years.

**Philip Duffy:** We did 39 in the last three years, so we are not doing too badly. Were you talking about the criminal prosecution of the hydrochloric acid case?

**Rupert Lowe:** That took five years, yes.

**Philip Duffy:** Five years, right now, is quite good going, I am afraid to say.

**Rupert Lowe:** It was in 2006.

**Philip Duffy:** I'm afraid I was not there in that period.

On your other points, let me say a bit about systems. Looking back a few years, in 2020 the Environment Agency got to a situation where, if you took all its access spreadsheets and its data, it had 700 IT systems. Since then, we have made very good progress on turning around that legacy. We have closed down 350 of those systems, modernised our systems and moved them on to a secure cloud, with great help from our colleagues in DEFRA's digital and technology team.

We had a situation in which it was impossible for Members of Parliament to find out what was happening on water quality in their constituency: there was no web explorer, the data was not available and you could only access the report through an FOI. Now we publish all our reports. There is a water data explorer—go and have a look at it; all our data will be on there. Now we have to repeat that trick for waste and the other sectors—I appreciate that—but we are making quite good progress.



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In 2023, we were set targets by DEFRA—I personally believe in targets; I think that public bodies need them—and only 23% of them were met. Last year, 63% were met; this year, we are aiming for 75%. You may say that those targets are misleading, or that they are not the right targets. I am open to that, and that is a conversation to be had. But if you are running a large organisation, you need clarity from the sponsoring Department on the targets that you have to meet and then you have to do your darndest to meet them. Right now in the EA, every month, I say to all my area directors, “Are you meeting your targets?” Maybe they are the right targets or the wrong ones, but people are trying to meet them.

**Rupert Lowe:** I think the headmaster would say, “Could do better.”

**Philip Duffy:** So I think that we are making some progress, Mr Lowe. Our board—who take a very serious look at the performance and who had exactly the reaction you had on reading those results—has pushed and pushed the executive team in the EA to improve performance at every level. We may not be wholly there, but we are making progress.

**Rupert Lowe:** Thank you.

Q27 **Chair:** For the record, Mr Duffy, you might like to clarify that although storm water discharges may be legal, dry weather condition discharges have to be according to the permit, as that is when you will take action.

**Philip Duffy:** That is a very good clarification, and that is right. We are very keen on transparency, so we publish all the storm overflows from the water industry; there are very many of them, but it is not the case that all those are unlawful. We have to look day by day and case by case to see whether there was heavy rain on that day, or whether it was a dry day. The dry day spills are the ones that are unlawful, subject to a thing called the BTKNEEC test—without getting into too much detail.

Q28 **Chair:** My constituents would say, in relation to the River Coln and other rivers in my constituency, that the number of those dry weather spills is still too high. Are you reviewing the existing provisions?

**Philip Duffy:** Under the storm overflows discharge reduction plan—the SODRP—the Environment Agency has issued to guidance that it plans to permit and to put a spill target into those permits. In fact, I wrote to water companies last week about that. Under DEFRA instruction, there will be a 10-year average of spills and an annual average of spills to make sure that we are seeing progress. Once the investment from the price review goes through and the work has been completed on that storm overflow, it will in turn be re-permitted. The permit will have annual limits in it, and we will expect the companies to comply with them. There is progress on that front.

Q29 **Chair:** That is very helpful. One for you, Permanent Secretary: we have already heard about the extreme complexity in this area—the 3,000 pieces of legislation. You were very proud that you had put through 65 extra SIs, so you have added to the list of 3,000. George Bernard Shaw said that genius is simplicity. Have you ever thought about withdrawing any of



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these pieces of legislation, which clearly are not working?

**Paul Kissack:** I think it is a very fair challenge. Some of the SIs we have put through are about amending existing legislation, so they are not necessarily adding to the statute book. They are clarifying and simplifying in some cases.

The opportunity to do larger resets, of the sort you are talking about, does come round every so often, and I think water is a good example at the moment. The commitment in the water White Paper is to take a look at the underpinning legislation and see whether it can be stripped back. We have committed to moving away from the current set of plans to two planning systems for water: one about the environment and one about the supply of water. That is a simplification process. We are looking to bring the two main underlying bits of environmental law—the water framework directive and the waste water directive—together in a consolidated form. Again, that is an opportunity to simplify and streamline. So we do take those opportunities when they come along.

Q30 **Catherine McKinnell:** I also want to touch on the complexity of the regulatory environment. I think the statement in the National Audit Office Report, which is from DEFRA's independent review, is quite striking. It is that "our regulatory system is not working as well as it should to support either nature recovery or economic growth". The fact that it is serving neither purpose to the extent that it needs to is a huge concern. We do have the Planning and Infrastructure Act, so it would be helpful to understand to what extent that is going to add further complexity to this landscape, or to what extent it should—hopefully—serve us in the other direction. I am looking particularly to you, Philip and Marian, and how it will affect your regulatory activities.

**Paul Kissack:** Would you mind if I just said something and maybe brought Marian in, particularly on the nature restoration fund, because I think the two link quite well. One of the challenges, which means we do not always get the right outcome for either the economy or nature, is that we get drawn right down to a very micro level geographically—to site-specific solutions. There are some quite totemic cases where that has resulted in outcomes that you look at and think, "How is that serving either the economy or nature as well as it could do?"

In many respects, some of the reforms underpinned by the Planning and Infrastructure Act are there to solve that problem. The nature restoration fund, in particular, is the example I would look at. I will bring Marian in, if I may, to say a bit about that, but it is essentially saying to developers that in certain circumstances, rather than trying to work out an on-site solution to a particular challenge you have around nature, there is instead a more certain approach for you as a developer. You pay into a thing called the nature restoration fund and then, in a sense, Government will take the risk—the biodiversity risk—off you and unto itself. It has created an environmental plan in a particular area to tackle a particular challenge around nature, and you will pay into that and then we will deliver that. It's faster from a development perspective and it's more ambitious from an



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environmental perspective, because the pooling of money allows us to do things at a greater scale, so you get a better outcome for the economy and a better outcome for nature. Marian will probably explain that better than I have done.

Q31 **Catherine McKinnell:** Do you mind if I just ask one specific thing on that? Is it targeted towards large developers, or is it equally accessible to smaller developers?

**Marian Spain:** I will address that directly and then build on what Paul said. I think it is as likely, if not more likely, to be used by small developers than large developers, and I will explain why. As Paul said, the Act does not change the obligation on a developer. If they wish to develop, and their development will have an impact on a protected site and protected species, they currently have obligations to assess, mitigate and compensate for that. The scheme does not change that; it just makes things quicker, easier and more certain. It builds on schemes that Natural England has run in the past, like district level licensing and alternative green space projects. So we have tested the principle, and we use the principle anyway. What the Act does is make that more mainstream, more normalised.

The reason why I think small developers are more likely to use this is that they are less likely to have the capacity the big developers have. The big house builders tend to have their own in-house ecology. They also tend to own enough land to discharge their obligations themselves. We see that with biodiversity net gain as well; they are more likely to wish to develop it within their site. There are lots of really good examples out there. I was down at a site in Kent last autumn with Barratt Redrow housing, who have made wonderful community green space at the same time as meeting their obligations. Those developers may choose to carry on doing it as they do, but it is about the developers who are less likely to have capacity.

To build on what Paul was saying, the other important reason that we are so supportive of the legislation and keen to get on with it is that it will not just help the developer. Many of the things that now impact on our protected sites simply cannot be dealt with by a single developer. We are often looking at cumulative impacts of water; we are looking at water from the regulated water industry and from unregulated activities. It is quite unreasonable to ask that developer alone to look after that. They will now be able to pay into a fund that allows us to look at a more systemic approach.

To your original question, we see examples of developers who discharge their obligations well. However, a lot of members of the public say to us that developers do not look after the work and move on when it is done and are no longer involved in that site. Having a scheme where a body such as Natural England and the partners we will work with—including farmers and landowners—to manage and maintain sites is likely to have a much bigger impact for nature and will become one of the things that contributes to those environmental improvement plan targets.



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Q32 **Catherine McKinnell:** Philip, are there impacts from the Act on the Environment Agency's obligations?

**Philip Duffy:** There are when we do our own schemes, because we must also comply with biodiversity net gain in our flood work.

On development, we are trying to attack this problem from different angles. We have had great co-operation from DEFRA on contaminated land guidance. It was a real bone of contention a year ago. Often, it is not so much about nature, but about dealing with highly toxic materials—chromium VI, arsenic and radioactive material—in sites that need development but that must be carefully managed to protect human health as well as the environment. That has been a big step forward for the industry.

We are also trying to co-operate with Government at the strategic level to make sure we think about issues such as water supply and sewerage at the start of the plan rather than at the end. We are very involved with the new towns taskforce—the Oxford-Cambridge arc and many of these large schemes—to try and help unlock that development early on and deliver good outcomes for nature as well.

Q33 **Catherine McKinnell:** Could I put a challenge in there? I appreciate that smaller developers may not have the capacity to deliver on the environmental requirements of undertaking a development, but there is a balance to strike if we are not to price them out of the market. Has that balance been struck correctly? Otherwise, only larger developments will want to take on those responsibilities.

**Marian Spain:** There will be a very fine judgment between setting the levy at a rate that will allow us to address the environmental impact but not affect viability. Ultimately, that will be a decision for the Secretary of State. Natural England will make the recommendation about the price at which we operate, but ultimately that will be one of the tests the Act requires the Secretary of State to consider.

Q34 **Catherine McKinnell:** Has this proposal brought sufficient streamlining for developers of the interaction with regulators? We know that the Government are very ambitious about seeing more housing development, but is it sufficient to streamline that interaction, or do we need to do more?

**Sally Randall:** On the levy regulations and whether this is affordable for small developers, we have not published the first environmental delivery plans yet, because we must take through a set of regulations first. However, as we develop the levy, we are very conscious of ensuring that it delivers for the environment and produces a real alternative by being affordable for developers.

In terms of small developers, it removes the need for the up-front surveys and for the whole of that cost to be borne by one developer. As Marian said, the levy will be predictable because developers will be able to see at the outset what that cost would be. Because the cost of the initial survey



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work has been shared across the plan, there is the potential for it to disproportionately benefit smaller developers who might only want to build 10 homes. They can just pay the levy for those and not have to meet the full costs of survey work that might have been needed across a whole catchment. We will have to get the first ones out in the open in the next few months, and then you will be able to judge, but we are optimistic about the ability of that to help small developers in particular. We think that that is where the EDP process has the most potential.

Marian may want to come back on further join-up, but this is one part of what we are doing to simplify. As you have heard, however, we operate in complex systems and, depending on where developers are working, they are likely to have to engage with more than one regulator within the DEFRA system. That may be the Environment Agency and Natural England, or the Environment Agency and the Marine Management Organisation. We are putting in a number of reforms top to bottom through our systems to make those work more simply. For a small developer, that might just be about the reforms we are making to ensure that they can provide information once, and that field officers from two regulators can both see the same information. It might be quite simple things like that.

