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PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

First Sitting

Tuesday 10 March 2020

(Morning)

CONTENTS

Programme motion agreed to.
Motion to sit in private agreed to.
Written evidence (Reporting to the House) motion agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 14 March 2020

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The Committee consisted of the following Members:

Chairs: †SIR ROGER GALE, SIR GEORGE HOWARTH

† Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Morden, Jessica (<i>Newport East</i>) (Lab)
† Ansell, Caroline (<i>Eastbourne</i>) (Con)	† Oppong-Asare, Abena (<i>Erith and Thamesmead</i>) (Lab)
† Bhatti, Saqib (<i>Meriden</i>) (Con)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP)	† Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op)
† Docherty, Leo (<i>Aldershot</i>) (Con)	Thomson, Richard (<i>Gordon</i>) (SNP)
† Edwards, Ruth (<i>Rushcliffe</i>) (Con)	† Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab)
† Graham, Richard (<i>Gloucester</i>) (Con)	Adam Mellows-Facer, Anwen Rees, <i>Committee Clerks</i>
† Longhi, Marco (<i>Dudley North</i>) (Con)	† attended the Committee
† McCarthy, Kerry (<i>Bristol East</i>) (Lab)	
† Mackrory, Cherylyn (<i>Truro and Falmouth</i>) (Con)	
† Moore, Robbie (<i>Keighley</i>) (Con)	

Witnesses

Signe Norberg, Public Affairs Manager, Aldersgate Group

Edward Lockhart-Mummery, Project Convenor and Principal Investigator, Broadway Initiative

Martin Baxter, Chief Policy Adviser, Broadway Initiative

David Bellamy, Senior Environment Policy Manager, Food and Drink Federation

Andrew Poole, Deputy Head of Policy, Federation of Small Businesses

Martin Curtois, External Affairs Director, Veolia

Public Bill Committee

Tuesday 10 March 2020

Morning

[SIR ROGER GALE *in the Chair*]

Environment Bill

9.25 am

The Chair: Good morning, ladies and gentlemen. Ordinarily, the public would be invited in for the initial brief announcement and then have to go out again, so we thought we would save them the effort. There are a couple of preliminary points. Please turn off your mobile phones. I have a tendency to send Members to the Tower if they allow their phones to ring. I am checking my own, as well. I am afraid that tea and coffee are not allowed, so those who want a tea or a coffee will have to go outside to have it.

We will consider the programme motion and the motion on reporting written evidence for publication and then have a quick chat in private. It is easier than yanking people in and chucking them out again. We will try to take the motions without too much debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25am on Tuesday 10 March) meet—

- (a) at 2.00pm on Tuesday 10 March;
- (b) at 11.30am and 2.00pm on Thursday 12 March;
- (c) at 9.25am and 2.00pm on Tuesday 17 March;
- (d) at 11.30am and 2.00pm on Thursday 19 March;
- (e) at 9.25am and 2.00pm on Tuesday 24 March;
- (f) at 11.30am and 2.00pm on Thursday 26 March;
- (g) at 9.25am and 2.00pm on Tuesday 31 March;
- (h) at 4.00pm and 7.00pm on Tuesday 21 April;
- (i) at 11.30am and 2.00pm on Thursday 23 April;
- (j) at 9.25am and 2.00pm on Tuesday 28 April;
- (k) at 11.30am and 2.00pm on Thursday 30 April;
- (l) at 9.25am and 2.00pm on Tuesday 5 May;

(2) the Committee shall hear oral evidence in accordance with the following Table:

Table

Date	Time	Witness
Tuesday 10 March	Until no later than 10.30 am	Aldersgate Group; Broadway Initiative
Tuesday 10 March	Until no later than 11.25 am	Food and Drink Federation; Federation of Small Businesses; Veolia
Tuesday 10 March	Until no later than 2.30 pm	Local Government Association
Tuesday 10 March	Until no later than 3.30 pm	Natural England; Wildlife Trusts; Country Land and Business Association; NFU
Tuesday 10 March	Until no later than 4.00 pm	National Federation of Builders
Tuesday 10 March	Until no later than 5.00 pm	Greener UK; Greenpeace; Royal Society for the Protection of Birds

Table

Date	Time	Witness
Thursday 12 March	Until no later than 12.15 pm	Asthma UK and British Lung Foundation; UNICEF; Air Quality Expert Group; ClientEarth
Thursday 12 March	Until no later than 1.00 pm	Water UK; Blueprint for Water; Marine Conservation Society
Thursday 12 March	Until no later than 2.45 pm	George Monbiot; Wildlife and Environment Link
Thursday 12 March	Until no later than 3.15 pm	Keep Britain Tidy; Green Alliance
Thursday 12 March	Until no later than 4.00 pm	Chem Trust; Chemical Industries Association; Unite
Thursday 12 March	Until no later than 5.00 pm	Scottish Environment LINK; Environmental Protection Scotland; Law Society Scotland

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 21; Schedule 1; Clauses 22 to 45; Schedule 2; Clause 46; Schedule 3; Clause 47; Schedule 4; Clause 48; Schedule 5; Clause 49; Schedule 6; Clause 50; Schedule 7; Clause 51; Schedule 8; Clause 52; Schedule 9; Clauses 53 to 63; Schedule 10; Clauses 64 to 69; Schedule 11; Clause 70; Schedule 12; Clauses 71 to 78; Schedule 13; Clauses 79 to 90; Schedule 14; Clauses 91 to 100; Schedule 15; Clauses 101 to 115; Schedule 16; Clauses 116 to 122; Schedule 17; Clauses 123 and 124; Schedule 18; Clause 125; Schedule 19; Clauses 126 to 133; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 5 May.—(*Leo Docherty.*)

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Leo Docherty.*)

The Chair: Written evidence will be made available in the Committee Room. I take it that the Committee is happy to receive it.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Leo Docherty.*)

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Signe Norberg, Edward Lockhart-Mummery and Martin Baxter gave evidence.

9.30 am

The Chair: Good morning, ladies and gentlemen. Thank you for joining us. We shall now hear oral evidence from the Aldersgate Group and the Broadway Initiative. Before we start, I would be grateful if you would be kind enough to identify yourselves for the benefit of the record.

Signe Norberg: I am Signe Norberg. I am the public affairs manager at Aldersgate Group.

Edward Lockhart-Mummery: I am Edward Lockhart-Mummery, convener of the Broadway Initiative.

Martin Baxter: I am Martin Baxter, chief policy adviser at the Institute of Environmental Management and Assessment. We are home to the Broadway Initiative.

The Chair: Thank you—and thank you for giving your time this morning. We have limited time, as you are aware, before I will have to draw the sitting to a close. Concise answers—I have already urged my colleagues to ask concise questions—will help us to get through the business.

Q1 Dr Alan Whitehead (Southampton, Test) (Lab): Good morning. I would like to start with some thoughts about the Office for Environmental Protection. You will have seen from the structure of the Bill that the office will be set up by the Government, essentially, and will have certain powers, but many people say that, in other areas, it lacks independence or teeth. What is your view of the structure of the OEP?

Martin Baxter: I might as well go first. I think we would share some of the concerns around independence. I think there is an opportunity for greater independence, particularly on the appointment and removal of the chair. The Office for Budget Responsibility has a confirmatory vote for the appointment of its chair, and I think a similar mechanism could be put in for the OEP. It has a wide range of powers and duties. Potentially, some of the powers could become duties, particularly if there are changes to targets, but, largely, it is a body that could have strategic effect in helping to drive improvements in environmental performance.

Signe Norberg: We would agree that the OEP will have a wide remit, and some of its powers are really welcome. We share the view that there are some aspects, with regard to its independence, that we would like strengthened, particularly on matters explicitly to do with funding and the commitment that the Government made previously, in the pre-legislative scrutiny on the previous draft Bill, to having an explicit five-year budget on the face of the Bill, to make sure that there would be long-term certainty. We also support calls for Parliament to have a role in the appointment of the chair of the OEP—making sure that the relevant Select Committee was involved in the appointment process.

Edward Lockhart-Mummery: I would just make a wider point, from a business perspective. I think that the OEP has an important role to play because it gives confidence in the overall system. That is why independence is important. I just wanted to fill in that gap as to why business thinks that independence is important in terms of having a really credible body. That can also be achieved in the way that it operates. I found this with the Committee on Climate Change. One of the important things is the appointment of the first chair—and, actually, the second chair. The chair can determine how a body like that works in practice—its credibility, the things it chooses to pursue, how it gives strategic advice, and things like that. So I think it is also very much the way, and the type of person who is the chair, that are important.

Q2 Dr Whitehead: You reflected on the independence of the OEP and have suggested that concerns might be raised about its funding and funding cycle. Are there amendments you would like to see to the Bill to establish

that independence in a clearcut way? Along with the OEP's potential independence, would you like to see something specific in the Bill that protects its remit and funding cycle so we can be assured that it will not be subject to the vicissitudes of the Department or the Exchequer?

Signe Norberg: With regards to the specific areas of the Bill, there could be strengthening amendments to schedule 1, which sets out the appointment process. A paragraph in there to specify the role of the Select Committee in appointing the chair would strengthen the Bill, because the OEP's chair has the power to select the other members. Within that, there is also a funding section, which could establish the five-year process. The important thing is that the OEP, with its formidable remit, will have independence and certainty in the long term. That should go beyond this Government, secure in the fact that successive Governments will deliver on the commitments. It should have a baseline budget to operate from, regardless of economic circumstances. If the funding mechanism in schedule 1 is strengthened, that would be welcome and really bolster the OEP's ability to do its work.

Martin Baxter: In terms of a specific amendment, paragraph 2(1) of schedule 1 could be changed. It says:

“Non-executive members are to be appointed by the Secretary of State”,

but you could add to that, “with confirmation from the Environmental Audit Committee and/or Environment, Food and Rural Affairs Committee.” That would give Parliament enhanced power in that appointments process. That is a targeted, small amendment that could enhance independence in the process.

Q3 The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow):

Thank you so much for coming in; it is really appreciated. I have two points to pick up, one of which was raised by Ms Norberg. I think you suggested that the Office for Environmental Protection, the overarching body that will hold public bodies to account, ought to be more like the Office for Budget Responsibility, but that body does not have the enforcement functions that the OEP will have. Do you have any views about that?

Signe Norberg: The point about appointing the chair is more about ensuring that there is scrutiny around who is appointed as chair. We fully recognise that the OEP will have a different remit compared to the OBR. It is more about ensuring that Parliament has a role in appointing the chair.

Q4 Rebecca Pow: The OBR and what we are proposing for the Office for Environmental Protection are quite different in terms of functions. The Office for Environmental Protection is more like the Equality and Human Rights Commission and very much set up on those lines. Do the others have views on that?

Martin Baxter: Given the importance of the OEP and questions about independence and holding public authorities, including Government, to account, stakeholders feel that that enhanced independence is very important. The model of having a confirmatory vote from the appropriate Select Committee in that appointments process is something that the OBR has in its remit, and we think that could be transferred across to the OEP as well. That is not to say that they do not have very different functions as bodies; we fully accept that.

Q5 Rebecca Pow: Could I widen it out a bit? Industry and business have been very engaged in the development of the Bill, which is much appreciated. One of the strong messages we got from your two groups, in particular, was that you wanted legally binding targets and strong direction in the Bill. Why do you feel that is so important? Can you help the Committee understand whether the Bill is strong enough and why you want that?

Edward Lockhart-Mummery: You are absolutely right. We have been working on this for about two or three years with a wide group of business organisations. We have got 20 of the main business groups, covering all sectors, from the Federation of Small Businesses to the CBI, Make UK, Water UK and the Home Builders Federation. Consistently across that group, the notion of a long-term framework for the environment is incredibly important.

We did a bit of research looking at the timescales over which businesses take decisions, whether it is project cycles, investment cycles for capital, or whatever. A lot of the investment cycles are very long. Unless you have a long-term framework for the environment, it is difficult to make the kind of improvements that we would all like to see.

In the past, we have often had very short-term decision making on the environment, which makes it difficult for business to adjust. If we are constantly in that cycle of responding very quickly and introducing policies on a one or two-year basis, it is very hard for business. Everyone—human beings—wants to see a clean and good environment. Business supports that as much as everyone else. If they have clarity over the long-term direction of policy and a clear set of targets, they can start designing. Whatever sector you are in, you can start designing.

Let me give you a quick example. We are working with the home building sector on a sectoral plan for all new houses, for the environment, because we have got the clarity of net zero and because we are getting clarity on targets through the Environment Bill. The sector can suddenly sit down and start saying, “Right, these are the long-term things we need to plan for—water efficiency, flood resilience and air quality.” They can start investing in the R&D and driving innovation.