At the very other end of the spectrum, for a very large infrastructure project, that might be about whether we need a lead environmental regulator to guide that developer through the whole of our system, where there might be three or four regulators involved, and doing that over a number of years. We are trying to look at our systems top to bottom to make that journey as smooth as possible.

**Marian Spain:** Perhaps I could comment on the other important clause in the Planning and Infrastructure Act. It is part of a suite of reforms, some legislative and some non-legislative, as you all know. One other significant reform that will really drive forward some of Natural England's reform ambitions is a change we had under previous legislation; we were obliged by law to comment on every planning application that was sent to us. We now have discretion, and we think that will help us to focus our efforts where our impact is needed, rather than on what tends to feel like a tick-box exercise. That is another example of operating where we make the biggest difference.

We are backing that up with data systems that allow a developer or a planner to look at the same information that Natural England staff would look at, and therefore to make a much more informed judgment about whether they need our help or whether they can confidently proceed without us.

**Catherine McKinnell:** That is really helpful, because one of the big frustrations you hear from small developers is that it can feel like a tick-box exercise with no tangible or discernible output at the end. That is reassuring to hear.

Q35 **Chair:** Could I clarify one or two points? These nature recovery schemes



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are causing some consternation, both among environmentalists on the one hand and developers on the other. Is this going to be a levy on all developments?

**Sally Randall:** The nature restoration fund is an optional scheme that developers can opt into if they want to use it as one way of discharging an obligation that they already have. It does not create a new obligation.

If a developer already has an obligation—for example, to deal with the nutrient impact of its development—it could still choose to do that in its own way. It might have a provider it already works with, or it might want to do something on site. If it does not want to do that, it can opt into this scheme, pay the levy and discharge the obligation.

It is about sites with particular pressures, so it probably does not need to operate across the whole country. If you are in a catchment that is already overloaded with nutrients, those are the places that will take up the scheme first.

Q36 **Chair:** When developers make the application, will they know what the rate of the levy is?

**Sally Randall:** Yes.

Q37 **Chair:** Finally, Permanent Secretary, you said, "We will carry out the scheme." When you say "we", who is "we"?

**Paul Kissack:** It is being led by Natural England.

Q38 **Chair:** How will you carry it out, Marian?

**Marian Spain:** "How" is prescribed in the law; that is perhaps not quite what you are getting at. We are already working on the first round of EDPs. The "how" is that we look at the likely development impact of the site and the known environmental pressures, and we use that information to set out the environmental delivery plan, which says, "If development happens here, this is the nature and scale of mitigation needed." That might be the creation of new habitat for displaced species. It might be the creation of nutrient systems, such as those we are currently doing. It might be the creation of alternative green spaces, where there is a need for more recreational space. So the "how" is fairly well described.

Once that plan is up and running, it is approved by the Secretary of State. That then makes very clear to the developer its options, and it will use that to choose. The other part of the "how" is that once the plans are in place, Natural England has the obligation to use the funds that developers pay to deliver against those plans. As developers' funds come in, we will start to invest them in action on the ground.

Q39 **Chair:** We all know about the bat tunnel on HS2. How do we know that this scheme will be proportionate and value for money for the developers?

**Marian Spain:** I will come to the bat tunnel in a moment, because that is an ever so slightly different question. One of the ways this scheme will be proportionate and value for money is that a number of amendments were



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made to the Act as it went through Parliament. You mentioned a moment ago that some of the environmental bodies had concerns about the scheme. Those were addressed to a large extent by amendments that give certainty that there will be overall improvement, certainty of pace, and certainty that the scale and pace of environmental restoration will keep step with the pace of development. That will give certainty on the environmental side. I will turn to the bat tunnel—

**Paul Kissack:** Before you do, I want to bring us back to the purpose of the NRF, and to one of the NAO's regular findings that this is a low-risk, risk-averse system that we oversee, with insufficient innovation.

It is worth pointing out that the NRF is not that; the NRF is a world-leading innovation. We are in the foothills of it, and we will do everything we can to get it right, but this is trying to find a bit of the system where we are aspiring to a higher level of outcomes—both economic and environmental outcomes at scale. We are holding a higher risk appetite here and there is lots of work to do, but I just want to make sure that we are recognising this. It is a good example of where we are trying to move the system in a different way, which tackles the lack of outcomes on the economic and environmental sides. The bat tunnel is a really good example of where that perhaps did not work out so well in the past.

Q40 **Chair:** Let us have a bit of explanation of the bat tunnel, but briefly, because time is moving on.

**Marian Spain:** The legislation embeds the principle of using a strategic solution—so not just looking at what is happening immediately on the site, but looking at the overall impact and opportunities. The other significant change that the legislation makes is that it reinforces a principle that we have been working on: perhaps we should not follow the mitigation hierarchy quite as strictly as case law has suggested we should. At the moment, the law says you must first avoid an impact, then you must do mitigation—i.e. try to avoid the impact—and only then do compensation. With schemes like the bat tunnel—there are many other examples—that rigid approach led us to do something that was not wrong in law or wrong in its effectiveness, but might not have had the optimal outcomes that Paul was describing. The scheme will protect that colony of bats, but it will not add a lot of value to any of the other bats in the area.

**Paul Kissack:** One of the important shifts here is the ability to engage much earlier in the process. To give an example of one of the areas we are changing, which we have seen over the past year or so: a recommendation from Dan Corry's report is to set up an infrastructure task force within DEFRA, where we have a list of the most important, say, 50 infrastructure projects where we think environmental regulations may have a role to play as it is going through.

This is a horrible caricature of the system, but sometimes the system can feel like it is just, you ask a question and the regulators give you a yes or no answer, and if the answer is no, it is, "Go away, try something else, come back and we will give you another yes or no answer." This is about



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shifting to a position where DEFRA group—the regulators and DEFRA as the core Department—are sitting in a room together with other Government Departments, and asking, "What would it take for the answer to be yes?" In the case of the water delivery taskforce, which plays a similar role on water, that includes sometimes getting in the private companies as well. "What can we do that is innovative and creative, solves the problem, and allows development to be unblocked but delivers better outcomes for nature?" That might sound basic, but that is a cultural shift within the organisation.

Sally chairs the infrastructure taskforce, and on a regular basis they are unblocking problems. In a sense, on future bat-mitigation structures, we hope not to hear about them, because we will have got involved much earlier. The NRF gives us an additional tool as well, so the success will be relative silence, as we are able to deliver both the development and the bigger outcomes for nature.

**Chair:** Thank you. I could ask more questions, but we have to move on.

Q41 **Blake Stephenson:** I found the NAO Report very troubling, and I just want to explain why. I spent 15 years in financial services before I came into Parliament, and had a financial services firm received such a report as this from its auditor, it would need to report it to the FCA, and the firm would be dragged over the coals and more likely than not fined. My opening question is therefore to ask each of you, DEFRA and the regulators: are you at risk of holding those that you regulate to higher standards than you yourself can achieve, given the deficiencies throughout this Report? We will start with DEFRA.

**Paul Kissack:** We do hold ourselves to very high standards. We do not always achieve those very high standards. What the NAO Report is telling us is that there is more to do. I do not think that we should shy away from that, but nor do I think we are a completely broken system. As I mentioned earlier, when I look at the NAO Report from a couple of years ago, covering very similar territory, I can see that we have moved on substantially from where we were then. We are never going to be complacent; we are always going to need to do more. The NAO Report we have in front of us is fair, reasonable and challenging, and that is right. As I say, we hold ourselves to high standards, but a relative newcomer coming into DEFRA with a fresh pair of eyes, yes, I can see lots of areas where we need to do better—we have been setting some of those out—but I can also see across the group, 30,000 hard-working, dedicated and talented staff who are doing some brilliant work, both centrally and across the country.

**Blake Stephenson:** What about the Environment Agency?

**Philip Duffy:** We are an unusual organisation in that we are a regulator, but we also maintain more than half a million flood assets around the country. When I talk to chief executives of water or waste companies, I understand the pressures that they are under in terms of whole-life-cycle management of their assets, what it is like in the supply chain and the



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challenges they face. We are very careful—people in glass houses should not throw stones. We listen hard to our partners and understand what those businesses feel about our regulation. We try to build a good relationship with them at all times.

At the same time, we are also mindful of our own environmental impact as an organisation. We are about to publish a revised strategy for reducing our environmental impact: things such as using low-carbon concrete, moving away from steel rebar, trying to cut our emissions if possible and ensure we fully comply with our obligations to support nature, particularly in the water environment. A big issue for us right now is eel management and some of the fishery issues that we face, because we work in watercourses quite a lot. Everyone at the EA is very nervous about the risks that you point out, and we are mindful of them as we do our work. Hopefully we do not hold people to higher standards than we hold ourselves.

**Blake Stephenson:** And Natural England?

**Marian Spain:** The high standard I hold myself and Natural England to account for is: are we doing everything we can to maximise nature recovery? That is my benchmark. As I said earlier, we believe that matters so much because of what society needs from nature, which continues to change and evolve as we see the impact of climate change, different public expectations and so on. There is some frustration—which you might hear in my voice—regarding the question that we were asked earlier, because sometimes the regulatory framework and the system in which we operate does not maximise the impact for nature and neither does it help economic development or our customers. That is where my frustration comes in and why I hold myself to account.

There are two ways we are looking to tackle that. One is the focus of this Report: the question of whether we are doing enough to think about our role as a regulator within a wider system and working with our colleagues in local Government and other regulators? I echo Paul's theme of whether we are thinking about the outcome and not the process. Do our staff feel empowered to feel more like partners and collaborators to those who develop these things? It does not always feel like that for my staff or customers. That is a big focus for our change.

The other theme I will touch on again is that we are also using several other tools. Regulation is not Natural England's first lever. Even in the regulatory spectrum that I rely on—the one that the NAO has also set out—we tend to be much more involved in the advice and support rather than the hard enforcement and legal action role. Even then, a lot of the outcomes we want to achieve require us to also use advice, engagement, partnering with businesses and financial incentives to focus on those big nature goals.

Q42 **Blake Stephenson:** I think we agree that significant improvement is required. Paul, could you walk us through your view on what a good strategic approach to regulation ought to be? You are new to the role and



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have been looking at this with a fresh pair of eyes. Where do you want to get to and when?

**Paul Kissack:** I would point to three areas of work that are key to good regulation. The first is around strategic outcomes. Again, this comes through from all the reports and we what have talked about. The question is whether DEFRA and DEFRA's system is sufficiently clear about what success looks like in all the areas of our work. I would say that we are in some areas. If you look at publication of the environmental improvement plan in December, we are very clear on what we are trying to achieve in certain areas. We have not yet set things out with as much clarity as we need to in some of the other areas. The farming road map later this year will hopefully provide clarity on those areas.