We think that is very important, and we advocated very strongly right from the start. We put together a blueprint for the Environment Bill. We have advocated very strongly to Treasury and others that that long-term framework is important. We think it is a game changer, in the sense that, as soon as you have that, rather than environment being a compliance issue within firms, it becomes a strategic issue within firms, sectors and local areas, where everyone can build this into what they are doing.

In principle, we think targets are fantastic and we really welcome them in the Bill. We also think that there are some small changes that could be made to the target-setting framework that would be win-wins. They would improve the ability to achieve environmental outcomes but also reduce costs and increase certainty for business. I will focus on two—so that I am not hogging the microphone, I might then hand over to colleagues. One is that we would really like to see clear objectives in the Bill. At the moment, there is a target-setting mechanism, but it is not exactly clear. It says that four targets will be set in four areas, but it is not clear exactly

what targets would be set. It would give greater clarity to have objectives that consistently show what kind of targets are going to be set and give that long-term clarity for everyone.

We have often made the point that, in the past 10 years, we have had eight different Secretaries of State at the Department for Environment, Food and Rural Affairs. If they all set their own targets, depending on what they are interested in, you could end up with a patchwork of targets. We would really like to see clarity on the objectives. This is the kind of thing we are talking about. If the Bill said something like environmental objectives would be to have a healthy, resilient and biodiverse natural environment, an environment that supports human health and wellbeing for everyone, and sustainable use of resources, those would be high-level objectives but would give everyone clarity, as to how targets would be set.

Rebecca Pow: May I just interrupt you there for a second? I might bring the other gentleman in from the Broadway group—

The Chair: Minister, if anybody brings him in, it will be me. May we please finish hearing what is being said and then you can come back in?

Edward Lockhart-Mummery: One thing we did with IEMA is a big survey of about 370 people working in businesses and different organisations. I think 95% of them supported having objectives in the Bill. That is that one.

The other thing is to have a clearer duty right at the start that environmental improvement plans have to enable the targets to be met. At the moment, the targets are legally binding in the sense that if you miss a target, Government have to make amends and take action, and there is a reporting mechanism. What is missing—and is in the Climate Change Act 2008—is what we call a day one duty, something that says there is a duty on the Secretary of State to make sure that they are putting in place the right policies to support this. These two things would underline that clarity and long-term certainty for business and reduce long-term costs for business to achieve the outcomes.

The Chair: Ms Norberg, do you wish to add anything before I go back to the Minister?

Signe Norberg: I would like to add that our business members, who represent around £550 billion of global turnover, do support the Bill. They really want to see a robust environmental regime, because they fundamentally believe that environmental policies make clear economic sense for them. It is also better for the overall environment.

On why businesses want to see that happen, it does not just make clear economic sense; it also provides a stable environment in which they can invest in their workforce and in green products and services, and innovate their business model. If the Bill clearly sets out what is expected and by when, and what the targets are in the intermediate term to meet these objectives, it will help businesses to adjust their business model, where needed, but also to go beyond the targets.

We would certainly support some of the points that Ed has made about objectives. We would also like to see the interim targets strengthened further, because when you have certainty about what is going to happen in the next five years, it helps you also to look at the long-term targets that are 15 years ahead. If there is also something

around remedial actions—so that when it looks like the intermediate targets are going to be missed, action will be taken—that will give businesses certainty around what is expected of their sector, but also about how they fit within the overall environmental framework.

Q6 Kerry McCarthy (Bristol East) (Lab): Leading on from what you were saying about the interim targets, how do you strike the balance? At the moment, you have very long-term targets of at least 15 years. I accept what the other witnesses were saying about how that gives business certainty, because decisions are made on a long-term basis, but if your target is way into the future, the danger is that you do not drive progress in the interim. The Aldersgate Group clearly supports interim targets.

Signe Norberg: Certainly, and that stresses the importance of the interim targets, with the long-term targets being, as they should be, long term and indicating the direction of travel. The interim targets help to drive progress in the intermediate term, but also help us to see where we are and what we need to do to put us back on track. If we strengthen the interim targets, that will certainly be something that we know our businesses would welcome, because it not only provides the direction of travel but helps them look at their own model.

Martin Baxter: We fully support long-term targets because they give the strategic predictability and confidence for business to invest over the long term. The importance of interim targets is that they determine the pace at which we need to make progress, hence the need for a robust process for setting the long-term targets and involving businesses in the interim targets, to ensure absolute clarity about the likely investment needed to achieve progress at the rate we need. If we want to speed up progress, the question is, “How much will it cost and where will the cost fall?” We have to make sure that businesses are part of owning some of these targets, because they are the ones that will have to make the investment to deliver them. They have to understand what changes will be needed and what policy mechanisms might need to be introduced to ensure that that can all be achieved. That is where the role of interim targets and their link to environmental improvement plans, and the robustness with which those interim targets will be set, is really important.

Q7 Kerry McCarthy: Mr Lockhart-Mummery, you also spoke about objectives. I am interested to know how those objectives would fit with targets and interim targets, and how that would pull the whole purpose of the Bill together. Perhaps in your answer you could say a little bit more about that as well?

Edward Lockhart-Mummery: Absolutely. The objectives would guide how the targets and interim targets were set. The Secretary of State, when setting targets, would have to think how those targets would contribute to meeting the long-term objectives. That would be the legal mechanism. When stakeholders were having discussions with Government, everyone would understand the purpose of those targets and that would temper the discussion, because everyone would have a clear vision for what they were.

Objectives could also determine how principles and environmental improvement plans are applied in the Bill, so that when you are developing environmental improvement plans, you are also thinking, “What are

we trying to achieve through this Bill?”, when you are applying principles and when the OEP is exercising its function. Thus, everyone is clear on the purpose of all those processes in chapter 1 of the Bill, which is the governance framework, and those objectives link to how the Government applies those processes, so that it is clear externally what we are trying to achieve. Then businesses, local authorities and other organisations know what we are trying to achieve through the Bill and know that when Government pull all those levers, it is all trying to go in a particular direction.

Q8 Kerry McCarthy: But you would also support interim targets further downstream?

Edward Lockhart-Mummery: We definitely support strengthening the targets. This is something we have discussed a lot in our group, and there are slightly different views of exactly how you do it. Some people would support the targets’ being legally binding, and others say that the final targets should be legally binding, but on the interim targets there needs to be more transparency. Then, if an interim target is not met, it could be that it triggers more of a reporting process, where the Government say, “We have missed the interim target. This is why, and this is what we’re doing about it,” rather than their being legally binding.

Potentially, if you made those interim targets legally binding, it could have perverse effects. Government might be a little less ambitious in setting interim targets, because it is always harder to know exactly what you are going to be able to do in the shorter term, particularly when some things require a lot of capital investment. If the target is to increase recycling rates, that requires a lot of capital investment or whatever.

There are some questions about exactly how you would set those interim targets. Because they are nearer term, it is more likely that the same Government will be in power when they are met, so what you do not want is for them to end up being very unambitious in setting the targets. A transparency mechanism would certainly be very good.

Q9 Richard Graham (Gloucester) (Con): Can I come back to Mr Baxter first? In the brief you gave us before this sitting began, you mentioned two ways that you thought the Bill could be improved. Although you raised earlier the importance of the selection or election of the OEP chairman and so on, your focus in the written evidence was more on structural issues. Could you flesh out what you meant by

“enhancing the coherence between the different governance elements so they are mutually supportive and aligned to drive environmental improvement to a common purpose”?

That sounds like management-speak. Can you try to bring it alive and explain what you really have in mind and what the benefits of it are?

Martin Baxter: Certainly. There are three key elements in the governance section of the Bill. First is the process for setting legally binding targets, and underpinning that is the significant improvement test in the natural environment. The environmental principles have a slightly different objective, on environmental protection and sustainable development. The Office for Environmental Protection has a different set of objectives as well. We think there is a real opportunity to set a common purpose in terms of clear objectives, as Ed has outlined,

and to point all aspects of the governance process into achieving those. That is where we think you could get far greater coherence and cohesion between the different elements.

Q10 Richard Graham: Can I just explore that a bit more? On page 13, in part 1, the principle objective of the OEP is pretty clear:

“to contribute to—

- (a) environmental protection, and
- (b) the improvement of the natural environment.”

Page 1 of the Bill is about making provision to improve the natural environment and environmental protection. Those two seem to be very closely aligned, are then not?

Martin Baxter: In part, they are, but they could be further brought together. The real test of the targets and the EIPs is whether significant environmental improvement is being met. It is that test that underlies why we are setting targets and it forms the basis on which environmental principles will be applied, potentially, and also the role of the OEP. We think that could provide greater cohesion, via all things pointing to that common purpose.

Q11 Richard Graham: Mr Lockhart-Mummery, you said early on that the Bill needed clear objectives at the beginning. Given what Mr Baxter has just said, do I take it that you want to see a fleshed-out opening paragraph that talks about not just improving the natural environment but what the benefits that we are looking for from that should be?

Edward Lockhart-Mummery: Exactly. Improving the natural environment is a good start. That could be clearer. For example, improving health is not there clearly in “improving the natural environment”, yet quite a lot that we would want to do—improving air quality, nature and so forth—is about health. Being really clear that this is also about health and wellbeing is important. Then there is sustainable resource use. At the moment, there is a big focus on single-use plastics, very rightly. If, in the very short term, we only thought about single-use plastics, we would not necessarily drive holistic sustainability overall. We might rush out of plastics into aluminium or other things, whereas what we really want to know is, right at the top, that this is about using the resources that we have sustainably. If that is clear at the top of the Bill, everything drives that. We do not take siloed short-term decisions, but we are clear that when we are setting targets we are looking to use our resources sustainably overall to contribute to a healthy, resilient, biodiverse natural environment, to health and to wellbeing for everyone. Those three objectives capture almost everything you could want to do through this Bill, alongside decarbonisation, which is the territory of the Climate Change Act 2008, but both are mutually supportive.

Q12 Richard Graham: That sounds as if what both of you are saying is that you want to see an introductory paragraph that lays out, before the stuff that is quite process-y, the benefits that we are trying to drive out through this Environment Bill a bit more clearly.

Ms Norberg, your earlier statement was slightly different. It was less on the ambitions of what the output would be and more on further improvements to strengthen the

regulatory framework and the target-setting process. There is quite a lot of detail in terms of the targets and interim targets, is there not? How much more process can a Bill really have?

Signe Norberg: I would begin by saying that we also support Broadway’s ask around an objective. We thoroughly support that because we think it gives the long-term direction—which is set out here, but an objective would provide a little more detail. In terms of the processes around interim targets and the target-setting process, this is not so much about adding in more process—as you say, what we have is already quite a heavy process document—but more about clarifying some aspects, which would be quite welcome. We have touched a little today on the interim targets. It is not about changing them but about maybe clarifying that when intermediate targets look to be off track, there is recourse to put them back on track or the Secretary of State looks at how we will get back on track by updating them. There is a little bit there, but this is about adding further language to clarify a point like that. This is not about adding further process; it is more about adding clarification.

Q13 The Chair: Thank you very much. Mr Graham, I am conscious of the fact that there are a number of other Members who want to come in. I cannot allow one Member to dominate the entire proceedings.

I am going to do something now that I should have done at the beginning—I apologise for this. Before I bring in Deidre Brock, will Ms Norberg and one or others of you gentlemen, very briefly, identify whose interests you represent?

Signe Norberg: We represent an alliance of businesses, non-governmental organisations and academic institutions. They cover several different industries, work across economies and have scale. We look at their specific industries. All of that comes together to create a holistic environment for businesses and the natural environmental flow.

Edward Lockhart-Mummery: The Broadway Initiative brings together the mainstream business organisations across sectors from the Federation of Small Businesses to the CBI, as well as groups covering each important sector that touches on the environment. That is our core group. We also work with professional bodies such as the IEMA and academic bodies, and we work closely with environmental groups. We are committed to the outcomes committed to by the Government through the 25-year plan and net zero. We are keen to explore how we can really make that work through the economy.

The Chair: Thank you very much. I apologise; I should have asked that at the beginning for the record, and because there are people in this room who may not read everything that they should have read into just the bald titles.

Q14 Deidre Brock (Edinburgh North and Leith) (SNP): Returning to the OEP, what are your thoughts on the relationship between the OEP and the environmental governance bodies, including the Committee on Climate Change, the Environment Agency and Natural England? Major budget cuts have clearly been made at Natural England recently, and the organisation has expressed concerns about its ability to monitor environmental breaches. What are your thoughts on how that works, or does not work, in the Bill?