As Marian has alluded to, there is then the question of whether we are asking regulators to operate within a suboptimal legislative framework. As I mentioned earlier, we have a rolling programme of evaluating which bits of our regulatory framework are working and which are not or need revising through post-implementation and other reviews. We then have primary and secondary legislation and guidance changes, which are an important part—and maybe we will come on to guidance changes later. A key recommendation from Dan Corry's work is the importance of identifying the most used guidance and revising it. We have identified the top 10 most used pieces of guidance and have already revised five of those. We should be out consulting on revised habitats regulation assessment guidance later this spring.

The third area is around the culture of the regulators themselves. That gets you into how clear we are, as a Department of state, about our expectations of DEFRA regulators. We are hoping very shortly to issue both the Environment Agency and Natural England with a strategic policy statement. That is a new, non-statutory document, but it sets out really clearly, "This is what we expect you to do, and this is how we expect you to do it", including the concept of constrained discretion, which comes through from Dan Corry's review and Jon Cunliffe's review. That sets out new approaches to risk and risk management.

We do need to undertake more innovative regulatory approaches. We have just had a good conversation about the nature restoration fund. Biodiversity net gain was actually a really interesting international innovation, so we need to make sure that we are driving those kinds of innovations through the system.

We have a particular programme of work around planning and infrastructure changes, which is where this challenge around economic growth and environmental regulation very often plays out. There is more we need to do on joint working. We touched very briefly on the lead environmental regulator; that is appropriate for large projects. It is not necessarily going to be appropriate for all projects, but we need to find areas where our regulatory system is joining up much more.



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Mr Lowe pointed out earlier the number of different regulators that you may come into contact with as a farmer. We need those regulators to join up in a more singular way. We also need the front-end services—the customer-facing services—to be as slick, smart and digitally enabled as we possibly can. Again, we have made some progress on that, but there is much more to do.

It is a very broad range of things, but I tend to think about it in three areas: be clear on your outcomes; set up your legislation and regulatory framework in the right way; and drive the right culture through your regulators.

Q43 **Blake Stephenson:** Finally, there is an awful lot going on, and what you have described is quite ambitious given where you are at the moment. How are we going to hold you to account? At what point are you going to be happy that you have delivered those things? More crucially, how are you going to get off the starting line? You are in this reactive mode. How are you going to get out of reactive gear and into strategic gear, given everything that is going on, in order even to get going with all those ambitions?

**Paul Kissack:** On your question about when I am going to be happy, I know clearly the answer to that: never. It is my job never to be happy, and to be constantly listening to customers and developers, and constantly pressing for further change.

When are we going to get out of the starting blocks? We got out of the starting blocks many months ago. As I have said, we have come a long way over the last couple of years. I am not coming into this new job thinking that this is year zero and that it all starts now. There is a huge amount that has gone on. I described the work setting out some of the new strategic intent around the water White Paper or the EIP—this is months and months of work that is coming to fruition now. We are shifting into exactly that more strategic approach.

There are definitely things we still need to tick off. We started with 149 recommendations, and we need to be constantly going through how many of those we have actually moved through. We have already moved through quite a lot of them, but I would not want to leave the impression that we are in the starting blocks—I think we were out of the starting blocks a while ago.

Equally, I do not want to give you the impression that we are ever going to come before this Committee and say, “The job is done. There is nothing to see here. There is no way we cannot get better”. I would be amazed if the NAO ever wrote a Report that allowed us to say that with credibility.

**Chair:** For us to keep calling you back, Permanent Secretary—to see how you are getting on.

Q44 **Tristan Osborne:** My questions link to the regulatory environment and whether you are giving sufficient flexibility. My overarching question is about federalism versus centralisation. The UK operates quite a centralised



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structure. If you compare that with other countries—specifically the US—we have a precautionary approach, which effectively means that unless something is proactively pursued, the answer is no. Whereas in the US they produce a cost-benefit approach, where unless the cost is demonstrable and the benefit is there, they will have a different regulatory standard.

Within the Corry review there is something called constrained discretion. What is your understanding of that? Are we moving away from a precautionary approach towards a more cost-benefit approach?

There is an issue here. I understand that you want to give more powers to regulators, developers and others, but there is an inherent conservatism—whether you want to retain controls and levers centrally and, in doing so, inhibit change by having a principle that, by definition, does not allow for it. Where do we want to be? What is the perfect outcome in five to 10 years' time, with this approach?

**Paul Kissack:** Let me say a few words about constrained discretion and what that means, and then perhaps invite Phil and Marian to say something about how they are introducing that in their organisations. I should say that constrained discretion is very much at the heart of the strategic policy statements that I mentioned earlier and that we hope to issue shortly to the two regulators. It will also be at the heart of the new single water regulator; it was one of Jon Cunliffe's recommendations that we put it there.

So what does "constrained discretion" mean? I think it means two things, and they are in tension; and to some degree it plays to the tension you are describing. The constrained bit is really a plea that there be a degree of consistency in the way in which we apply regulations around the country, so that local officers in regulatory settings have a clear playbook, clear guardrails, as to what they are expected to do. That is really important if you are a regulated entity, if you are a business, because you need to know what to expect, as a point of consistency wherever you are in the country, from a particular regulator. It is one of the reasons why Phil will be publishing, "This is how we do farm inspections," for example—so that there are clear expectations, transparent expectations. That is one of the things we hear about. Particularly when we talk to large developers, who might be interacting with the regulators in different parts of the country, they will say, "What we really want is just more consistency, please."

One of the other bits of feedback we get from developers and others is, "Well, we don't want local people, local officers, in these regulators to be completely fettered by centralised guidance. We want them to be able to exercise discretion and make common-sense judgments that fit the local area." Of course, we do too. That is the discretion bit. So you have the constrained bit, which is more of a centralising approach, to use your analogy, and you have the discretion bit, which says, "Actually, we want people who know their local area and can work with local businesses and others to reach common-sense solutions that are outcome focused."



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That is a long way of describing what is then a very complicated thing to embed across regulators. If you have a regulator like Phil's regulator, which is about 13,000 people working right across the country, where are the areas where you want them to be entirely consistent and follow very prescriptive central guidelines? That is one of the reasons why revising guidance is really important. And where are the areas where you want them to feel empowered to reach different outcomes?

On the very specific point about the precautionary principle, that is fundamental; that is not changing. The question is whether the precautionary principle is at times being overly interpreted. That question comes up in relation to the habitats regulations in particular. One of the questions we are looking at in terms of revising the HRA guidance, which I mentioned earlier, is whether it is being overinterpreted. But that is not to say the principle is the wrong principle. It remains a core legal principle for us, but the question is how it is interpreted in practice. Maybe Phil and Marian could talk about how they are applying this.

**Marian Spain:** You are quite right: some of the legislation, if looked at through this lens, can feel restrictive or narrow. You have talked about the precautionary principle. We also have a principle of proving no adverse impact. Even saying that double negative confuses me, frankly. So I think you are right to point to the fact that legislation can be a constraint. But what we have been doing over the last few years is looking at how we interpret and apply that legislation. On the precautionary principle, for example, it is not necessarily precautionary about every single site or every single animal or plant; it is looking at precaution against the population, against the ecosystem. I think that the guidance we are starting to develop at the moment will help set that right.

So the legislation does not always feel helpful, but there are many ways in which we can use that. We are particularly looking forward to, as Paul has already said, having a clear constrained discretion statement and being able to revise the guidance our staff work to, but also revise the guidance we give to the outside world, because that risk appetite—it is not just the regulators that need to understand where their discretion is. Other decision makers, like planners, businesses themselves, those who advise businesses, such as the ecological profession—I think we all need to have that shared understanding of the framework in which we are working, and I think that is how we are increasingly trying to think about it: less as a rulebook and more as a framework in which people can innovate. I suppose that would be my second comment. I sometimes feel slightly uncomfortable when people say you need to raise your risk appetite, because that implies that we don't care anymore and we will take risks with things. What we are saying is that we want to be able to be more innovative and flexible in achieving the right outcome, while staying within that framework.

We have been doing quite a lot of thinking about this in Natural England, starting with our board. We have spent a lot of time with our board over the last year, as we led into our new strategy, to clearly define our risk



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appetite. We are working that through all our major programmes. For some, we are more cautious—we are perhaps more cautious with money or with the law in some programmes—but with others, we can be much more creative. I think that, when we have worked that through, we will be able to make that public. I am expecting my board to review a public-facing risk statement next month. That could give other people confidence that we are trying to get the balance right.

The final point I will make is that, as you will all know, the hardest bit of an organisation to change is its culture. I have 2,500 people, whom I am asking to re-look at how they think about the decisions they have been making. Many of them have been in this profession for 20, 30 or 40 years, including myself. This is quite a big change for us, which is why we need to use these various mechanisms. We need to be communicating, sharing good practice, using the guidance that DEFRA give us and making sure that we share that with our customers and stakeholders as well as staff.

**Q45** **Tristan Osborne:** I am conscious of time, but I have some follow-up questions. I ask you to keep your answers a bit shorter, otherwise no one else will get the opportunity. You referenced the water reforms. We had Ofwat in a few weeks ago, and I specifically asked them about the SPSs, of which they have 59. They indicated that they are reducing that down to two clear frameworks. I understand that in the last seven days you have added another seven objectives. My point is that there is constant disconnect between you saying you want to give powers on a discretionary basis, and the fact that you are constantly saying, "Here are more and more SPSs and more and more requirements." There is a disconnect there, which is what is being heard.

You mentioned four programme teams that were delivering the Corry review. I would be interested to hear what the headcounts of those teams are and how they are structured; it would be helpful if you could provide us with an organogram.

My last question is on the infrastructure board. This is obviously very new. As I understand it, the infrastructure board does not publish anywhere: I am struggling to find any minutes from conversations. You are dealing with very big projects, but again, as I understand it, there have been concerns. For example, a hospital in Cambridge was not given permission—

**Chair:** Tristan, these are very big questions, and with lots of questions, they get lost in the time. Shall we just get the witnesses to answer what you have asked?

**Tristan Osborne:** Yes. The question is, are we going to move to a position where the infrastructure board is more transparent so that people can see some of the thoughts behind the decision processes?

**Sally Randall:** I chair the DEFRA infrastructure board, the aim of which is to look at the largest projects that hit the two criteria of being nationally significant and having significant environmental challenges, and get together the regulators and the Government Departments that sponsor



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those projects to give us early sight of them so that we can try to do that early identification and escalation of problems. The board is not a public forum, and we often deal with projects that are commercially sensitive and where there are live regulatory decisions. We are happy to think about how to talk about the progress the board is making, but that will probably never be played out in public when those are regulatory decisions that have not yet been taken and are often on commercially sensitive projects.