Martin Baxter: We support the creation of the OEP. Its role in ensuring that public authorities fulfil their duties under environmental law is important. That remit is quite different from the role of the Environment Agency, Natural England and the Committee on Climate Change. That committee has an advisory role; it does a lot of analysis and a lot of fantastic work, but it does not have a role in holding public authorities to account for the delivery of net zero commitments. That is an important distinction to make between the OEP and the Committee on Climate Change.

Ideally, the OEP will be a strategic body able to look at where our governance system might either need to be strengthened or become more effective, and then make recommendations. It has an important monitoring and scrutiny role that extends into progress towards achieving long-term targets and looking at environmental improvement plans, so at least we will have a transparent and independent view of that, which is important. We welcome that.

The OEP also has an ability to advise on the implementation of environmental law. That implementation role is critical, because the effectiveness of environmental law is often in the extent to which it might be properly enforced. In terms of monitoring the implementation of environmental law, the OEP has the power to comment on whether there are sufficient resources in place for those laws to be properly implemented, enforced and delivered. There are the right hooks in the Bill, in terms of the OEP's role and remit, to allow that to go forward.

The Chair: Ms Norberg, do you want to come in?

Signe Norberg: Martin summarised it fairly well. There is a recognition that these bodies will have to have some level of co-operation. That will be important in terms of the practical aspects of these bodies.

Q15 Deidre Brock: You sound a wee bit equivocal or dubious about whether the OEP has sufficient powers to enforce this properly. That is the impression I am getting; correct me if I am wrong.

Martin Baxter: No, it has the powers to be able to do it. The question is how it chooses to use its powers. In setting up the OEP, one of the first things it has to do is develop its strategy, which will be absolutely crucial in determining the direction that it sees for itself, in terms of implementing the powers and duties that it has. If it chooses to utilise those powers to help to drive systemic change where there may be weaknesses in our system of environmental governance, that would be really welcome. That is what we expect it to be able to do.

Q16 Bim Afolami (Hitchin and Harpenden) (Con): Ms Norberg, in the event that, in the future after the passage of the Bill, the British Government—for whatever reason—do not perform very well and do not do the things that we believe they should, who should be the main accountable individual or group of individuals for that?

Signe Norberg: Within Government?

Q17 Bim Afolami: I am trying to say that you presumably want the Government to be accountable for this, through Parliament and, ultimately, to the electorate in our elections. Do you agree?

Signe Norberg: Yes.

Q18 Bim Afolami: So, going back to what we were talking about at the beginning around the Office for Environmental Protection, and thinking about accountability, what is your sense of giving more power to Parliament, as opposed to the Government? My reading is that that might actually impact on that accountability.

Signe Norberg: I am not entirely sure that I agree with that. The Bill gives a lot of powers to the Secretary of State to provide an overall framework to meet targets, working with the chair of the independent OEP. With regard to having Parliament as part of that, that is just an additional mechanism to give further authority to the OEP. It is not necessarily to act as a hindrance; it is more about the Bill giving Parliament a role in the OEP's setting up, to make sure that it is truly independent, because it is meant to be for the ages. As you rightly put it, we do not know what will happen in the future, so this is more about ensuring that the setting up of the OEP, and particularly the chair, because of the essential role of the chair, is robust enough.

Q19 Bim Afolami: You mentioned independence. Do you think there is a danger that if you were to increase the distance between the OEP and the Secretary of State and the Department, you might end up in a situation in which the Government are trying to do one thing and the OEP is trying to do something else? Obviously, in all government there is a natural tension all the time, but I suppose my point is: do you not feel that, in our parliamentary system, we should hold the Secretary of State to account fully for all the decisions that get made, including those relating to the chair and the nature of everything we are talking about? Do you not worry that if you were to increase that distance, you might reduce accountability for that individual, because they may say, "Look, the Office for Environmental Protection did this, but I did not agree"?

Signe Norberg: The purpose of the OEP is to hold public authorities to account. Because of that, it should have a little bit of distance from the Secretary of State. That does not mean that it is completely separate. Through its annual reporting and so on, it should be able to criticise the Government where appropriate. Surely they should also work together. I am not necessarily sure that I agree that it would limit the effectiveness of the system itself. The OEP should be a critical, independent friend of the Government, to achieve that natural improvement.

Q20 Bim Afolami: So it should be a bit like an environmental National Audit Office, which is the way I like to think about it?

Signe Norberg: Yes, I would not disagree with that characterisation.

Edward Lockhart-Mummery: There is a relationship between Government and the electorate every five years. The OEP has an important role in making transparent just what is going on in the interim period so that the electorate has the right information every five years and can see transparently what has been going on, what the Government have been doing, how that has affected the outcome, whether the Government have been pulling the right levers and that kind of thing. That is a role that the CCC plays very effectively on climate change, because people are increasingly aware of how the Government are performing. There is a role. The CCC is playing that role with probably less independence than the OEP currently has.

I take your point that there is a question. You do not necessarily want to go to an extreme on independence. Somehow you need to get the balance right. The question of Parliament having a say over appointments is quite interesting, partly because when a Secretary of State is appointing a chair, they are thinking, “Is that a chair that the EFRA Committee and the EAC across all parties will accept?”. I think that is quite an interesting discipline. It removes any fear that it might just be the Secretary of State appointing their chums, if they know that it will be properly scrutinised across parties. That degree of independence would be quite effective, but I take your point.

The CCC is not particularly independent, but putting forward the advice on net zero was a bold thing to do. It was able to do that. The role of transparency and making clear to the electorate what is going on could be the body’s most important function.

I would also expect that an effective body would not take Government enforcement action all the time. What you do not want is a body constantly doing that. What the OEP might effectively do is make clear from the start, “These are the types of cases we are going to take and why.” That would send a clear signal to Government and then you would hope that there would not be loads of enforcement cases, with the OEP taking public bodies to court.

Q21 Alex Sobel (Leeds North West) (Lab/Co-op): Following on from that question, clearly the duties of the OEP in investigation and enforcement are very important. We have a regulatory environment that finishes in December this year. The OEP will not be up and running in January next year. Do you have concerns that there will be a governance gap in the interim? How do you feel about the independence of enforcement, investigation and action that is taken on potential breaches in that interim period?

Signe Norberg: From what I understand, there is a Government ambition to prevent that being the case, and that is why we have seen the inclusion in the Bill of the interim chief executive officer. In so far as that is a safeguard to ensure that we have the OEP set up by 1 January, I think that is welcome. It stresses the importance of ensuring that this is robust enough and that you get on with appointing the permanent chair and the permanent executive directors of the OEP as quickly as possible.

Martin Baxter: If you look at the role of the European Commission, which is where in part the OEP comes from in terms of its functions and that watchdog role, the Commission moves very slowly. It does not take rapid action. It does not instigate infraction proceedings against member states. There is a build-up of a process by which you can start to see the Commission giving a warning shot across the bows, where there might be a member state that is not in a position to achieve everything. I do not see a huge challenge in terms of a governance gap with the OEP becoming set up in the timescales that are being discussed. I do not think that is a material weakness.

Q22 Alex Sobel: This is a different subject, but something you alluded to earlier was the need for a broader strategic aim. Other countries have an overarching environmental objective as part of their environmental legislation. The shadow Minister, my hon. Friend the Member for

Southampton, Test, has tabled an amendment that at the start of the Bill there should be a clause stating an environmental objective. Do you think that would improve and strengthen the Bill?

Martin Baxter: Definitely; I think we made that clear in our earlier comments. We see that internationally. The Dutch Environment and Planning Act has a clear set of objectives that frame the purpose of the legislation. I think you also see that in the Environment (Wales) Act 2016. This is not without precedent in the UK and internationally. It provides that direction of travel and the opportunity to think about the different parts of the Bill as a coherent whole.

The Chair: Before I come back to the Front Benches, are there any other questions from either side?

Q23 Ruth Edwards (Rushcliffe) (Con): I am interested in the witnesses’ views on the whole system of environmental governance and how well it works together, including the targets, the environmental protections and the Office for Environmental Protection. Do you think that it works together holistically? Are there any gaps? It would be good to get your views on that.

Martin Baxter: We have touched on the issue of coherence, which is fine. The key elements of a national framework are there, at least for England, because the governance aspects do not stretch into all parts of the UK. It is important to recognise that. There is a certain rhythm between the process for setting targets and the development of an environmental improvement plan, which is aligned to achieving the targets. Then there is a process of implementation and reporting by the Secretary of State, and commentary and reporting by the Office for Environmental Protection. That is good.

There is potentially a question from our perspective over the transmission mechanism from national policy, targets and plans down to what this means in the spatial context. That has not been brought forward in the Bill. We have local nature recovery strategies, which are in the nature chapter. We have requirements on water management plans, which are in the water chapter. But there was the potential to bring together, at a local level, more coherence to environmental improvement strategies in places, which can be contextualised to local environments and provide the basis for local people to be able to engage in democratic processes in helping to set priorities. That is where we would look at completing a full governance framework. That is the direction of travel that we would like to see.

Q24 Marco Longhi (Dudley North) (Con): You referred to objectives earlier. Is there not a risk that you could look at these objectives and set targets a little too early—putting the cart before the horse—before we have had a chance to delve into the detail and heard everybody’s expert advice?

Edward Lockhart-Mummery: I take your point. Like many organisations that we work closely with, we argued strongly not to have set targets on the face of the Bill, because it is really important that there is an inclusive discussion about what the right targets are, which targets will build on what people already do, how quickly we can meet targets and how much they will cost. We think that having a target-setting process in the Bill is the right way to go, and then there can be a discussion about what targets are appropriate.

If you do not have something guiding what you are trying to achieve from those targets, then it is not clear what the targets are for. We would not support two pages or 10 pages setting out in detail what you are trying to achieve. We need something saying that it is about a healthy environment, the health and wellbeing of people, and sustainable resource use. We think that is the right level of detail to guide target setting.

I have worked in environmental policy for 20 years. Those three things are always the purpose of environmental policy. That is not second guessing or putting the cart before the horse, because we know from experience that those are things we are trying to achieve. If we put those on the face of the Bill, it will be clear.

Having knowledge of all the Secretaries of State over the past 10 years, any self-respecting Secretary of State would have wanted to put a target in. However, if a Secretary of State was really interested in butterflies or single-use plastics, you would end up with targets all over the place. What you want is clarity about what you are trying to achieve through targets, and we feel that something high level would be helpful.

The Chair: On the assumption that it is on the same subject, I call Ms Edwards.

Q25 Ruth Edwards: You talk about having a healthy environment as an objective. How would you legally define a healthy environment? If it is on the face of the Bill, we need legal certainty about what the concept means. Otherwise, are we not just creating legal confusion and vagueness?

Edward Lockhart-Mummery: It is something that has precedent in Welsh law. There would need to be a process of defining in more detail what it means. There are other terms in the Bill that need to be defined, such as the significant improvement test for the targets. There would need to be a process. I would argue that that would be quite a helpful process, because then we would have a public conversation about what we mean by “healthy”. Is it that people going about in their daily lives and going to school should be able to do so without dying? What does it mean, and what is the proportionate, sensible definition for that? You are right that it would need to be defined in this context, but the process of defining it is probably an important step towards achieving the outcome.

The Chair: We are nearing the end of this session, I am afraid. In the context of what we have heard this morning, Dr Whitehead, do you have any further questions?

Q26 Dr Whitehead: One thing we have not heard this morning, in the context of how the OEP and the targets that are to be set might work, is the fact that all this is taking over from the environmental protections that were there through the European Union when we were members. Do you think the Bill allows for the transition of those protections to a UK context to be sufficiently enforced and, ideally, enhanced? Or do you think there needs to be anything else in the Bill that can perhaps ensure that there is no regression in standards as we move forward with these new arrangements?

Signe Norberg: With regard to whether or not it would sufficiently transfer protections into a UK context, it is important, as Martin pointed out earlier, to note that the Bill itself predominantly applies

to England. There must be processes through which the devolved Administrations set up their independent supervisory bodies, but they also all need to work together. Through that, the Bill has the right building blocks; it will be about how those bodies co-ordinate among themselves.

In and of itself, the Bill does not inherently prevent future regression from standards, but there could be mechanisms within the Bill to clarify that. For instance, if you had strong language in the objective about maintaining high environmental standards, that would clearly set out that it should not be a regression. We recognise that there is not an intention for a regression to take place, but that could be an example of how you would potentially safeguard against that.

Edward Lockhart-Mummery: On day one, of course, we roll over all existing standards, and then we have the OEP in place to enforce. That gives us the starting point. With a few tweaks, this governance framework ensures that we at least maintain and improve, because you have that process of setting targets that always have to improve, and because the governance process is set out with the environmental improvement plans and principles, with the Office for Environmental Protection overseeing everything.

If that works, we are in a better position and we can really think creatively here. What are the structures, what are the plans, what are the partnerships that are needed to achieve those objectives? I would put a “potentially” in front of that, because potentially we have a better basis for achieving, but there are probably some tweaks that can be made to the Bill during its passage. Implementation, and how everyone works together on achieving the outcomes, is also important.

The transparency mechanism that was inserted into the Bill between its first and second iterations is helpful, because it allows proper, transparent consideration of whether we are doing something that regresses and how we look compared with international standards. That is a useful way of driving transparency within Parliament about what is happening. Clearly, the Government have moved quite a distance on this. We are driving from the private sector perspective to try to make all of this work and support the direction of the Bill. We are doing it in hope, to some extent.

The Chair: Thank you. In the light of all of that, are there any final questions from the Minister?

Q27 Rebecca Pow: On a related point, do you think it is important to have an equivalent governance framework to the OEP in Scotland and Wales? Northern Ireland is already committed to joining the OEP, as is set out in the Bill. The other two have close liaison with all the teams and countries, but at the moment they have said they are going to set up their own bodies. How important is it, from a business point of view, that they function in as similar way as possible?

Martin Baxter: In terms of functioning, the really important thing is common standards driving common outcomes. Businesses are working across the UK and beyond, so having a harmonised approach to the environmental outcomes we are looking to achieve is very important.

In terms of the governance mechanisms, the Scottish Government announced last week that they were looking to create an independent body and watchdog. For Northern

Ireland, there are obviously the provisions in the Bill. Wales is perhaps on a slightly different track at the moment. I am not entirely sure where it is in terms of an independent body.

There is clearly an opportunity to drive efficiency by having a common framework, maybe for an overarching view. Yes, I agree with common governance frameworks and ensuring that there is co-operation and collaboration, so that where we have shared environments, such as shared catchments, we are managing those and setting targets and objectives for improvement on a common basis. That is very important.

I also think there is the potential within the UK that, if we start to set different standards, we will shift burdens from one place to another. If you end up with very different policies on waste, for example, you might end up shipping waste from one part of the UK to the other, just because it happens to be easier or cheaper. Those overarching mechanisms of co-operation and collaboration are very important.

The Chair: Thank you very much indeed. Ladies and gentlemen, that brings this session to a conclusion. Ms Norberg, Mr Lockhart-Mummery and Mr Baxter, thank you all very much indeed for coming along and affording the Committee the benefit of your observations. We are deeply grateful to you.

Examination of Witnesses

Martin Curtois, Andrew Poole and David Bellamy gave evidence.

10.30 am

The Chair: Once again, good morning. We now hear oral evidence from the Food and Drink Federation, the Federation of Small Businesses and Veolia. We have until 11.25 am when the House will sit. For the benefit of the record, I would be grateful, gentlemen, if you identified yourselves and the nature of the organisation you represent, starting with Mr Curtois. I hope I have pronounced your name correctly. If not, please correct me.

Martin Curtois: Sure. Good morning, everyone. It is Martin Curtois. I am executive affairs director at Veolia. We employ 15,000 people and are heavily involved in both the collection and recycling and treatment of waste, and very much involved in resource efficiency.

Andrew Poole: My name is Andrew Poole. I am deputy head of policy at the Federation of Small Businesses. We are a membership organisation representing 160,000 small business members and, more broadly, small businesses right across the country.

David Bellamy: I am David Bellamy. I am senior environment policy manager at the Food and Drink Federation, the principal trade body for the UK food and drink manufacturing industry, which is the largest manufacturing sector in the UK.

The Chair: Thank you, gentlemen. We are grateful to you for coming along and giving us the help that we are likely to need. We will start with Dr Whitehead.

Q28 Dr Whitehead: Good morning, gentlemen. The Bill is generally recognised as having some good bits, on recycling materials and end-of-life concerns about materials

in the part on waste and resources, but it has been widely criticised because it concentrates on those particular elements of the waste hierarchy rather than looking at ways in which the waste hierarchy could be driven up, as reflected in the waste and resources White Paper. Do you have any views on that? Do you think that there are any ways in which the Bill could be strengthened to emphasise the point that, actually, recycling is not the end of the road, as far as waste is concerned, and that other things—reuse, redesign and minimisation—have an equally important part to play?

Martin Curtois: In terms of the Bill, the resources and waste strategy that DEFRA devised is very strong—you are absolutely right—because what it does, in a number of different ways, is try to improve the whole process. It incorporates things such as “polluter pays”, so it puts the onus on manufacturers to design better. The inclusion of modulated fees in the extended producer responsibility puts a clear onus on manufacturers and producers to design for recyclability, and that will ultimately reduce waste, which is what we all want. Obviously, it involves elements including better segregation, for example, of food waste, which should reduce the carbon impact. It talks about taking the burden away from local authorities and putting it more on manufacturers.

You are therefore absolutely right to say that that is a strong element of the Bill, but I think possibly there should also be other things. As you say, at the top of the hierarchy are elements such as reuse. We operate many sites across the UK where we have voluntary arrangements, for example in Southwark with the British Heart Foundation, where there are various items that can be reused and that is done for charitable benefit. It may be that that ought to be looked at, possibly in the detail of the Bill, just to see where it can be done, because obviously it ultimately is the best way forward. It should at least get some consideration, because everything focused around the resources and waste strategy is primarily, as you say, on the recycling side. There is not much emphasis on residual waste, which obviously we need to avoid because we need to avoid landfill. I therefore think there could be some consideration in terms of reuse.

I also think that one of the best ways in which you can reduce waste right at the outset is by designing better. The Bill reflects that element of the resources and waste strategy, which we see in a very positive way, because so many manufacturers and producers have come to our site—some from not far away in south-east London—to see how they can design their products with perhaps less composites, in a better way, which will ensure that they are at least recyclable at the outset. That is the very start of the process, which we have to get right if we are to make significant change.

The Chair: Mr Bellamy, does the FDF have a view on this?

David Bellamy: Yes, we do. I think what we would argue is this. As the previous contribution outlined, we obviously expect the extended producer responsibility reforms and the accompaniments to that in terms of consistency, and the focus much more on producers paying full net costs for the end-of-life management of packaging, to focus minds a lot more on the prevention side in itself. Having said that, we must not lose sight of the fact that it is a legal requirement, for those who

handle waste and convey it to another person in the waste transfer system, to have regard to the waste hierarchy. That is a legal requirement; it is in the law as it stands at the moment. It is also a legal requirement in respect of packaging waste and packaging under the essential requirements regulations that producers who pack food products must have regard to using the minimum amount of packaging to maintain the necessary levels of safety, food hygiene, etc., and consumer acceptance. That is also a legal requirement that is enshrined in the legislation. In that sense, there are already legal requirements around maintaining a focus on prevention, in the sense of how we regulate the waste hierarchy. While it is right that there is a lot of focus on recycling in the resources and waste strategy, we feel that that is part of a bigger picture.

We should not lose sight of voluntary activity around this space. Our members' commitment to reducing food waste has been documented in some figures that the Waste and Resources Action Programme recently published that show that the food and drink manufacturing sector has reduced food waste by 30% since 2011. Half that reduction has been achieved between 2015 and 2018. That is on a per capita basis measured against the target of the sustainable development goal of the United Nations. So there is a focus on source reduction, whether through legal mechanisms that are already in place, but also in terms of the voluntary work that our members are engaged in.

The Chair: Thank you. Does the FSB have a view, Mr Poole?

Andrew Poole: I agree with the assertion that reuse and reduction are equally important to recycling. It is worth bearing in mind the sheer diversity of the small business audience, which operates across myriad different sectors and in very different ways from one another. It is also worth bearing in mind that many small businesses operate as both producers of materials and consumers. It is worth understanding the very different issues that they face. For many, particularly those operating as consumers within the parameters set by the business, it is clear that recycling will be some low-hanging fruit. When we compare our recycling rates with other countries in the world, clearly some rapid improvements should be made. However, I take the point that it is equally important to look at reuse and reduction as well.

Q29 Dr Whitehead: Clause 52, in the context of recycling and minimisation of waste, provides for charges for single-use plastic items. Do you think this clause clarifies its purpose sufficiently? Is it about minimising single-use items, or is it about reducing the role of plastic in single-use items? First, do you think that a clause such as this would work in reducing single-use items in the food and drink industry, for example? Do you consider that it might be prudent to concentrate on the fact that single-use items can be made of more things than plastic and that amendments to the Bill might make that clear in terms of how the single-use environment might develop?

The Chair: Mr Bellamy, food and drink have been mentioned, so perhaps you might like to have the first crack at this one?

David Bellamy: Our comments are framed around single-use plastic packaging items, which is our interest in terms of plastic. Basically, our view is that a better way to achieve this kind of outcome would be to deal with this within the refinements to the extended producer responsibility system and the reform programme, in the sense that you could do this through modulated fees, as a much better way of achieving the same sort of outcome. In that way, we would be sure that the money raised from such an approach would be used to improve the system. That is a vital principle of FDF: that the moneys we raise through increased producer fees are used to improve the system of recycling and that those moneys do not get channelled off into other expenditure demands. That is a very important principle that we hold dear in FDF. We have to be mindful that alternatives to plastic materials may also have an impact; it is not only plastics themselves. If you switch to some other materials, you have to look at their life cycle, including perhaps at how they are mined. They all have impacts that we need to consider.

In terms of the clause in the Bill for this, we suggest that any introduction of a charge should be subject to some form of public consultation. We are a little bit concerned that this could be taken forward in a way that did not involve any public debate or allow interested stakeholders to make representations.

Andrew Poole: It is really important for the Government, through the legislation, to make clear the objective of requirements such as this and what they want small firms to do differently from what they are doing already. When looking across environmental legislation, I will talk a lot about pathways to change. We want to set out not only the reasoning behind the legislation but what businesses should be doing differently, and how the Government see them doing it differently.

In terms of single-use plastics, we can compare that to the carrier bag charge, which has worked fairly successfully. Businesses, on the whole, were quite happy to adopt that. It was clear that the outcome was to be a reduction in those bags. There were also some obvious ways of doing things differently that could have achieved the same outcome. It is just about making clear what that outcome needs to be and what businesses should be doing differently to achieve the same thing.

The Chair: Finally in response to this point, Mr Curtois.

Martin Curtois: On the point made earlier about plastic, post the David Attenborough programme and others, there was almost an overreaction against plastic, in the sense that people to some extent forgot its value in food preservation and were effectively looking to ban it. One problem we have to take into account, so far as plastics are concerned, is that, as was mentioned, the environmental consequences of using other products can sometimes be worse. That is obviously something that we want to steer clear of.

We also need to be careful about using the right plastics. Moving to a system in which products are manufactured primarily from high-density polyethylene, polypropylene or polyethylene terephthalate, or from a single-source product—with one plastic used for the bottle top as well as the bottle, for example—would make it a great deal easier to recycle. For example, we have a plant in Dagenham, in east London, where we effectively recycle many of the plastic milk bottles used

in London, turning them into plastic pellets. Obviously, from our point of view, that single-source aspect is very important. That element needs to be taken into account.

I can understand why the focus has been on single-use plastic items first, because it has been the biggest element that the public have leapt on, in terms of recycling and in terms of wanting change, so I can see why priority has been given to that. If we can start to get that right and start to make changes that mean—for example, we have developed some kit that recognises the black plastic used in TRESemmé shampoo bottles, because of the pigment within it, which allows us to recycle that more efficiently. Significant changes can be made that could start to reduce the environmental impact quickly, which I think we all want.

Q30 Rebecca Pow: Mr Bellamy clearly highlighted the legal requirements already in place on a lot of waste and recycling issues. There is the waste strategy, which has the reuse, recycle, longer-life element to it, which is very strong. Will you give us business's point of view on how the Bill will move us towards what we call the circular economy? What opportunities will that provide for businesses in particular? Maybe you could give special thought to the Bill aligning all local authority recycling collection services across the country. What sort of opportunities might that, among other measures, offer businesses?

The Chair: Mr Bellamy, you appear to be in the firing line this morning.

Rebecca Pow: Sorry about that.

David Bellamy: Clearly, the powers in the Bill on extended producer responsibility, introducing a deposit return system and collection consistency—provided these systems are developed holistically together, and are joined up—will, combined, revolutionise our recycling system in the UK. As I say, we need to be mindful of unintended consequences. That is why they need to be developed holistically: so we have a coherent system.