However, by looking at those projects, we are already seeing opportunities for regulators to get together with the developers and others to find early solutions. We are also starting to identify clusters of projects happening in the same places, for example, which we did not have visibility of before. That means we can take simple steps, such as saying, "Actually, Natural England's east of England office is going to need to strengthen a team over here," because we can see the pipeline coming. If those 30 developers of solar projects in that region are all facing similar challenges, we can get out on the front foot and offer them a solution up front. That is the sort of thing the board is doing, but it is not a public forum.

**Chair:** I will call Anna next, but I just warn everyone that after Anna has finished her questions, we will take a five-minute break to give everybody the chance to stretch their legs, or whatever.

Q46 **Anna Dixon:** Paragraph 14 of the NAO Report states that "An overly risk-averse culture in Defra and the regulators has restricted some efforts to innovate and embrace new approaches." You talked earlier about a "precautionary" approach; one could also call that a "risk-averse" approach. Just outside my constituency—but affecting the River Wharfe, which flows through my constituency—there was a proposed £43 million upgrade of the Ilkley sewage treatment works. A nature-based solution was proposed, and I understand that both Ofwat and Yorkshire Water were positive, but it was delayed by the Environment Agency, which blocked the nature-based solution—a good innovation—because there was not enough evidence to guarantee the quality of the water post-treatment. Is this an example of where a risk-averse approach at the regulator is blocking innovation and nature-based solutions?

**Philip Duffy:** No, it is not. Nature-based solutions are very popular with the water industry because they are much cheaper than building engineered solutions for things such as phosphorus stripping. They have lower energy consumption. They are also popular with many other community groups and those working in nature because they bring so many co-benefits, for example, reduction in flood risk or better water ecology.

In the Environment Agency we must take a hard-headed approach to the removal of phosphorus from the natural environment. We must think like ecologists. The phosphorus cycle is bioaccumulative and very persistent. In the case of the Wharfe, we are very concerned under the water framework directive about high phosphorus levels permanently damaging that ecosystem in a way that is quite different from nitrates or biochemically activated oxygen demand. It is a debate that has been



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playing out in many locations in the context of the price review. It is a very science-based approach—and the Committee does not have to take my word for it, because we will look at the published evidence. We have concerns about the capacity of things such as reed beds and nature-based solutions to absorb sufficient levels of phosphorus to comply with the law.

It is a difficult message to give in a forum such as this, but one of our jobs as a regulator is to say that if this solution from the water company does not sufficiently reduce phosphorus, then we will not permit it. We have had that debate with many water companies. There is a big issue in the Tees as well, and also in Wessex. We stand by our decision. Of course, our decisions must be open and transparent and challengeable—and we must look at the evidence all the time. If we see evidence of a different, alternatively engineered nature-based solution that can reduce sufficient phosphorus to bring the Wharfe into a really good condition for its water ecology, we will obviously accept that. We do not want to put people to very high-cost solutions, but right now and right through our strategy for the price review, the removal of phosphorus—which generally requires an engineered solution—was uppermost in our mind. That is completely appropriate in line with our legal obligations.

Q47 **Anna Dixon:** But how are you going to gather the evidence if you do not implement and monitor such solutions? I have seen correspondence saying that you have not been able to deploy enough inspectors to keep monitoring the downstream flows on this stretch of bathing water. I am keen to know how you are going to gather sufficient evidence to give you confidence to permit these solutions in the future and balance environmental compliance with these wider benefits that you rightly acknowledge.

**Philip Duffy:** We do not have to choose between the wider benefits and phosphorus reduction. If that were the choice, it would be a pretty dismal one for the natural environment. Very high phosphorus levels are so toxic to the water biota that they fundamentally change the nature of the ecosystem. We know as ecologists that getting phosphorus levels down is incredibly important, but that does not mean we are unsupportive of nature-based solutions elsewhere. In fact, we have done a lot of trials of nature-based solutions, particularly in things such as treating very diluted groundwater overflow. We have shown that in areas such as nitrates, they work pretty well. We are not against nature-based solutions, but we are not supportive of them where they do not reduce phosphorus.

On your question about monitoring, it is a good question, and at times we have struggled to get enough monitoring tests to meet our water framework directive monitoring requirements. However, we are helped in this endeavour by the fact that DEFRA has insisted on upstream and downstream monitoring of key pollutants through sondes. As we go down the watercourse, we have a sense of where those phosphorous levels might be coming from, and I am afraid to say they are coming from wastewater treatment works. That is why we take the approach we do.



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We are running some trials and currently have some looking at whether this technology works, although I do not think we are running any on the Wharfe. If the water industry has other evidence we will look at it because we are open to evidence. So far, when we have looked at trials we have not been persuaded that the phosphorus reduction is good enough to meet the legal obligation.

Q48 **Anna Dixon:** This is obviously an example of where there may be dispute between the different risk appetites of your regulators, DEFRA, different regulators who may also have a view and some of your customers—in this case, the water companies. As a Department how are you exploring and setting a risk appetite that allows for managed innovation within clear parameters?

**Paul Kissack:** One thing we cannot do is set a single risk appetite. That would be the wrong thing to do.

**Anna Dixon:** There is no such thing.

**Paul Kissack:** Exactly, especially when you think about how many multiple regulatory schemes we have. You want systems which flex your risk appetite and your approach to regulation depending on the activity that we are talking about. To use Phil's example, you are going to have a different risk appetite around solutions involving nitrogen than for phosphorus, for the reasons just described. You are also going to have different risk appetite depending on geography; whether you are by an important watercourse will mean you have different approaches. You are going to set different risk appetites depending on the previously revealed behaviour of regulated entities: you want to tread very lightly on people who are doing the right thing and doing everything they can to abide by sensible regulation, and you want to tread very heavily on those people who are deliberately not. We have a hierarchy across the regulators that moves from gentle advice through to much more heavy-handed approaches to regulation. Across geography, across activity, across different regimes and across different individuals or businesses, you are going to have different risk appetites; the process is constant and dynamic. DEFRA as a Department cannot simply say, "Here are the set risk appetites".

As Phil alluded to, transparency is critical to it: "This is how we are making our decisions. This is the basis on which we are doing it." That is really important for regulated entities, so that they know what to expect. There must be constant feedback loops as well. The EA has learned a lot by going out and doing a much higher number of advice-led farm inspections. We have learned a lot about where the risks are and where they are not, and then we can feed that back in.

There is a constant conversation between the core Department and the regulators. In an ideal world, you are setting the outcomes that you want the regulators to deliver, and you are allowing them, to a large degree, to work out the relative risk appetites in order to deliver those outcomes with the resources they have. It is challenging, because drawing a straight line



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from regulated activity to environmental outcomes is incredibly difficult, which is why we do tend to get more heavily involved and instruct the Environment Agency to do a certain number of inspections and so on in particular areas.

Q49 **Anna Dixon:** I am conscious of time, and I have a couple more points on the issue of risk aversion and culture. Regulated entities are keen on consistency, so I am hoping that what I heard in your answer, permanent secretary, was that you are moving to a more consistent approach to risk appetite for regulated entities. I recognise that there are differences, as in the points you described, but I hope that for a regulated entity, they would experience consistency between the different regulators that they are a customer of.

**Paul Kissack:** Yes.

Q50 **Anna Dixon:** As Corry pointed out, some of this risk aversion comes from judicial review. Is it too easy at the moment for there to be judicial review against decisions that you and your regulators are making?

**Paul Kissack:** I should ask Marian or Phil to respond to that, because they make the day-to-day decisions. It is definitely the case that, rightly, we are alive throughout our work to litigation risk of one form or another; that is true. One question worth bearing in mind is, when we talk about risk aversion, what are we talking about? Some people would say that, as a system, we are overly risk averse because we are not intervening hard enough to deliver environmental outcomes because we fear litigation risk. In other areas, we get accused of leaning too hard into our environmental objectives and we get in the way of developers, and that is risk in another direction. What risk aversion means and how risk plays out is very different in different parts of the system.

You are right that the risk of legal action is one of the risks that we have to bear in mind. When people talk about risk aversion, that is quite often what they mean, but I do not think it would be right to characterise the activity of either EA or NE as being systematically driven by an overly cautious approach on litigation.

Q51 **Anna Dixon:** Briefly, is there a problem with fear of JR, Marian? If not, what are you doing to change your risk-averse culture?

**Marian Spain:** I do not think we have a fear of JR. We go through a number of judicial review cases each year, proportionate to the amount of regulation we do. We do not often lose. I do not think we should fear that we would lose. The point of that legal process is to help us to understand how we should now be interpreting the law, and to test whether we are getting that risk aversion right, so we do not fear it. The one thing we do fear is the cost of engaging in those cases, of course. They can be complex, lengthy processes, so we would not do something that would likely trigger a JR, but we are not afraid of learning from the results, whether we win or lose.

**Anna Dixon:** Do you want to add anything, Mr Duffy?



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**Philip Duffy:** You have to have a culture that cares about the community and their environment, and one that asks, "Is this the right decision for the community and the environment?" There will be legal, financial and reputational risks to that, but what is the right decision? You can see evidence of us making that shift in things like the Walleye Quarry decision.

Q52 **Anna Dixon:** In terms of this risk-averse culture, at the end of the day, the leadership on this comes from DEFRA at all levels, including your own civil servants within the Department. How are you making sure that they are open to change and innovation?

**Paul Kissack:** I will kick off, but why don't I ask Sally about this, considering she knows the organisation better than I do?

By coincidence, the very first meeting I had on my very first day in this job was a conversation about risk aversion with our audit and risk committee. It was the start of a piece of work through which we have been trying to develop our own tools around risk appetite so that we are making many more deliberate decisions. Every organisation has a risk appetite. It is a revealed implicit risk appetite in the decisions they make. We are probably not spending enough time thinking about the implicit risk appetite in the status quo. We will say we have a low-risk appetite, but I do not think we have a low-risk appetite, because, if you look at some of the outcomes that we were talking about earlier, we seem to be holding quite a lot of risk on those by dialling down risk elsewhere. There is something very important to me that in every decision we are taking and in every piece of advice we are putting to Ministers, when we think about risk, we are thinking about where we are deliberately pushing down risk and where we are deliberately pushing up risk as well. That is a very live conversation in the organisation at the moment. I do not know whether Sally wants to add to this about her own area.

**Sally Randall:** In my teams, the main thing that we are doing is connecting people with the real projects, places and people that are on the receiving end of our regulation. It is quite easy to get into a risk-averse approach when you are being very theoretical and abstract and just looking at the law.

We talked about what we are doing with the infrastructure board. That is bringing real projects into our building and having us see the world as other people see us, and in my experience, that is the best way that our teams are getting to engage with the real-world impact of the decisions that we are making. Being able to see ourselves through other people's eyes helps us to balance up, as Paul said, the different types of risk and get us away from just perhaps looking at legal risk to looking at the risk to outcomes, the risk to businesses and the risk to growth.

**Anna Dixon:** Okay. I think I will leave it there.

**Chair:** We will now take a short break and return sharply at 5.15 pm, if not before.

*Sitting suspended.*



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*On resuming—*

Q53 **Sarah Olney:** We have been talking a lot about regulation and how extensive it is. The National Audit Office Report points very clearly to how this can be a real problem for businesses and farmers, and we have heard that evidence. One of the issues is how difficult it is for individual businesses or organisations to find the correct guidance.

If I may start with you, Mr Duffy, and then move to Ms Spain: what more can the Environment Agency do to make it much easier for people setting up businesses, and engaging with guidance for the first time, to find everything they need in one go, and for it not to be such a burden to be constantly seeking out guidance?

**Philip Duffy:** I agree. A lot of the guidance is confusing and difficult to follow, and we think it should be rewritten. We started with colleagues in DEFRA on contaminated land last year, and that guidance was a sort of riddle wrapped in an enigma, and has now been clarified. That is better—

Q54 **Sarah Olney:** It is phrased better, which is good, but is it easy for people to find? Is it easy for somebody who needs that guidance to know they need it, and to find it quickly?

**Philip Duffy:** We should hear from DEFRA, but what we are trying to do across the DEFRA group is make sure that customer pathways are clearer. We don't want to think, "You're the customer, so you have to know which one of us you have to ask," but "What is the thing they want to do?", whether you have a question about an animal, land or a watercourse, and turn that into a much more rational sense of customer journeys.

The other thing we need to do is a bit more than guidance. One of the big sources of complaint from people who use our services is that they apply—as Mr Kissack was saying—and are then told, "You didn't apply correctly; try again." It becomes a "What did I do wrong?" question, and that is not acceptable for a modern public service.

We are trying to reconstruct our forms so that they are validated when you are applying—so that we know you have put the date in correctly and all the questions you need to put in. We can use a lot of AI to help with that, to correct and check those things, so that when you apply you know that you have applied properly and don't have that doubt about the process. That also saves us a lot of time and money.

The other thing that is genuinely difficult is how we deal with bits of the guidance that are very ambiguous and require more of a service approach. I think it was Ms McKinnell who was asking about a large-scale site, and that is something that we have been worried about.

I will give you an example of that. We have a lot of difficulties with contaminated land where the issue is not so much whether the land should be remediated as knowing what kind of future use is safe for that site. For example, a car park is completely fine—it is not going to be a watercourse—but maybe for an allotment you would be a bit more



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concerned. So it is about trying to understand how that is viewed. That requires in the regulator a level of ability to engage with that stakeholder applicant, to listen to them and perhaps take a few risks settling them. We have had a few meetings—well, I have had several recently, in the last year—where Members of Parliament have been trying to get a pragmatic solution for a site unlocked and have been feeling that the regulator is not quite engaging with them in that way. That is something that we are willing to fix if we can, and I think we are making some good progress on that. We have got some good examples of that.

Q55 **Sarah Olney:** Presumably there are limits to what can be done digitally to fix that, with forms and that very structured approach. Paragraph 12 of the Report points out that there have been “reductions in local expertise and knowledge within the regulators”. Notwithstanding what you were saying earlier about how many more staff you have than you used to, are they being employed with that kind of direct engagement to come up with more nuanced responses?

**Philip Duffy:** I think it is a tale of two halves. For the more straightforward things, I think we are often doing too much regulation. To give the example of the category 1 and 2 permits, we are asking ourselves, “Do we need to permit this, or can we just register it or have a standard rules permit?” Early work with the Department suggests that we don’t think we actually need maybe 10% of our permits—they are not adding any environmental value, and they are not covering very high-risk activities. We could just ask that applicant to let us know what they were doing, and then they would get their permit automatically. We can use a lot of AI to accelerate that work, and that would save us money and time.

Clearly, if you are opening an incinerator, a new landfill or a petrol refinery, there will be quite a lot of scrutiny of that proposal, and it is right that we do that thoroughly and in a really clear way.

What we are finding at the minute in our operations is that we have had to use more national teams for the higher-risk issues. We have consolidated our teams on COMAH—control of major accidents and hazards—on nuclear and on some of the higher-risk waste activities. Then we have a more area-based model for things like water and land, which are everywhere.

I want to go back to one thing in response to your very good question on guidance. We are doing an enormous amount of work to make our engagement with farming and farmers better. We have issued all sorts of booklets about preparing for an EA inspection; we have done videos; we have done tours to talk to various farming communities and directly address their fears and concerns about that process. We are incredibly conscious at the EA that if we are going to talk to a farmer, it is not an oil refinery or a water company. You are sat at someone’s kitchen table, more often than not, and that is a very different regulatory landscape which needs a different hierarchy of intervention. We are working very closely with my colleagues in Marian’s organisation to make sure that we stitch that together, so that a farmer feels they get advice and suggestions about how they comply, and we don’t go straight to hard-headed



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enforcement for people who often don't have many resources to respond to what we are asking them to do.

Q56 **Sarah Olney:** Ms Spain, what more are you at Natural England doing to make it easier for businesses to engage?

**Marian Spain:** I would echo some of what Phil has said. We are simplifying the written guidance to make it feel more real, putting more real-life case studies in it. That matters, not just because it makes it easier for people to understand what they need to do, but because it ties in with our move towards people having more autonomy, allowing them to self-license and self-consent a lot more. If the guidance is clear and the application is simple, it can be automated and the application barely needs to touch Natural England. People can make their own judgment about whether they are complying. That is how we are moving forward for low-risk cases and those that perhaps affect small businesses or individual households.

At the other end of the spectrum, it is not just about getting the guidance right. Paul has already referred to the importance of early engagement in a bigger, higher-risk or high-opportunity project. Those bigger businesses will probably find it easier to comply with and understand the written guidance anyway, because they have their own in-house advisers, so our role is not to advise them on how to follow the guidance. Our role is to work with them on finding solutions to quite tricky issues, such as those that Sally was describing, coming from the infrastructure board.

The final theme that your question on guidance pulls out—which perhaps is not what you were getting at, but I will mention it anyway in case you were—is the other thing that we are learning through the lead environmental regulator pilot. I visited the Lower Thames crossing last week with the National Highways chief executive. We are learning how important that early engagement, that clear pathway and that clear guidance is. It is definitely speeding things up, even for a big operator like them, but it is also exposing to us where our own internal wiring is a bit complicated, either within Natural England or, particularly in that project, between us, the Environment Agency and the MMO. Getting the guidance right as a single entity is not enough; we also have to look at the guidance we each give and the different processes that we all operate together.

**Philip Duffy:** One or two weeks ago, we held a series of roundtables with people who are agents for developers. They are people who are advising or offering consultancy services. They often have a slightly odd view of the risk, of what they need to do and of what they don't need to do. Directly talking to them about, "This is what we actually need to issue a permit," is a very powerful piece of good regulatory practice. It also means that we get better-quality applications—faster and easier for us to process. That is an important element of the picture.

Q57 **Sarah Olney:** You talked about big infrastructure projects and people who can afford to employ agents, but I am concerned about smaller businesses—perhaps people setting up for the first time. If you were in



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their shoes, Ms Spain, do you think your organisation would be easy to deal with? Are you thinking about it from that perspective?

**Marian Spain:** The examples in that field that Natural England particularly works with are either small developers or individual householders, who are looking to do work where they might need a protected species licence. We have already done one major revision to the bat guidance. We have a thing called the bat road map—forgive me, I coined that name—and we are looking at, over the next two years, doing further simplification, making it a lot easier. One of the systems we are standing up, echoing the point that Phil just made about other parties that are involved, is making it a lot easier for an ecologist to have earned recognition to issue a licence on Natural England's behalf. The ecologist is probably out there anyway, because the builder has brought them in to advise on issues, so that could be done as one transaction. Natural England does not get involved—we accredit ecologists to issue licences on our behalf.

Q58 **Chair:** It falls to me to ask a few farming questions. May I come to you, Paul, please? How are you ensuring that environmental regulation of farms does not have an adverse effect on food production?

**Paul Kissack:** As with most of the topics that we have talked about this afternoon, we have to hold two truths that are often in tension at the same time. The first one is that a key part of DEFRA's role is to support farmers in food production. We want productive, profitable farms. At the moment, two thirds of the food we eat in this country is produced by farmers—they are the stewards of 70% of our land and have an absolutely critical role to play. Part of DEFRA's role is to get alongside them and support them in partnership.

Alongside that, the other truth we have to hold is that certain agricultural practices are responsible for a lot of the environmental pollution: 40% of the pollution in groundwater and rivers comes from agricultural practices. The Office for Environmental Protection would say that its first and final word is always on the importance of addressing pollution from agriculture, if we are going to meet our environmental improvement plan targets.

Those are the two truths that we have to hold together: the importance of really supporting food production and profitable farming, alongside making sure that agricultural practices shift in a way that meets our environmental targets. We should not always assume they are in conflict, because they are not. Many agricultural practices that farmers are taking up increasingly are good for both food production and nature. We all have an interest in the health of soils, for example—healthy soils not only are more fertile and produce better yields, but absorb more water, thus reducing flood risk, thus reducing pollution into river courses, and so on.

The answer to your question, to some degree, is a mixture of things. It is not just about regulation. Partly, it is about advice—we advise farmers through our catchment-sensitive farming programme. It is about peer support—Ministers have just announced a £30 million programme to form farmer collaboratives, so that we can share good practice across farmers.



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It is about financial incentives—the environmental land management schemes, our biggest funding from the Department, go to support farmers to do exactly what you are describing, which is to balance food production with meeting environmental outcomes. Yes, there are also regulations that we deploy, and advice-led inspections from Phil. There is a broad range of activity.

Q59 **Chair:** Reading into that answer—particularly your statement that DEFRA says that 40% of river and groundwater pollution is linked to agricultural practices, which may well be true—clearly some farmers will need to radically alter the way that they farm. It worries me when I see that you are gearing up to do 6,000 inspections a year by 2029. By my calculation, there are 100,000 farmers in this country, so one in 16 farmers—and some of those are very small farmers—can expect an inspection every year. Will you provide—this question probably also goes to the EA and NE—enough guidance on how farmers are supposed to comply with these radically altered regulations? Farming is a long-term business; they cannot just change their farming systems overnight. Can you assure the Committee that you will allow enough time for that transition to take place?

**Paul Kissack:** I might ask Phil to come in on the specific question about the inspections of farms. I mentioned earlier that we are revising our 10 most-used pieces of guidance. One of those pieces of guidance is on the farming rules for water. That has been updated with improved, clearer guidance and examples. We are using AI in some of our digital-facing approaches to support the direction of farmers to the right guidance. The nature-friendly advice that we give through our catchment sensitive farming advice service is another example where we are supporting farmers. We have innovation grants as well—I think that we are committed to a couple of hundred million pounds-worth of innovation grants to support farmers around various practices, whether that is on covers for slurry storage or directly linked to water pollution. We are doing a whole range of things to support, encourage and advise farmers to move in particular directions around nature-friendly farming, alongside inspections and enforcement activity. Phil might want to speak about the risk-based approach we take on that.