Consistency is an essential piece of this jigsaw that we do not want overlooked in taking these reforms forward. If producers are asked, for example, to label their packaging as either recyclable or non-recyclable in a binary system, it is vital that we bring the public with us on that journey. The collection system needs to be in line with that change, and consistency will need to be in place, ready, in time for this new producer responsibility system. That is vital for the FDF and its members. We support that approach.

We would also like a very early signal from Government that they plan to include plastic film in that core set of materials, for consistency. We may even be able to accelerate that faster than the work of the UK plastics pact, which I think is looking at 2025. We may be able to do that sooner with the right co-operation in the chain. We would like to be ambitious in that regard. By that, we mean mono-material and multi-material films, and we include cartons in that aspiration as well. We would like the Government to be more ambitious on that. Let's get this right from the start, so the local authorities have the right signals from Government about the consistency in the core set of materials, and develop the infrastructure accordingly from the outset. That is very important to us.

I mentioned earlier that it is important that all the money raised by producers in this new system goes towards improving the system. That is why we have separate issues with the plastics tax; it does not adhere to that principle, because we have a policy of non-hypothecation in the UK. We are not in support of a plastics tax; we are in support of reforming the producer responsibility system through a few modulated fees, which would then be used to improve the system.

One specific issue we have is the exponential cost our members face in buying the packaging recovery notes. You may be aware that these prices have gone up exponentially over the past year or so for plastics and aluminium. There is no evidence that this additional money—our members are paying hundreds of millions of extra pounds in these costs—is going towards improving the recycling system. We are happy to pay the extra money, but we want to see the improvements in the system. We would like a meeting with the Minister as soon as can be arranged to discuss a range of options that we have set out in a written submission to Government about things that can be done in the shorter term to address this PRN crisis, as we regard it, within our membership. We would like the Minister to reconsider our request to have that meeting as soon as possible.

The Chair: There is no requirement on everybody to answer every question, but gentlemen, do either of you wish to add anything to that?

Andrew Poole: From our point of view, one of the things that has become abundantly clear over the past few years is that our members as small businesses are saying that they want to do the right thing, and they want to demonstrate to their customers that they are doing the right thing. Talking about the holistic approach to waste and recycling, a lot of these issues are pragmatic. How do we make it easy for small firms to play their role? On local authorities, obviously, small businesses are not allowed to take their waste to municipal sites. They are not eligible for municipal waste collections in the way that many domestic householders are, despite many of them not using many more different types of waste than those households. Again, that is in the spirit of making it as easy as possible for small firms to comply and play their role. That would be one element of it.

Q31 Abena Oppong-Asare (Erith and Thamesmead) (Lab): I want to follow up on the Minister's question about a more collaborative, joined-up approach. Obviously, Andrew, local authorities will be your key partners, and you touched on small businesses and the challenges that they may face. Can you go into detail about your resourcing, and the support needed to deliver on the recycling targets?

Andrew Poole: Businesses do not have access to waste collection services provided by local authorities, which means that they have to arrange the collections themselves. That incurs a cost, but one thing that is often overlooked is the opportunity cost for small businesses; the issue is not so much the waste collection service itself. How do you identify a trustworthy waste collector? How do you know what they are doing with that waste? Do they provide all the different types of recycling that you need? Will that come at an additional cost? Do they collect on the right days, when you need it? All of those things that businesses need to think about could be

made easier. Giving them access to more domestic-focused waste collection would be one way of looking at that for certain businesses below a certain threshold.

Another thing is pragmatism. If you are talking about a deposit and return scheme, for instance, with which many of our businesses will be involved, do they have the space to do it? Is there practically and pragmatically enough space? Those issues could easily be got over, but they need to be thought about. It comes back to the theme of what we can do, within the existing infrastructure, to make it easier for businesses to comply, even before we start to think about what new things are required. A lot of things could be done today to make it easier for businesses to recycle more, in particular.

Martin Curtois: Owing to the emphasis in the resources and waste strategy on domestic infrastructure and building facilities here, so that we can treat our waste and recycling within the UK, the industry estimates that there is a £10 billion business opportunity for investment in the UK, because there are gaps in regional infrastructure. It is important that we treat as much of both our recycle and residual waste as possible in the UK. To be honest, some of the borders are closing in terms of waste being treated overseas in northern Europe. Obviously there is public demand for more plastic reprocessing in the UK, because that is best from an environmental point of view. That is really important.

Consistent collections will make things easier for households, because whatever part of the country you are in, you will essentially have the choice to recycle paper and card; plastic bottles; pots, tubs and trays, which at the moment many councils do not recycle; and steels and aluminium. There will also be separate glass and food waste. That will make it easier to recycle and easier, to be frank, to generate revenue from those materials, because they are collected separately. You can imagine that for the anaerobic digestion industry, separate food waste will be beneficial—or if it is food and green, that is used for in-vessel composting. There is a logic in that.

As for individual businesses, as my fellow witnesses will know, there will be mandatory collection of food waste above a certain limit. That is another good way to reduce carbon impact. In terms of the commercial collection schemes that we run, sometimes you can have economies of scale if you collect within a certain commercial trading estate and offer a service to all businesses within that estate. The obvious point, which really I should have made at the start, is that everyone thinks about municipal recycling and what everyone leaves outside their property, but business recycling is just as, if not more, important; there might be more waste involved. Anything we can do to simplify the system for businesses, so that it is less onerous and allows us to reduce our carbon impact quicker, has to be the right move.

The Chair: Mr Bellamy, do you want to add anything to that?

David Bellamy: I agree with Martin Curtois about the importance of developing the infrastructure in the UK. This goes back to the point I raised about the PRN crisis. It would be helpful to have an early signal from the Government about their export policy and the fact that we want to gradually reduce exports over time and build up the UK's capacity to recycle materials. We should also look at how we can work together much

more on quality standards for materials; ex-MRFs are another way to help the situation and develop more end markets. Those sorts of things should be looked at. Plus, of course, an early signal on our approach to collection consistency would be helpful. We do not necessarily need to wait until 2023. The earlier we can get signals from the Government about the direction of policy, the more it will help the market to invest, and it would provide certainty going forward.

Q32 Robbie Moore (Keighley) (Con): We have talked a little bit about recycling this morning, but I am interested in the steps taken by the food and drink industry and the small business sector to reduce the use of plastics. From your perspective, what are the unintended consequences of reducing plastic use, and how will the Bill support you with those unintended consequences?

David Bellamy: On reducing plastic use, there is a presumption there that plastic can be substituted by equivalent materials; that is the challenge. Obviously the industry is happy to look at alternative materials, but they must provide that equivalent functionality. Plastic is a very efficient material for getting products through the supply chain. The issue really is plastic waste, not plastic per se. An element of responsible disposal comes into this discussion as well.

We support the work of the UK plastics pact, which looks at not only phasing out non-essential plastic items, but how we can make plastic more recyclable, compostable or reusable, and generally reducing that waste. This is a combination of things, and looking at potential alternatives to plastic, where there are equivalent materials that provide equivalent functionality. We must not end up with unintended consequences, either for food safety or for food waste. It is about finding that sweet spot and functionality.

Also, we need to look at how we improve plastics as they are used now, perhaps moving towards alternative types of plastic and looking at how we can increase the recyclability of existing formats. There is not a one-size-fits-all approach; it has to be evaluated in the round, and we have to make sure we do not move to unintended consequences. Also, we need to keep focused on the fact that plastics per se are not the issue; it is plastic waste. It is about keeping plastics in the circular economy and out of the environment. The measures in the Bill to give producers full responsibility for the system, at full cost, will make it a lot easier to deliver change.

Andrew Poole: I back up what David said. On the unintended consequences, it is worth looking at associated opportunity costs. Presumably one of the unintended consequences relates to not putting businesses out of business. Coming back to the point about carrier bags, a cost was put on bags, and the business community as a whole welcomed that, but one issue was really hard to communicate, it seemed. It was not that businesses did not want to charge for the plastic, because they could manage that; they could swap and do alternatives. However, one unintended consequence, particularly for smaller retailers, was the reporting requirements on top. We need to look underneath the physical changes that the businesses have to make, and examine the bureaucracy that underpins those changes, such as any onerous reporting burden that is not balanced or proportionate. That is often quite hidden, but so often, the opportunity cost for businesses outweighs the up-front cost.

Martin Curtois: Most major brands have focus groups based on consumers—you and me—and there has been a significant change in how brands are responding to the issue of sustainability, because they understand that the public get it and want us to improve environmental performance. We can see that in supermarkets: we now have refill options, which are great ways to encourage reuse and reduce waste from the outset.

We have agreed on most things so far. However, from a reprocessor's point of view, the great benefit that I see arising from a plastics tax that insists that products contain 30% recycled content is that it gives certainty to invest in more plastics reprocessing facilities. That will ultimately mean that the plastic is more sustainable at the outset, because you are using less virgin plastic and more recycled content. Before this Bill has even come on to the statute book, brands that always thought of sustainability as a nice-to-have—likely with a small financial incentive as well—now think of it as a must-have. That is significant and positive, because it will mean we are getting it right at the start of the process, which reduces the carbon impact.

It has even been shown through research that if the public are offered a water bottle with clearly labelled recycled content that costs £1.24, as opposed to a bottle without it that costs £1.20, they will pay the little bit extra to have a sustainable container. We have to make sure we exert the influence that the public want us to have when it comes to performing better in this area.

Q33 Alex Sobel: I will speak to two areas. First, when I engage with people in both the food and drink industry and the waste compressing industry, one issue is the lack of reprocessing facilities, but the second—and usually more important—issue is the quality of the bales of material. When they show me a bale from France and a bale from the UK, the French bales are much cleaner than the UK ones. Are the provisions in the Bill going to improve that so we can have better recycling?

Secondly, you alluded to the market in waste pushing up the cost of these bales, which is a disincentive to invest in reprocessing. Do you think that the provisions in this Bill will pull that back? As an adjunct, there is the issue of transfrontier shipments of waste—that is, waste being sold overseas. Again, do you think the provisions in this Bill will help us end that practice and engage in reprocessing in order to create a circular economy in the UK?

Martin Curtois: There are a couple of elements that we have to bear in mind. First, due to the changes in China and many other markets, the emphasis in those countries is on a race to the top. They are insisting on premium quality, and if we provide premium-quality bales it is much easier to have a market, so the way that has changed has actually been beneficial to some extent. Also, the overall value of these commodities has fallen, as with many others, so it is even more important that the product you are producing is of a premium quality. It is very important that we get that right at the start.

The Bill's emphasis on encouraging more investment within the UK was one of the very clear signals that was outlined in the strategy. To give you an example, with plastic pots, tubs and trays, it is currently inconsistent. Part of that is that they are of little value as things currently stand, but if they were being collected separately

under a formalised approach, it would be easier to generate value from them. That is the case with all elements of recycling. If you can collect clean product—this is why DRS may be advantageous as well—in sufficient quantity, it is easier to make a high-grade product for reprocessing.

There are a number of principles within the Bill that are pointing us in the right direction. From the sector as a whole, if the Bill becomes a reality and, as a result, we make it easier for the reprocessors to produce a good product, and if they have confirmation that the legislation is there and they are not investing in something that, 10 years down the line, will no longer be a Government priority, the money is there to go in. There is a benefit to the UK economy as a whole, because these facilities are needed throughout the UK. It is just where people are and where the waste is, so there can be a knock-on benefit nationally to the economy.

David Bellamy: On the issue of quality, the powers in the Bill around EPR reform will help the situation. They will change the dynamic, in the sense that producers will be in the driving seat in terms of how payments are made to local authorities for collection. Those payments will only be handed over against agreed quality standards, so there will be a much bigger drive towards quality collections, which is what we need. Combined with the consistency approach, that will help the situation considerably.

We have also not mentioned the DRS, which will also help the quality of collections as far as particularly polyethylene terephthalate plastics in drinks bottles are concerned. That will also have a positive impact on quality. There is still an issue, as I suggested earlier, about the option of the industry working more with Government to develop quality standards and ex-MRF for bales and such. In many places on the continent, they have much higher standards for accepting materials, and we ought to be doing something similar here.

Q34 Cheryllyn Mackrory (Truro and Falmouth) (Con): I am interested to see that the Bill provides a balance between the detail and the direction of travel. My question is to do with how much of a carrot or stick approach the industry needs from Government. The industry has come on in leaps and bounds in this direction in recent years, but in terms of consistent labelling and practices between different local authorities, how much of a stick or carrot approach do you think the industry needs from Government? Or is industry able to take charge on this?