Q60 **Chair:** I did not hear anything in that answer about giving farmers enough time to transition to those new ways of farming, because they have been doing it the same way, probably, for decades—for centuries, even. Farming is a long-term business: you cannot just switch a light switch on and off. It requires time. I did not hear anything in your answer to answer my particular question.

**Paul Kissack:** I totally agree, but we are not about to flip a switch. The work towards nature-friendly farming has been going on for many years, and it will carry on for many years. More and more farmers are moving their practice in particular ways, partly supported by advice and partly by the environmental land management schemes. That will need to continue and we absolutely recognise within the Department that farmers need to plan, and to plan over the longer term. I think that I have mentioned the



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farming roadmap a couple of times. That will set out more timescales for what we expect to happen when, recognising the importance for farmers of knowing what is coming down the track in a number of years' time.

Q61 **Chair:** You still have not answered the question: will you allow farmers enough time to transition, given the long-term nature of farming? If you decide to have a fattened beef animal, from the conception of that animal to calf to growing it into a fattened beef animal takes at least two years. Farmers cannot just switch on and off a light switch. I will try a third time: will you allow enough time for this transition to take place?

**Paul Kissack:** I think what I am trying to say, Chair, is yes: that is always going to be the principle behind the way in which we change and introduce regulations. We would set out timetables around individual regulations and include them in the farming roadmap.

Q62 **Chair:** Thank you. May I ask you a question, Marian Spain, on the precautionary principle? You have already said today that you want people to enhance nature conservation. Can we be assured that Natural England treats all those who legally use the countryside—farmers, people who enjoy the countryside, the shooting fraternity and so on—equally, and will regulate them equally and fairly?

**Marian Spain:** Yes. We regulate within the law and within a framework set by DEFRA. Where we get it wrong, we get that feedback from our customers very clearly, but that is of course the principle on which we work.

Q63 **Rupert Lowe:** Very quickly, may I underline what the Chairman says? I am very concerned. You say that you put food production at the top of your agenda. I do not agree; I do not think that you do put food production at the top of your agenda. I watch in horror as farms are rewilded. I watch grade 1 land being given over to beaver rehabilitation schemes and being flooded. I look at the banning of pyrethroid sprays, which means that a lot of farms can no longer grow oilseed rape. I look at just about every bit of warmongering on farmers. Farmers are here to produce food. We are an over-populated island. You talk about biodiversity and net gain, and a lot of farmers are not farming now because they are using BNG as a scheme to claim grants.

So I do not agree; I think that we are not prioritising our food production. I watch all this with horror while China is mining coal, building railways, taking it down to Beijing and burning it in their power stations, and I see the same in India. I think that we have got the entire emphasis of our nature versus our food production wrong. We are fine as long as the currency holds up, but, as we hollow our economy out, eventually the currency will collapse and we will not be able to import all the food that we import at the moment.

I would like you to reassure us that you have got that right, because I do not think that you do prioritise food production, Paul. I think that you are more interested in the abstract of rewilding and nature, and I think that that is true of the Environment Agency. From what I see, you put in a



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planning application, and you are required to take out loads of land and rewild it—

**Chair:** We are getting into too many subjects at once.

Q64 **Rupert Lowe:** Can you reassure me that that is the case?

**Paul Kissack:** I was not actually talking about rewilding. I was talking about nature-friendly farming, and the ability to productively grow food in this country while also restoring nature, which many thousands of farmers across the country are doing in different ways.

Q65 **Rupert Lowe:** The question was about food production, though. Are we prioritising it enough?

**Paul Kissack:** We will set out in the farming roadmap how we will prioritise food production. We recognise that it is fundamental to our food security, and therefore our national security. It is an absolute priority for Ministers, and they have reinforced that point. The Secretary of State will begin chairing a farming and food partnership board soon, to work with the farming community towards the farming roadmap, setting out what needs to happen and a new vision for farming. Food production is absolutely going to be at the heart of that.

It is also true alongside that that we have a set of environmental legislative targets that we need to meet and, as the Report says, make further progress on. Our job as a Government is to make sure that we are achieving both of those objectives.

**Rupert Lowe:** We do need to make sure that we look after that.

Q66 **Anna Dixon:** I have a small supplementary question. I have a lot of sympathy for my farmers, and my colleagues who are farmers. They already have a very long list of regulators that they have to engage with: the Environment Agency, Natural England, the Food Standards Agency, the Animal and Plant Health Agency, the Rural Payments Agency and so on. Are we going to add another regulator to that list with the new water regulator?

I ask because you have made the point, Paul, that a large proportion of water pollution also comes from agricultural run-off—we have talked about sewage. In unifying water regulation and taking some of the EA functions across, are we then expecting farms to also meet those regulations with the new water regulator? I will start with that question, and I may ask a follow-up, depending on the answer.

**Paul Kissack:** The net effect would be to reduce the number of regulators, if you are folding the drinking water regulator and Ofwat together, and parts of NE and the EA—the overall umbrella regulators. On how different sectors will interact with different regulators, I would need to step back and think through that.

I think that what you are saying is certainly plausible—that farmers would need to engage with the new regulator. As always with that question, it is therefore then about how we make sure that those regulators are working



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more closely together, so that they are providing a better user interface for their customers, whoever they are—whether they are farmers or anyone else.

Q67 **Anna Dixon:** I do worry, because I am specifically thinking of farms. It is clear that the water sector will be under this one new regulator.

**Paul Kissack:** The regulator will cover the water system, and not just the water sector, so you are quite right.

Q68 **Anna Dixon:** Indeed. This might be one for Mr Duffy. If the Environment Agency is concerned about soil health as well as water health, and the same agricultural practices may be affecting both soil and water, will we just be moving the fragmentation to a different place? Some of your EA functions on water will move into the new water regulator, but there are some functions that farmers will have to address for some of their agricultural practices that may also contaminate soil as well as water, because it is run-off. I am worried that, in trying to simplify things, we are just creating new complexities for farmers.

**Philip Duffy:** In a way, the structure of the Environment Agency and what happens with the regulator is above my pay grade, so I don't know. What I do know is that if you are starting to regulate the water industry or think about pollution sources, you have to take an overall view. The bit of the Cunliffe review I am very supportive of—I think my colleagues are as well—is that at the start of each price review, you need to set out what kind of environmental outcomes you want to have, as well as the economic, security-of-supply and bill outcomes. That has not been happening consistently. The Environment Agency does not have a document that covers that; neither does Ofwat. I think it would be a very good thing at the next price review if we did have a sense of what the priorities were.

Going back to our earlier exchange, Ms Dixon, do we think that phosphorus matters, and how much does it matter vis-à-vis nitrogen, for example? You were mentioning the Wharfe for bathing water. The principal source of the issue is actually farming practices in those areas, so if you were thinking about getting that bathing water to a better condition, it would mean a range of interventions in the catchment and some of them would be with farms. So I think the logic of thinking as a system, as a whole, as Mr Kissack was saying, is very strong. Speaking parochially, between myself and the interim head of Ofwat we are quite keen to have a mock-up of what such a strategy would look like, so that we can test that and people can see how it would change regulatory decisions over time. I think that is a very good idea.

Q69 **Anna Dixon:** Can we make sure then, Mr Kissack, that as you develop the transition plan for the new regulator, this issue of farms and where their practices will be covered as part of a water system—as opposed to their agricultural practices that may be covered by or remain with the Environment Agency—are clearly defined?



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**Paul Kissack:** You raise a good and important point, and I am very happy to take that away and make sure we reflect on it.

Q70 **Chair:** Paul, when do we think we will get absolute clarity as to how the water industry is to be regulated and which bits—presumably the water bits—of the EA will go into the new organisation? When will we all be given clarity on exactly how it is all going to work?

**Paul Kissack:** The White Paper provided some clarity; the transition plan, which is due to be published in the coming months, will provide further clarity; and in due course the primary legislation that we hope to lay will get into the real detail of it.

**Chair:** Thank you.

Q71 **Tristan Osborne:** I have a series of questions concerning data and information and the IT platforms. Paragraph 10 of the NAO Report indicates that each of you is going through a process of transformation. I think the EA is ahead of the curve, in the sense of the Report that we have seen. DEFRA has a series of legacy IT platforms, which were raised in 2023, I think, by this Committee and others. What I am after is an update on where you are in your IT transformation programme and, included within that, the headcount that you have allocated to that, where that sits within your organogram—whether it sits at director level from a programme change perspective, or beneath someone else—and any resource or other challenges that you may have experienced, given that your budgets are increasing.

**Paul Kissack:** I am not sure I am going to be able to give you the headcount numbers, but let me try to answer most of your questions if I can. Our starting point, as you say, is that historically every part of the DEFRA group, every individual organisation, developed its own IT systems and, indeed, its own data systems. Over recent years, what we have tried to do is pull all those together into a centralised approach. When the NAO looked at this in 2023, it rightly identified us as having one of the largest legacy IT systems across different Government Departments.

I think that historically there have been three barriers that have got in the way of us improving that. One is investment, which you allude to—a lack of sustained investment over time in our IT systems. The second has been about skills, and the third has been about common data standards. A bit like in the earlier conversation on regulation more generally, my sense, if I look back at the NAO Report and where we are at now, is that we have made quite a bit of progress, but there is a heck of a long way to go still.

I think it is worth thinking about three areas where we have work going on. The first is the legacy IT programme that you mentioned. I think we identified about 300 high-risk applications that needed to be remediated, and we have done over 200 of them. We have about 18 months left, I think, before we get to a point where we can basically say we have sorted out those 300, and we have closed down some high-risk data centres, so there has been good progress. This is the unglamorous bit of IT work—just really sorting out and remediating your legacy IT.



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The second area is more about service transformation work, where again we have done quite a lot. I think we have improved quite a lot of our online services. I was just reflecting on the questions that Ms Olney was asking earlier about our engagement with customers. Actually, we now have some online services that are rated excellent by the Government Digital Service, which they certainly would not have been before they were changed.

We have a service optimisation team that goes in and supports the regulators and other arm's length bodies with their service redesign around digital. We have some big new digital systems coming online supporting things such as the extended producer responsibility in particular. Phil might want to talk about the regulated services platform, which is in some ways our biggest digital transformation and the one most relevant to this Committee. We have a digital transformation portfolio in addition to the legacy.