Martin Curtois: Consistency of labelling could be one of the most significant changes in the right direction. At the moment you have this awful phrase, “widely recyclable”, and no one knows what it means. It could apply to one local authority and not to another. We would advocate literally a simplified traffic light system, whereby green is recyclable and red is not. I think the shock, for a retailer or producer, of having a red dot on its packaging would be such that it would want to avoid it. At a stroke, you would be improving recyclability straightaway.

That is one key element of it. It also drives people mad that they just do not know whether a product is recyclable or not, so you would get an improvement not only at the front end in terms of the manufacturers' production, but in the materials we receive at the processing

facilities. As you can imagine, we receive thousands of tonnes of materials a year. Anything that can be done to ensure that people are sorting it more efficiently at the outset will make our job of reprocessing it more straightforward.

Andrew Poole: For me and for small businesses, a lot of this legislation is generally about trust. The problem is that, if we do not get these things in place, everyone knows that the stick will come. There is an opportunity at the moment to be on the front foot. A lot of our engagement around the Bill has been about keeping businesses on the front foot and steering the legislation in a way that is beneficial to everyone. It is a case of giving all of these things a consistent approach, including labelling, for example. It is about trust in the outcomes of the legislation, and about making the right decisions. It is about trusting what they can see and seeing that the decisions are the right ones. It is important to have that transparency around the whole Bill.

Q35 Kerry McCarthy: Can I ask the FDF about food waste? It is mentioned peripherally in the Bill in terms of the separate collections and so on, but there is nothing more. There is a food strategy being worked on by Henry Dimbleby and others, which may have stuff in it. Is there scope for more specific provisions in the Bill? For example, Courtauld is still voluntary. Progress is being driven by the good guys rather than there being an obligation on everyone. You referred to the figures produced by WRAP. Could the Bill do more on that?

David Bellamy: We have not identified any shortcomings to date. Obviously, there are voluntary approaches. You mentioned WRAP, and there is also the UK food waste reduction road map. Companies are signing up to that in increasing numbers and manufacturers are making good progress. We are expecting a consultation on food waste reporting from the Department for Environment, Food and Rural Affairs soon, and there is no need for primary powers in the Bill to do that. There was talk of the potential for powers on setting targets down the track. I am not sure where the Government are on that at the moment.

We have not identified any shortcomings as such. The inertia is there with the UK food waste reduction road map, and knowing that food waste reporting is going to come in as planned as a legal requirement in line with the road map.

Q36 Kerry McCarthy: Is that the mandatory food waste audits? When you refer to reporting, are some companies such as Tesco already doing audits of key items at least? Do you mean that at least the big companies report on the amount of food waste in their supply chain?

David Bellamy: Yes. It is defined in the consultation, but certain companies of a certain size will be required to report their food waste. The idea is that they would do that in line with what they report under the road map, or what they do under Courtauld currently continues, so that there is no disconnect.

Q37 Kerry McCarthy: So basically it is making mandatory what some companies do on a voluntary basis.

David Bellamy: Yes. That is my understanding of the Government's proposals.

Andrew Poole: Making it mandatory would be a sign of failure potentially at a certain level, in the sense that we can encourage them to do it voluntarily. I come back to the idea of making it easy for people to do it. Once we get to the mandatory stage we would then be arguing about issues. We picked on the reporting requirements of things like that. If it was risk-based and proportionate, that would be the way to go. We would hope that businesses in particular would be doing this voluntarily, to begin with.

Q38 Kerry McCarthy: What often happens, though, is that some companies do it. There has been an issue in the past over things being reported in aggregate rather than identified specifically, and there has been no naming and shaming of individual supermarkets. Anecdotally, some supermarkets are clearly driving down those food waste figures while others are not doing their bit. That is always the problem with the voluntary approach.

Andrew Poole: It is quite important with those big producers that many of these requirements are not pushed down through the supply chain. If you are a small supplier supplying a big supermarket, one of the requirements is to deal with a proportionate and risk-based reporting mechanism. That has to be borne in mind if you are targeting big supermarkets such as Tesco. They have to report everything, and the burden is passed down through those that supply them as well.

Q39 Kerry McCarthy: Are you saying that it is not a good thing?

Andrew Poole: I am saying it would have to be looked at quite carefully, so that the requirements were proportionate and the supply chain was taken into consideration as well.

Q40 Saqib Bhatti (Meriden) (Con): Mr Poole, you spoke a lot about trust and transparency, and the Bill has a careful balance between detail and direction, but a lot of details will be prescribed through secondary legislation. I just wanted to garner your opinions on the importance of public consultation, so that we can garner expert views to develop detailed policies through secondary legislation.

Andrew Poole: I come back to the point I keep making, which is that small businesses are signed up to this—in the broad concept. They want to do the right thing for the environment. They are human beings. What is increasingly important is that they want to demonstrate to their customers that they are doing the right thing. They are aligned with the broad concept of the Bill.

When it comes to those granular details, that is obviously what is going to make or break the Bill. Government must see small businesses as a partner for delivery at every stage where those decisions have to be made. I suggest that the outcomes of this Bill will not be achieved without a fully engaged small business community playing a very active role in it. It is a plea to policy makers and legislators that small business views are taken into account fully when those decisions get made, at each stage.

Q41 Richard Graham: Can I come back, Mr Curtois, to your earlier point that you thought there was masses in the Bill in terms of recycling, but less on residual waste and how that should be treated. What would you hope to see in the Bill that would cover that?

Martin Curtois: The situation in the UK in terms of residual waste is that it is virtually impossible to export refuse-derived fuel now in a viable way, because particularly in mainland Europe the cost of that is making it prohibitive. For obvious reasons, landfill is at the bottom of the waste hierarchy, and from what I can see from the resources and waste strategy the overall aim is to prevent waste where possible, recycle more and landfill next to nothing.

So we have got to recognise that even though recycling will hopefully continue to go up—ultimately I think the aim is to get, possibly, to 65%—there is something that has not yet really been covered in depth in the resources and waste strategy, which is that we need to do something with the residual waste. We operate 10 energy recovery facilities within the UK, three of which have district heating. Bearing in mind the plans that the Department for Business, Energy and Industrial Strategy has for a heat road map, which I think is proposed for June, there is a role, which we need at least to recognise, for energy recovery, preferably with heat decarbonisation.

We are addressing the issue that the waste has to go somewhere. The landfills are running out. Therefore we need to do something with it that will also help us with generating electricity, given the fact that there will be even more intense pressure on the grid because of the number of electric cars that we obviously hope for, to reduce our carbon impact. There should be at least some recognition that it is an important component of the overall mix.

Q42 Richard Graham: Can I ask Mr Bellamy a separate question? It is really about your members and their attitudes to eliminating avoidable waste of all kinds. Do you think the introduction of charges for any single-use plastic item will incentivise a shift towards the direction that the Government want to go in, or do you think your members will resist that?

David Bellamy: The question of avoidable waste is a little bit open to interpretation, in our estimation. It may warrant a definition in the Bill. We suggest that that material might not be recoverable in any shape or form, or it might not be replaceable by something else.

Q43 Richard Graham: Would you support the traffic light system, which clearly identifies for every consumer exactly which bit of plastic can be recycled and which cannot?

David Bellamy: We support a binary labelling system to that effect. We have not looked at a traffic light scheme as such. The current proposal is more of a descriptor-based labelling system, which basically says that something can or cannot be recycled. We strongly support the concept of a binary system.

Q44 Richard Graham: Andrew, can your members respond to the challenge with the speed that is needed to achieve these net carbon targets?

Andrew Poole: The truth is that some will, and some will not. We have tried to highlight, across the piece, in terms of these environmental challenges, the requirement to understand the business audience in more detail. Small businesses are very different. There are myriad different types of organisation. We consistently challenge policy makers on that requirement to understand in more detail the business audience that is being affected.

If there are any requirements or opportunities to provide support to small businesses, that support should be targeted to those businesses that are least able to adapt. The more time that businesses are given to adapt and change the way they do things, the more likely they are to achieve those changes.

Richard Graham: In one way—

The Chair: Mr Graham, I am sorry, but I going to take a brief, final question from Ruth Edwards. I have tried to get everybody in. This will be the final question.

Q45 Ruth Edwards: Thank you. I will be very quick. I want to return briefly to the issue of public consultation. How important will that be in determining the type of deposit return scheme that would be delivered by the Bill through the secondary legislation that it will bring in?

Martin Curtois: I believe that in Scotland, they are planning to go for an all-in deposit return scheme in April 2021. We will see how that works in practice. It seems that in Scotland they have decided that is the way they will go. It will be interesting—because they have proposed an all-in scheme rather than an on-the-go scheme—to see whether they can cope with the number of materials that will involve, as far as a DRS is concerned.

There was, perhaps, some merit to an on-the-go scheme. It would perhaps have had the advantage of primarily focusing on the plastic bottles and cans that are collected, which currently go into high street refuse bins and are virtually unsorted. We could go from 60% to 95% recycling of plastic bottles, if we have an on-the-go system that works and that focuses strictly on the bottles and the cans. It will be interesting to see what happens in Scotland and how that evolves. That will be the biggest and best test.

Q46 The Chair: Mr Poole, I assume the FSB's members will have an interest in recycling.

Andrew Poole: Absolutely. Coming back to recycling or the deposit return scheme, I think it is important to understand local issues. Locality-based solutions may be required. The solution in one area, for example, on a busy high street, will be different from that required for businesses in the middle of the countryside. The importance of consultations is to bring out the granularity of different options for the different types of businesses and different types of locations. As has been said on this panel, a one-size-fits-all approach will not necessarily work.

Q47 The Chair: A final word, Mr Bellamy.

David Bellamy: Just to say at the outset, we support a co-ordinated approach to DRS, introduced on a GB-wide basis, and based on best practice, particularly in the Nordic countries, where it has already been implemented for some time. We are, obviously, mindful of the potential impacts on local authorities. We fully understand why they might be sensitive to a DRS. We feel that there will be savings to be made for local authorities. There will be less material for them to collect, potentially, and less litter for them to deal with.

With the introduction of EPR reforms alongside the DRS, we think there will be opportunities to refine the service provision of local authorities and deal with any

potential economic impacts in that way. We think that local authorities right now might be thinking about their contracts and whether they need to be reviewed in the light of the DRS coming along. We think it might be reasonable for the Government to consider some support for local authorities to help them do that at this stage. All in all, we support the DRS. We welcome a second consultation, which is important.

The Chair: Thank you Mr Curtois, Mr Bellamy and Mr Poole. The Committee is indebted to you. I am afraid that brings us to the end of this morning's proceedings. The Committee will meet again at 2 pm.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

Second Sitting

Tuesday 10 March 2020

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 12 March at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 14 March 2020

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The Committee consisted of the following Members:

Chairs: † SIR ROGER GALE, SIR GEORGE HOWARTH

† Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Morden, Jessica (<i>Newport East</i>) (Lab)
† Ansell, Caroline (<i>Eastbourne</i>) (Con)	† Oppong-Asare, Abena (<i>Erith and Thamesmead</i>) (Lab)
† Bhatti, Saqib (<i>Meriden</i>) (Con)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP)	† Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op)
† Docherty, Leo (<i>Aldershot</i>) (Con)	† Thomson, Richard (<i>Gordon</i>) (SNP)
† Edwards, Ruth (<i>Rushcliffe</i>) (Con)	† Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab)
† Graham, Richard (<i>Gloucester</i>) (Con)	Adam Mellows-Facer, Anwen Rees, <i>Committee Clerks</i>
† Longhi, Marco (<i>Dudley North</i>) (Con)	† attended the Committee
† McCarthy, Kerry (<i>Bristol East</i>) (Lab)	
† Mackrory, Cheryllyn (<i>Truro and Falmouth</i>) (Con)	
† Moore, Robbie (<i>Keighley</i>) (Con)	

Witnesses

Mayor Philip Glanville, Mayor of Hackney, Local Government Association

Dr Diane Mitchell, Chief Environment Adviser, National Farmers Union

Alan Law, Deputy Chief Executive, Natural England

Dr Sue Young, Head of Land Use Planning and Ecological Networks, The Wildlife Trusts

Judicaelle Hammond, Director of Policy, Country Land and Business Association

Rico Wojtulewicz, Head of Housing and Planning Policy, House Builders Association (housebuilding division of the National Federation of Builders)

Ruth Chambers, Senior Parliamentary Affairs Associate, Greener UK

Rebecca Newsom, Head of Politics, Greenpeace UK

Ali Plummer, Senior Policy Officer, Royal Society for the Protection of Birds

Public Bill Committee

Tuesday 10 March 2020

(Afternoon)

[SIR ROGER GALE *in the Chair*]

Environment Bill

Examination of Witness

Mayor Philip Glanville gave evidence.

2 pm

The Chair: Good afternoon, ladies and gentlemen. For the benefit of the record, I shall ask our councillor guest to identify himself in a moment. I am advised that there may be a Division on the Floor of the House. That is probably slightly private information, but I do not see any reason why the public should not know what is going on. If the Division bell rings, it will not mean that an inmate has escaped; it means we will all have to go over the road and vote. There will be injury time; whatever we have to take off for the vote, which will be 15 minutes, we will add back on again.

We have half an hour for this session with the representative of local government. By the way, the other thing I have to mention, in case anybody is concerned, is that we have endeavoured to let some daylight into the room by opening the blinds. Apparently, that interferes with the broadcasting quality, so if I have ruined the picture it is entirely my fault. We felt we were enough like mushrooms as it was without having complete darkness in here.

Without further ado, the Local Government Association. Councillor Glanville, would you like to introduce yourself and explain, for the benefit of the record, what you represent, please?

Mayor Glanville: Thank you, Chair. I am Phil Glanville, the elected Mayor of Hackney and a representative of the Local Government Association. I serve on the relevant policy board covering the Bill.

The Chair: We are most grateful to you for coming in.

Q48 Dr Alan Whitehead (Southampton, Test) (Lab): Good afternoon, Mr Mayor. What consultations on the Bill have taken place while you have been a representative on the Local Government Association committee that has been dealing with Bill? Where have been the main disagreements with regard to local government interests?

Mayor Glanville: There has been extensive engagement. Obviously, the original Bill dates back to last year. Our committee has been looking at various aspects of the Bill and we have submitted our package of evidence to the Committee. We are seeing new powers and responsibilities for local government. I appeared before the waste reduction investigation that was conducted last year. There has been extensive engagement and investigation into some aspects of the Bill. The challenge for all of us is that the Bill is very ambitious and sets

new targets. In some areas, such as biodiversity and air pollution, the relationship with local government and where responsibilities lie are less clear.

On areas such as waste, recycling, plastic pollution and single-use plastics, the engagement has been more extensive. It depends on the areas of the Bill we are talking about and the responsibilities that are in focus. The areas of disagreement are common to those that arise when local government takes representations. Where we take on new responsibilities, we need adequate time to prepare and adequate funding in order to do that.

We have a track record of delivering improved and innovative recycling services during a decade of funding changes as a result of austerity. We have continued to improve our recycling services, investing more than £4.2 billion of resources. If we were to move towards the types of changes suggested in the Bill, the burden could be increased by up to £700 million. We will provide further information as the LGA on that. Without that increase in resources, council tax payers will have to meet that uplift in our duties around waste and recycling, or other services will have to be cut.

Those sorts of challenges go across different parts of the Bill, whether it is the work on biodiversity and planning or the clear ambition to deal with air pollution. Some of those responsibilities do sit with local authorities and we are ready to rise to that challenge, but whole industries will see changes in regulation as a result of the Bill. We believe we can rise to that challenge, in partnership with Government and industry. I am sure that over the course of the next half hour we will explore some of those areas more specifically. The main areas of disagreement relate to having the right powers and funding to match our duties.

Q49 Dr Whitehead: That is very clear, certainly in terms of the ability of local government to deliver on the challenges set by the Bill. Are there particular areas that relate to the powers that local government has at the moment to do things that may be within, or possibly outside, some of the particular asks that the Bill will put on local government? Are there areas where local government may not have powers at the moment, for example on planning, in terms of biodiversity gain, and so on, and where further work will be needed should such aspirations be placed on local government as a result of the Bill?

Mayor Glanville: Biodiversity and how the planning system could lead to the net gain that is the priority within the Bill is one of the key areas. We have a system of local planning authorities that is well established. The system has accommodated various changes relating to energy, carbon and sustainability over a number of years, and we have adapted to those changes and adopted them within both our local plan development and the way our committees regulate development.

The planning context is really important, before I come to the detail on biodiversity. We have seen 2.6 million homes consented to in the past six years. A million of those have yet to be built, in the context of a 40% reduction in funding for local planning authorities. We have seen some improvements. We can set fees that allow us to recover the costs of fulfilling our planning responsibilities as local authorities, but there is still a £180 million gap between the cost of fulfilling our responsibilities and the funding that we receive from planning fees.

If we introduce new responsibilities for biodiversity, the challenge is whether we will close the existing gap and ensure that a new gap does not develop. We need to ensure that local authorities have the expertise to meet those new biodiversity responsibilities. That could be addressed either through the wider financial settlement for local government, or through a fees regime. As it is written at the moment, the Bill does not suggest that local authorities will be pre-eminent in collecting any additional resources if a development does not meet biodiversity standards.

Many Members who are involved in constituency casework, as I am as a council leader, will know that planning is always contested. People see the impact of a new development very much in their local community. If we are saying that the impact of new developments on biodiversity will be fully recognised, which we welcome, we want to ensure that any compensation is either held within that development, and the development contributes to a net improvement in biodiversity, or, if not, that local planning authorities can use those resources for the local community. That could be by placing extra requirements on a development, or by using our expertise in tree planting, and improving diversity and green infrastructure in the local area. As things stand in the Bill, we fear that there may well be a levy, but the levy would not be recycled back into the planning system, or would not result in the net improvement in biodiversity that we all want to see.

The Chair: I will come back to you if I can, Dr Whitehead.

Q50 The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): Thank you very much for attending—it is much appreciated. The Government are committed to funding all new burdens on local authorities through the Bill, so I want to get your view quickly on that. I would also be interested to know, in the light of that, what opportunities the Bill offers local authorities, perhaps particularly referencing the fact that lots of local authorities have committed to their own climate and environmental standards, and to tackling the climate crisis. How do you think it might help you to deliver those?

Mayor Glanville: It is a positive Bill in the sense that we all share its ambitions to respond to the climate emergency, uphold the principle of “polluter pays” when we are talking about waste and recycling, and embed high standards for air quality in domestic legislation. Local government shares all those ambitions.

To take waste and recycling, there are some ambitious principles set out in the Bill, especially for dealing with single-use plastics, encouraging deposit and return schemes and improving the way recycling is delivered. Underneath that, however, is the context that I set out of the challenge of local government finance. If we are to move to the type of systems that are set out in the Bill and introduce food recycling everywhere, it would require an uplift in resources.

I welcome what the Minister said about new burdens being met with resources, but often the detail about where those burdens lie comes later. I have some experience of taking part in discussions on measures such as the Homelessness Reduction Act 2017. There is normally a dispute later between central and local government

about what the new responsibilities are and where they are fully accommodated. You often get transition funding, which allows some adaptation and change, but the picture for long-term revenue for local government is still incredibly challenging. I know that we are all going into a spending review and some of those things might be addressed.

There are huge opportunities for local government, because when it comes to waste and recycling, we are obviously the processors of all our consumer waste. We all want to see less of that waste produced in the first place. As I said, I gave evidence last year. If we just focus on plastics and single-use plastics, that is obviously where a lot of residents and campaign organisations are focusing our minds, but with a true waste reduction strategy consumer packaging would not be produced in the first place and there would be more upstream regulation of the types of materials that go into our waste system.

Some 70% of councils have all seven common forms of plastic recycled in their waste streams, but other types of packaging that local authorities cannot process are still going into the waste streams. Consumers often think that they can recycle them and it can be frustrating for them when they find that they cannot. Those types of packaging obviously increase the amount of residual waste.

As the Bill develops and regulation flows from it, we are hoping not just that we will focus on the work that we all need to do to continue to improve the recycling end but that we will work at the producer end, which, obviously, individual local authorities and the LGA do not have the scope to focus on. That is where we can really add value. We can clarify some of the areas where local government needs to rise to the challenge, but also where industry and consumer behaviour need to change.

Q51 Rebecca Pow: So this is very much what is termed a framework Bill. I get the impression that the local authorities would welcome more public consultation and engagement to get this right for you and for the businesses that we heard from this morning.

Mayor Glanville: Absolutely. As I said, we all face a tremendous amount of challenge from residents, consumers and activists. We all want to play our part in responding to the climate emergency. We as the Local Government Association have been doing a lot of peer-to-peer work. My board has created a climate change emergency action plan, and we are keen to continue that work. Where we would value a greater voice is at the political and officer level, if there is a taskforce linked to the Bill, especially on climate change emergency and action. I am told that there are still some details there to work through in terms of leading that full sector-led response.

Q52 Jessica Morden (Newport East) (Lab): Can I ask two things? The Minister said that all new burdens would be met. What is the figure that you said initially that local government would need to do the work set out in the Bill?

Mayor Glanville: Just on the area of waste and recycling, to meet the objectives that are set out in the Bill, we have done some internal modelling that said there would be a £700 million gap in local government funding to meet those new responsibilities and burdens. That is in the context of a total amount of around £4.2 billion

spent on processing household waste. Of that, £700 million is spent on recycling, so it is a doubling of the recycling and reducing element that is outlined in the Bill.

Q53 Jessica Morden: Waste crime is obviously a big problem, with organised criminals dumping vast amounts of waste. What powers, duties and resources does local government already have, and what does it need? Does the Bill address that issue adequately?

Mayor Glanville: The challenge when taking enforcement action is the cost of bringing cases to court or issuing civil penalties. Local government has a lot of powers in that area, but it can sometimes be challenging to prove a cost-evidence base for implementing them, so anything to improve not just our powers but the ability to ensure that the polluter pays will help. That is the element that is always the challenge for local government.

Q54 Robbie Moore (Keighley) (Con): Many local authorities have declared climate emergencies. How will the Bill help local authorities to address those self-declared climate emergencies?

Mayor Glanville: Local authorities across the country from Hackney to Hull have declared climate emergencies. The Local Government Association itself has. Local authorities are doing a lot of work outside the scope of the Bill on energy, and there is some detailed work going on at the LGA. The challenge with air pollution and some of the aspirations in the Bill is that many of the elements are reliant on industry and consumer change. There is a lot of work on clean air zones in local government. There is experimentation in places around Nottingham on levying parking charges in workplaces. Wider investment in sustainable and public transport is needed to ensure that our aspirations on air pollution can be met.

In the Bill, there is some positive work on the contribution of motor vessels on our waterways and improving regulation of them. The Bill strengthens elements relating to domestic pollution and domestic fuels, which we very much welcome as well.

We are very keen, as local government, to ensure that we do our part in responding to the climate emergency. There are some of those upstream, “producer pays” principles around waste and recycling—for example, the car industry switching to a more electric fleet, and I know there have been announcements on bus funding—but if we are talking about the types of shift that we are going to need in consumer behaviour in the way that we travel, further work will need to be done together on that.

Q55 Alex Sobel (Leeds North West) (Lab/Co-op): First, I am particularly concerned with the new duty in clause 54 that local authorities are going to have to collect food waste every week. Most local authorities now have bi-weekly collections. Many do not collect food waste at all, so that would be a big investment in vehicles and staffing and then in anaerobic digestion facilities. You said that there is a £700 million gap for recycling. Is that inclusive of food waste or is another figure needed for local authorities to be able to fund the food waste duty that the Bill puts on them?

Mayor Glanville: That is inclusive of food waste. You identify one of the challenges. Typologies change across the country. What is required to collect food

waste and the density of infrastructure in a borough such as Hackney can be very different from what is required in large rural authorities. We are nervous about having duties that do not recognise those challenges and differences. Different local authorities have set different regulations around how often they collect residual waste. Some local authorities are still doing that weekly, some are doing it bi-weekly and some every three weeks, and they vary how often they collect recycling and food waste alongside that. Many inner London boroughs that have the challenges of density and flats are still collecting waste more often than areas where there are suburban typologies where people can store more waste in their homes. In a typology such as Hackney, where all of the residential growth has been around flats, it is often impossible to do that, given the size of flats.

We hope to see the work on the Bill and regulation recognise some of those differences and challenges and get to the position where food waste is available for everyone, but makes sure that it is done in the right way with the right change in industry and the capacity within industry to roll it out. Rolling it out everywhere weekly is part of the £700 million figure. Obviously, some local authorities have invested already. One of the challenges around burden is whether authorities that are already delivering on a weekly basis receive extra resources or will they only go to those authorities that have yet to make that investment? It is an equity, fairness and transparency question across local government.

Q56 Alex Sobel: I have a second question on air quality. The Mayor of London has committed to reach World Health Organisation standards by 2030. The Bill fails to set legally binding targets. What steps should local and national Government take to meet that ambition to meet WHO air quality limits by 2030? Do you think the Bill could be amended to make that happen?