The third area is AI and new cutting-edge technologies. We have about 20 different pilots going on across the group on the use of AI. Some of those are around service efficiency, for example a chatbot for farmers to help them to locate the right guidance on all these points, and things like that. Some of them are around our core business. We have AI4Peat, for example, which uses machine learning on satellite imagery to look at peatland features and drainage so that people can go out and help to rewet peatland. There are quite creative uses of AI. That is the full gamut of digital, from remediating old legacy IT right through to using cutting-edge technologies.

How are we getting on? I have given you a sense—we are doing well. The NAO Report says that it has gone slower than it should. I think that is probably fair. It needs to accelerate over the coming years. We have the money to do that. We will be investing in the region of £800 million a year over the spending review period through a mix of run costs and cyber-security, plus transformation. It is run from a central digital and data team that supports the whole group—it supports 30,000 people across the group—rather than each arm's length body having its own team.

We could come on to data, but I am conscious that my answer is very long. Progress has been made on common data standards, which are really important to underpin these kinds of changes.

Q72 **Chair:** I want to test that answer, please. It sounds as though a lot of progress is being made. Although it is very easy to remediate some of the systems, I suspect it will be much harder to remediate some of the other ones. The Committee has done a lot of work on this whole area. One of the recommendations we have consistently made is to have a chief digital information officer at a very senior level in each Department and to have a highly skilled digital person on the non-executive board. Do you have both of those?

**Paul Kissack:** Yes, we do. We have a director-level GDIO—an interim one started today, so we will be recruiting for a new GDIO. We also have a



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vacancy for a chief operating officer coming up. One of the opportunities for me there is to bring in somebody at that level—an even higher level—with digital experience given. That is something I would be looking for in an ideal candidate given the importance of digital transformation for the group. We may not get that. I have a strong GDIO as well. We also have a non-executive director who is a specialist in digital.

Q73 **Chair:** That is very encouraging indeed. Marian, Philip made a great play earlier on about how he was improving his IT systems. How are you getting on with improving yours?

**Marian Spain:** The NAO Report sets out very fairly where Natural England is. Over the last spending review, we had significant investment in our legacy systems, for example ones that hold data on the condition of sites and species. They matter because it is not just Natural England that relies on them; third parties rely on them as well. It was an important priority to make sure that those existing data systems remained fit for purpose.

We also invested where we needed a new system, for example the off-site register for BNG. In the next spending review, we are hoping that we will be able to mirror more what our colleagues in the Environment Agency have done and start to fundamentally reform some of our regulatory systems. As I said, the guidance point is not just what the law says; it is to lead you to get through the process more readily. We are looking to invest in more customer-facing regulatory systems that allow people to self-serve a lot more easily. We are also looking to invest in AI so that our staff can better handle the very wide range of data we are using. The quicker they can gather that data, the better they are able to make a judgment, but note that not all data is held in our systems,

The third thing we are keen to focus on is having a better understanding of our customers. I mentioned the lead environmental regulator programme already. When many regulators are working on the same project, we cannot currently all have a look and see what each other is doing. That would make a significant difference. We are slightly behind the curve on digital, but I think we will be prioritising—

Q74 **Chair:** Are your systems communicating properly with each other?

**Marian Spain:** Yes, definitely on the regulatory processes side. That is a shared ambition because that means we can better manage those interfaces and the customers can see which of us they need to deal with.

Q75 **Rupert Lowe:** This is a question for Philip and Marian. Given my somewhat hackneyed view of DEFRA, and my experience of it over my 40 years of farming, the question is this: what do you need from DEFRA to work more effectively together? What do you need, Philip, and what do you need, Marian? Tell the Committee what you need that you are not getting at the moment.

**Philip Duffy:** First, on data and digital, I think we are very well joined up across the DEFRA group. As Paul has said, we have a central function and we are trying to build things that are generic and modular, so that you can



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take a billing system, document management system or mapping system from the Environment Agency and give it to the MMO or Natural England. That is the fastest way of getting functionality across the group as a whole, and the best and cheapest way of doing it. What we need from DEFRA is for it to set the standards and rules—so that data standards and metadata are clear. What is the farm? Which farm is it? What is the geography going to be?

Secondly, there are obviously a lot of priorities for DEFRA—SPS agreements and other things going on across those areas. There are also some areas of legislation that we need to see prioritised. One that I would say is carrier, broker and dealer regulation in waste, because we are all conscious that that is a loophole through which criminals can enter the waste system, and that is what is causing some of the problems we are seeing in places like Kidlington. That is really urgent. We have a clear plan for it, and we need to do it now.

There has also been some really good joint work on the deregulatory side. We have been working through all the SIs we would need to give us the power to grant exemptions from permitting. We have done some for waste so far. Paul, you mentioned the work we are doing on industrial installations. We have a list of 10 areas we want to look at, and that kind of focused attention is really important. All of that is really positive.

Lastly, as a manager of the EA, we need clear targets and performance metrics from our sponsor Department, and we also need some flexibility to get on and deliver them. What we saw this year, really positively, was the withdrawal of some ringfences from DEFRA. That is actually raised in the NAO Report, and it has given us much more flexibility. We are now held to account for performance and what we need to do—"How many inspections? What do you deliver?"—but we are not tied up in knots by a lot of bureaucracy on our money flows. That has been a really important step forward. Those are a few things to suggest.

**Marian Spain:** I risk repeating you, Phil, so I will be brief. Top of my list is something we have talked about a lot already this afternoon: the clarity of the parameters within which we are working, clear guidance and frameworks, and openness. It is about how far we can go with guidance and ministerial direction, and where we might need to reform legislation.

We have already had significant legislative reform in the Planning and Infrastructure Act, so I think we have plenty to be going on with there. Looking ahead to two or three years' time, however, I think we need an honest conversation about that. We have talked about digital already. Natural England has not had a major investment, but we are expecting one next year.

The other point is a version of what you said, Phil: what will really make a difference for us is the DEFRA outcomes framework, and the environmental improvement plan, which makes it much clearer what we are aiming for. As we begin to work with DEFRA to develop the delivery pathways, that will help us to understand what we must prioritise. Of the



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600 across DEFRA, 200 are within Natural England. We simply cannot do everything everywhere all at once. It is about being able to understand where we are going to make the biggest impact, and clarity on our different choices about what we do, and the extent to which we do it, will help.

Linked to that—again, we have talked about this topic already—is the longer-term trajectory for farming: where we need to get with farmers, the need for food security, the need for resilience in farm businesses, and the need to be clear about environmental outcomes. Society now needs the farmers, and I think that will help us to prioritise as well.

Q76 **Rupert Lowe:** How, then, can we be assured? As a farmer, we fill in countless forms. We are asked for data all the time, which we still have to fill in, I guess because once Governments have a Department that asks the questions, it churns out the same questions every year, even though you already have arable area aid claims and loads of data elsewhere.

How soon will you all be able to communicate digitally with each other, so that there is not that extra burden on the people you are regulating? I have a view that most farmers have actually been extremely good tenants of their land. They have looked after it; it has been passed down; we have a wonderful countryside. Goodness knows how we all survived before all you lot were regulating us. Most farmers are not terrorists; they love their farms. They do not want to do them any damage. They are basically driven to produce food.

Paul, you have heard what was said. What are you going to do to help them? You all have to get together, because I think you all trip over each other far too much and there is a lack of clarity. How are you going to deal with that?

**Paul Kissack:** Just to reassure you on one point, DEFRA has a positive view of farmers. I live in a farming community in North Yorkshire, and that is where I'll be going home to tonight.

Q77 **Rupert Lowe:** It is not always evident, I have to say. I do not think that the farmers would agree with you.

**Paul Kissack:** I hope it becomes more evident over time. On one of your specific points about the amount of data we collect, I mentioned earlier that we are doing a review on precisely that: why we are collecting so much data from farmers. If part of the answer is that we are collecting it in duplicate and that we should be sharing it more, hopefully that will be one of the conclusions and we can get on with it. I think we are already sharing much more data than we used to, but—as with the rest of this conversation—that is progress made with much, much more to do. That is a point fairly made.

**Rupert Lowe:** And now you are talking about diversity in the countryside, as I saw this morning in *The Daily Telegraph*. I think you have got better things to concentrate on, frankly.

**Chair:** We are getting out of scope.



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Q78 **Mr Betts:** What concerns do you have about skills that you don't have but that you will need going forward? Can you easily recruit them?

**Marian Spain:** There was a comment made earlier—I think it was you Mr Betts; forgive me, we have talked about a lot this afternoon—about whether we have enough people or too high of a turnover and that sort of thing. Our turnover on paper is relatively low: we have about a 6% or 7% turnover in Natural England. Quite a lot of people stay with us for a very long time because they are driven by our agenda, and they find it a very rewarding career. However, there are two or three areas where we struggle to retain people, and where we sometimes struggle to recruit. They are particularly important at the moment, because they are part of the issue about planning, especially in the marine environment. We are looking at how we can bolster our planning professions, not necessarily through trying to compete on pay, because we simply cannot, but at how we can give our planning professionals a more rewarding career, including through that collaboration and partnership I was working with. That is my biggest concern on skills: how to retain people who can engage at a professional level in the planning system.

Q79 **Mr Betts:** Is it just retaining them, or recruiting them in the first place?

**Marian Spain:** It is a little bit of both, but of course the two are linked. If people want to apply for a job, if we can show them what their career path through will be, what professional skills they will grow—to give you an example, we are talking to some of the major offshore wind developers. They are sometimes one of our competitors, and what we have understood is that it simply does not help if they try to recruit our expert staff. So we are looking at not just working together more as a team on a case but whether we can give our—and their—staff the opportunity to move in and out of private and public sector jobs as part of a training programme. That also has the benefit of us being more likely to empathise if we understand each other's worlds better.

Q80 **Mr Betts:** But that would be challenging if the pay levels are going to be different.

**Marian Spain:** Yes. I am trying not to use the word apprenticeship because it might not necessarily be an entry-level person doing that, but it will be within that sort of philosophy: you are employed by one person through your career, but you can work on a secondment—perhaps think of it in those terms.

Q81 **Mr Betts:** How far advanced is that thinking?

**Marian Spain:** It is being planned. We have been talking to the offshore wind developers for the last six months, and there is a plan in hand.

Q82 **Mr Betts:** Philip?

**Philip Duffy:** This is a constant problem. You cannot compete with private sector salaries. You have to look at the offer as a whole, and sometimes you have to grow your own. If you are a big organisation, you just have to take that on the chin and work out what you are going to do about these



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skills. We have what we call market forces factors for six roles that are particularly hard to fix or grow your own quickly. For example, we have one for the nuclear and radiological regulators. That has cut our vacancy rate from about a third of our jobs to about 6% of our jobs; it has helped us quite a lot.

We also focus on what we can do as an employer to reach hard-to-reach groups right around the country. Last year, we had 17 staff join us on industry placements. They were often young workers in key industries that we work with. We had 27 new grads join our engineering and science training scheme, and we already have 40 people on there. We also have an engineer graduate training programme that can take you all the way from 16, through a degree apprenticeship and all the way to chartered status, which is very unusual. We have a big partnership with the Institution of Civil Engineers to do that.

We have brought 250 people into our water company compliance training programme. We have a partnership with Cranfield University and Teesside University, and we are looking for more partnerships around the country with higher education establishments that can help us get hard-to-reach talent, particularly in places that are not obvious for graduate recruitment.

One of the things about the EA that is unusual is that we've got jobs, including quite high-skilled jobs, everywhere. Therefore, it is particularly important for us that we are reaching those communities. We formed a partnership with National Highways, and we are looking very hard at whether we can get harder-to-reach talent groups, such as people who haven't worked previously and people who have perhaps been out of the workplace for many years. Can we get them into work? Can we use that as a way of getting more people? Can we get children who might not think about going to university, maybe from a more deprived community, to come and do a degree apprenticeship with us, stay with us long term in that area and get all their qualifications right up to master's level and beyond?

We are quite excited about the opportunities there and there is a lot we can do. It is also our responsibility as the Environment Agency to be in those communities doing that work. We are all ears for ideas about what more outreach we can do of that sort.

Q83 **Mr Betts:** Do you already use degree apprenticeships?

**Philip Duffy:** Yes, we do have some. We had 27 such recruits last year. We also got 38 people who are on sandwich courses. They are doing a one-year period with us as part of their degree.

Q84 **Mr Betts:** Isn't one of the problems that the public sector is often very good at bringing people in at that level, giving them really good training, but then, as soon as they get really useful and competent, they can get paid more outside? Is that a challenge?

**Philip Duffy:** It is a huge challenge. We lose people mid-career. They have families and they want to buy a house. They leave us, and they often



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come back later after a period in the private sector. I do not think that is necessarily unhealthy. I think it is quite good to have people who have worked in different sectors come into the organisation, leave it and then come back, but you are right that there is a problem there.

What I do not think is acceptable—and I think is an issue that this Committee will take quite a strong focus on—is a bidding war within the public sector. We have seen that in a few areas such as nuclear and lawyers. There is a very good initiative by the nuclear departments to bring more people into nuclear and manage that, so that we are not just seeing a circuit of people going from one department to another seeking higher pay.

That is something we have to be very attentive to. We have recently changed our grading structure for lawyers to make sure we are not just moving lawyers between the DEFRA group and the EA. That is also quite important, so there are a few areas in particular where we have to be quite attentive to that risk.

**Q85 Mr Betts:** This question, which is for both of you, and we will come to the permanent secretary as well, is on IT. We have talked to a quite a lot of permanent secretaries and others in hearings, and often, when it comes to IT skills, the pay that people can get as an alternative in the private sector is a real challenge. Sometimes the rigidity of the pay frameworks in organisations stops people with particular skills that are needed being paid more. Are you restricted in that way? Do you pay more for those particular skills?

**Paul Kissack:** Digital skills are centralised within DEFRA. As I mentioned earlier, if there was one area—I could point to others as well, such as vets and lawyers; specialist skills that are really important to us in driving our reform program—digital skills are always something that we need.

Interestingly, over the last few years, we have moved from a position where I think around a quarter of all of our digital staff were contingent. We were using a lot of agencies, but we are now at a point where I think it is about 97% in-house. If anything, that is a little bit high, and we want to lower it a bit to create a bit more flex, but it does suggest we have been bringing in digital skills reasonably successfully.

One of the other challenges on digital skills is that it is not just about the specialist digital skills that you want in the central functions. You actually want digital skills across your workforce, because quite a lot of the transformative work that we have just been talking about requires a level of digital literacy across the wider workforce, so that is that is one of our challenges as well.

**Q86 Mr Betts:** You mentioned the agency and the reduction in the number of agency staff. Is it the case in the two agencies that agency staff numbers are actually falling in terms of the percentage of your workforce?

**Philip Duffy:** We are very focused on reducing our reliance on contingent labour in our major project portfolio because we found—and the NAO has



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helped highlight this—that too often the internal capacity of the organisation to understand its own programmes and co-ordinate all of the suppliers was too weak. You actually need to have more in-house capacity that stays long term with these projects, so we are rebalancing.

There is a role for contingent labour, particularly in highly specialised areas—archaeology is a good example. But for more routine project management, management of risks in these projects and engineering roles, we feel we need a bit more in-house and a bit less outsourced. It is cheaper, too.

Q87 **Chair:** I am desperate to finish this hearing, because the clock is ticking. I need to finish up with planning and talk to you, Philip, if I may. Nothing enrages my constituents more than seeing a planning application when they know there is already a problem of discharging waste water and they do not see the Environment Agency coming in to give the local authority any advice on that application. We have a long letter from DEFRA about the changes due to the water regulations. Can you tell us exactly how you are going to monitor planning applications?

**Philip Duffy:** Yes, I can. We have made two big interventions in planning by objecting to housing applications. One was in Oxford—it was a set of objections, because we were concerned about the state of the Oxford sewage treatment works—and the other was around Cambridge for water supply, so a separate set of issues. To our knowledge, we have only done that in those two locations. It is not currently a routine element of our work, and we did it because we felt that something had gone very wrong with the regulation, particularly in Oxford.

As you will know, the situation in Oxford was that the sewage treatment works had been funded in what was called AMP7. That was the previous price review, so it should have been upgraded. The house building then proceeded along the pace previously planned for, but Thames Water had not in fact upgraded the waste water treatment plant. That meant that, under the water framework directive, there was a risk of deterioration in the upper Thames catchment. It was on that basis that we objected. We did so because that is not how it is supposed to work, but we had to do something. Actually, it brought people to the table who managed to come up with a solution to get the sewage treatment works upgraded more generally.

We would not want to be in that situation again. We would want to make sure, first, that there were sensible, credible housing projections going into the water resource management plans and waste water management plans. Secondly, we would want companies to do what they are funded to do in the price review. Thanks to DEFRA colleagues, we have a much more invasive monitoring system between us and Ofwat to make sure that they are building, on time, the things they have promised to do. We would then hope that we would not be in a situation where house building was running ahead of the provision of essential waste water treatment plants. We are looking very carefully at things like the Oxford-Cambridge growth area to



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make sure that the housing numbers and projections are stable and credible in that process.

Q88 **Chair:** So one way of doing this is not to wait for the individual planning application but to look at the local plan process. For example, Tewkesbury, Cheltenham and Gloucester are working on our current local plan, which is envisaging 40,000 new houses in the next 20 years. You are presumably going to need to intervene in that to make sure, first, that there is enough fresh water and, secondly, that the waste water will be disposed of properly. How are you engaging with the local plan process?

**Philip Duffy:** We are not consulted on all these plans. Our role as a formal consultee is limited to certain circumstances: flood—you will be aware of that—but also mining and few others, COMAH and so on. Essentially, if you think about that proposal, that is 20 years of housing growth across Tewkesbury and Gloucestershire. That is four price reviews that we would have to go through and four sets, in the current law, of water resource management plans and waste water management plans. You would expect the regulators to align the numbers with the plans. That has not always happened. You will note that in Bath, they did not upgrade the waste water treatment plant for the growth in the university population and we had to step in there. But our thinking behind that is to make sure that they are coherent.

In the context of Cunliffe, he proposes a simplification of this system. DEFRA has also clarified what the fall-back needs to be if there is no local plan agreed in a certain area, which I think is a healthy set of arrangements to make sure that we have more credible numbers. But you are completely right that, if you saw a massive leap in numbers that could outpace the speed of Ofwat and the EA in adjusting the investment plans, we would have a problem. I am sceptical that you will get that many houses built faster than in five years, though.

Q89 **Chair:** You two agencies are presumably looking at the same planning applications. Surely there is much more synergy that could be done between the two agencies, with one person looking at the plans rather than two.

**Marian Spain:** Possibly. Certainly, our people do not look at the plans in isolation. Reflecting on your previous point, it was very well made: we are now spending more of our time looking at the plan than individual projects because, if we can design the problems out soon enough, we do not need to intervene on individual cases. At that planning level, we certainly have our teams. At a local level, as Phil has already said, we both have staff who are based locally and live in those communities, and they work pretty closely together on planning—strategic planning in particular.

The reforms that are coming to bring in the new spatial development strategy will add even more weight to having plans that consider impacts at a strategic level much earlier so that the conflicts are dealt with in the plan.



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**Philip Duffy:** Simple things like having common maps really help. The data is the same. We don't need to constantly resurvey it because we know the situation.

Q90 **Chair:** Paul, Philip has just said that he is not a statutory consultee in every local plan-making and strategic planning process. Why not? Why can he not be given those powers?

**Paul Kissack:** I might look to Sally, who is a bit more of an expert in the planning system than I am, to try to have a go at that question. To pick up the point about the join-up between the two and to link back to our digital conversation, our digital transformation programme will include terrestrial planning and infrastructure. We are going to bring these systems together so that we have one view from DEFRA in a way that we have not in the past.

**Sally Randall:** Obviously our regulators are statutory consultees and have a particular role in the process. It is the Environment Agency for flood, and Marian's team for nature. The water companies are the consultees on water supply, but that does not mean that the Environment Agency does not get involved. It has a really important role in the process; it is just not always as a statutory consultee.

Q91 **Chair:** This is the final question from me. I didn't have to try very hard, and I came up with nine reasons why the EA and the NE should be merged together. After all, you are merging the water sector together, so why are the EA and Natural England not being merged together? I have nine very good reasons here. I will not read them out because I want to finish this hearing.

**Paul Kissack:** What we want to do is make the system work better, and we want to do that quickly. You need to set a very high bar for a decision that you need a structural change of any sort. The Government have decided that that bar is met when it comes to the water system, for the reasons we were talking about earlier. Basically, the system of regulation that we have for water is sufficiently broken that the best way is to start again, as it were, with a new single regulator across the system. I don't think that is the case when we come to the regulations that we have been talking about today.

I think there are things that we need to get better at—in some cases, a lot better—and hopefully we have had a good conversation about that, but the idea of a structural change would be quite a big distraction. The challenge is how we focus on the underlying legislation and regulation and continue to iterate that, and how we improve our customer services, our guidance and the way in which we work. There is a challenge for us to join up—not in a structural way, but in a ways-of-working way. If we can achieve that, we can make much faster progress on the agenda that we have been describing today.

**Chair:** Thank you very much for all your evidence this afternoon. If you are not going to merge them, we will keep a very close eye on DEFRA to make sure they are co-operating better and living up to the very high



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expectations that you have given them this afternoon. You are going to give them very, very clear remits, which is what they have both asked for.

Thank you all for your evidence this afternoon. It is much appreciated. An uncorrected version of the transcript will be available in the coming days. We will be looking at your evidence very carefully and coming up with recommendations, which I hope you will look at equally carefully.