Mayor Glanville: Local government has not come to a position on the 2030 target. Speaking from the LGA perspective, we recognise that we need to have ambitious targets. We need to have a pathway to get there, which will require quite a lot of action around industry. It is not local government that is producing the transport—we are dealing with the consequences. While you can introduce clean air zones and have the work that combined authorities and the Mayor have done around ultra-low emission zones, investing in disabled transport, walking and clean bus fleets, all that will not get us to the 2030 target unless industry moves as well. If that target were put into the Bill, we would need to have a clear pathway of getting there and the resources for doing that. Many organisations, such as Friends of the Earth and Greenpeace want to get to that 2030 target. I think targets are really important, but only if you have a plan to get there. We risk setting targets that we will not meet if we do not maintain the confidence of that wider coalition—that is the challenge.

The Chair: Four people still want ask questions and we have fewer than eight minutes in which to do that, so short questions and short answers, please.

Q57 Saqib Bhatti (Meriden) (Con): You spoke about the Bill being ambitious, and legislation such as this should be ambitious. You talked about opportunities. Local councils up and down the country are doing

things to be environmentally friendly. How does the Bill enhance the current activity? Are you looking at things such as procurement to assist in that?

Mayor Glanville: It can provide an excellent framework, especially on the waste and resources piece, introducing more of those principles around producer- paying deposit and reuse schemes. Setting out a clear regulatory framework for that backs up the work that local government is already doing. As I have answered in response to other questions, we cannot just look at the waste and recycling end. We need national Government to make a clearer ask of industry.

Industry also welcomes having frameworks that we can all work to. I do not think it wants to put labels on consumer products that suggest that local recycling streams can accommodate that recycling and then find out that they cannot. That confusion is something that both local and national Government want to see resolved. As long as the balance between rights and responsibilities between local and national Government are right, something like the work on biodiversity can be a real improvement to the planning system. It has to be done in the right way and work with local government and residents' expectations of local government. While we as a sector are representing ourselves, it is often the through the expectations of our residents that we will have some control and influence around implementing these policies. If the legislation is not drafted in the right way, we will not have that and people will say: "Why, if it is supposed to be improving local biodiversity, is it not contributing to it?"

In the areas around tree management, we want to be clear about the role of, say, the Forestry Commission and what new statutory powers it is going to have and does it interact properly with the local planning and regulatory system?

Q58 Abena Oppong-Asare (Erith and Thamesmead) (Lab): Clauses 95 to 98 seek to create local nature recovery strategies across England. How will that help local authorities provide a more effective and joined-up nationwide strategy for nature recovery? We heard evidence earlier from Veolia, which has a number of refuse and recycling centres in your patch.

Mayor Glanville: Can I clarify what Veolia said?

Abena Oppong-Asare: It was were talking about how it would like a more joined-up approach with the council and, along with others on the panel, about how businesses need more support to be able to deliver their recycling and waste strategies.

Mayor Glanville: In terms of setting those strategies, it is making sure that if we have a duty to set them locally, and they are backed up within the planning system, we recognise the context of where local government is at the moment with resourcing.

There were questions earlier about how local government is rising to the challenge of the climate emergency. We, and many local authorities like Hackney, are investing in our agriculturalists and in the people who work in our parks. We have ambitious targets around planting trees and green infrastructure. We are resourcing that through our planning gain, within the existing planning system, and using policies around section 106 and the community infrastructure levy.

If local government is going to be doing even more, either the system that exists at the moment is going to have to accommodate that or those new duties are going have to be explored as well. Not every local authority is going to have tree specialists or still have a biodiversity officer. Over the period of austerity they have all too often been seen as back-office functions. There are real pressures within the planning system and pressures to make sure that we continue to deliver the housing numbers within our local plans.

It is right that we refocus on green infrastructure, biodiversity and a net increase, but without resources being in place we will either have to get them from the planning system or from some other settlement, to make sure we are able to deliver on those ambitions.

The Chair: I fear this is likely to be the last question.

Q59 Cheryllyn Mackrory (Truro and Falmouth) (Con): I will make it quick. Putting aside the specific issue of funding, which I believe has already been addressed this afternoon, can you tell me what else is important to ensure that local authorities can effectively deliver this Bill?

Mayor Glanville: It is a continuing engagement. Obviously, as we have said, it is a framework Bill, which has advantages and disadvantages. There is a high degree of discussion around the Bill at the moment, including about what should be in it and how far it should move into clearly engaging on those ambitious targets and regulations. There is an opportunity in the engagement process with a Bill to engage with local government, with industry and with campaigners.

As you move towards regulations and statutory instruments, some of the focus and the ability for scrutiny in Parliament can be lost, along with local government's ability to influence. We are keen to make sure that there is clarity in both those positions and that there will still be opportunities to engage around some of the specifics, as we move into further discussions about waste and recycling, air pollution, how we interact with the planning system, the work around flooding and water, and other key areas. There is still a huge amount that we can do. The Local Government Association is committed to rising to that challenge and contributing to making sure that this not just ambitious but implementable legislation at a national and local level.

The Chair: Thank you, Mayor Glanville. Rather than chop you off mid-flow, I will terminate this session now. You are probably aware that the Committee has authorised the receipt of written submissions, so if there is anything that occurs to you that you wish us to have on behalf of your association then please put it in writing and let us have it.

Mayor Glanville: Thank you, Chair.

The Chair: Thank you for joining us this afternoon. Please could we now change over as swiftly as possible as I will try to start the next session at 2.30 pm, when it is supposed to begin.

Examination of Witnesses

Dr Diane Mitchell, Alan Law, Dr Sue Young and Judicaelle Hammond gave evidence.

2.30 pm

The Chair: Good afternoon, ladies and gentlemen. We are now going to take evidence from Natural England, the Wildlife Trusts, the Country Land and Business

[The Chair]

Association and the National Farmers Union. We have one hour, I am afraid—and that is all—to accommodate what I am sure will be a very great deal of interesting information. Without further ado, Dr Mitchell, please identify yourself and give us a flavour of what the organisation you represent does, for the benefit of the record.

Dr Mitchell: I am Diane Mitchell and I am the chief environment adviser at the National Farmers Union of England and Wales, representing about 50,000 farmers and grower businesses.

The Chair: Before we go any further, for some reason, we have a problem with these microphones. Please project if you can, and if we can crank up the sound, that would be helpful as well. Mr Law, please.

Alan Law: Alan Law, I am deputy chief executive at Natural England. Natural England is Government's wildlife adviser. We are an arm's length body, a non-departmental public body in the DEFRA group.

Judicaelle Hammond: I am Judicaelle Hammond. I am the director of policy and advice at the Country Land and Business Association. We represent about 30,000 members who own or operate businesses based on land in rural areas in England and Wales.

The Chair: Dr Young, by a process of elimination, you are—

Dr Young: I am Sue Young. I work as head of land use policy and ecological networks at the Wildlife Trusts. The Wildlife Trusts is a federated organisation of 46 charities, it covers the whole of the UK and provides advice on nature issues and looks after nature reserves and manages land.

The Chair: Thank you very much. I should have said this at the beginning and I will say it now: if any Members and, indeed, any guests for that matter—it seems to be a bit fetid in here—wish to take their jackets off, you are welcome to do so.

Q60 Dr Whitehead: A particular issue that concerns all of you in different ways is the nature recovery network, and it is the Bill's intention to lay the foundation for that. Do you think that local nature recovery strategies actually do provide that mechanism to secure nature's recovery on the land?

Dr Young: A nature recovery network is a really important part of the solution to the ecological crisis that we are facing. It is a joined-up system of places needed to allow nature to recover. To be effective, it must extend across the whole of England, including rural and urban areas, and connect to similar initiatives elsewhere in the UK. The section on local nature recovery strategies in the Bill is really good and sets an ambitious agenda that would enable us to tackle nature's recovery. It needs to be clearer how the local nature recovery strategies will contribute to a national network and targets for nature's recovery.

That seems to be missing in the Bill at the moment; there is not a clear description of how the components that are set out in that part will add up to a system that works ecologically. The Bill says that the strategies will

identify areas that could be good for biodiversity in the future, but that really needs to be based on ecological principles, rather than being an ad hoc set of sites where habitats could be created. That will ensure that the ambition contained within the Bill to secure nature's recovery is realised. That could be achieved with some relatively small amendments to clause 97.

The Chair: Thank you. It will not be necessary for every member of the panel to answer every question, but to set the stage and for ease of reference, I will on this occasion simply work from, in my case, right to left—in your case, left to right. Ms Hammond, please.

Judicaelle Hammond: Thank you. Local nature recovery strategies are a real opportunity to make a difference to nature. There are a few things I would like to raise in terms of how they are going to work. First, at the moment, they are just about nature. We wonder whether there is a point to them being more holistic, so that we avoid silos and manage to have a look at how land is used in a way that maximises the various benefit types, including flood management and climate change, not just nature. This is a plea for them to not just be considered in isolation.

Another aspect is the issue of who should be leading on this. The Bill provides for a multiplicity of possible responsible bodies, including local authorities. As we heard from the gentleman from the Local Government Association, local authorities are already overstretched. We have an issue over whether they have the capacity to lead on that.

Another aspect is skills, and that was raised to the Committee. Would Natural England be better placed to do that?

It is important to have clear priorities. There need to be no gaps and no overlaps with regards to local nature recovery strategies, and that needs to be an important driver from national Government. Most of the land we refer to is in private ownership, so it will be important to consult with landowners and land managers on that.

Alan Law: The Bill has the potential to be the most significant environmental piece of legislation since the National Parks and Access to the Countryside Act 1949. We have worked on conservation in this country for the last 70 years, driven by a focus on looking at the rare and putting in place protection measures for those rare site species: parks. What is exciting about the Bill and its links to the 25-year environment plan is the ambition to go from protecting small parts of the countryside—looking after the rare and the special—to trying to drive wholesale large nature recovery. That ambition around recovery is fundamental. The most important part of the Bill revolves around this nature recovery network and the links between the local and the national.

Will local nature recovery strategies alone deliver the ambition of the nature recovery network? No, they probably will not. That will not happen without further tightening up, either in the Bill or in supporting guidance or regulations. For reasons already articulated, we need to ensure that local nature recovery strategies operate within some form of national framework so that they are coherent. A national framework needs to be in place.

There need to be mechanisms for developing local nature recovery strategies so that they are quality assured and checked to ensure that they actually add up to a

part of that coherent network. We need to see clear expressions of the set national targets writ into those local nature recovery strategies. At the moment we have an ambition at the front of the Bill around targets and we have a tool—a delivery mechanism—around local plans, but there is no hard-wired connection between the two. That is not difficult to achieve, so the issue is to tighten up around the links between targets, delivery processes, and some of the accountabilities.

Dr Mitchell: I have some opening words from my perspective on the Bill itself. British farmers are the stewards of our natural environment, and they have a good track record of protecting, maintaining and enhancing our environment. We welcome some aspects of the Bill, but some improvements could be made to ensure that environmental enhancement policies are carefully considered, and that food production and the environment go hand in hand. One of the key themes in the Bill and its various measures will be the need for them to work for farmers and food production as well as for the environment. Setting that context and going on to nature recovery networks and local nature recovery strategies, there is a lot of jargon around. We need greater clarity on these different phrases and how they all fit together.

How local nature recovery strategies may be used is unclear from our perspective. The suggestion is that they may be used to inform planning decisions. That makes us slightly nervous because is it some sort of designation that may be used to identify environmental priorities or opportunities that may restrict what farmers might want to do with their land in future, such as new building requirements? Farmers may want to update and modernise their buildings, but will that be restricted if they are in one of these areas? Or might they have an impact on land values?

Those are some of the questions we have in the back of our minds. Farmers get very nervous when you start drawing lines on maps, particularly when it comes to thinking about how environmental land management schemes may be ruled out in future. If these strategies are used to identify where farmers may be able to enter into one of these ELM schemes, does that mean they will be restricted in their engagement? We recommend that these local nature recovery strategies are confined to areas that are already identified for environmental value, such as sites of special scientific interest.

My final point is that we need to ensure that farmers are properly consulted at an early stage of the strategies, so that food production is considered alongside any environmental priorities.

Q61 Rebecca Pow: Thank you for coming in. I want to go back to the local nature recovery network strategies and how they link to national strategies. Clause 98(5)(b) includes a very specific reference, that the local nature recovery strategies

“could contribute to the establishment of a network of areas across England for the recovery...of biodiversity”.

That is newly added since the previous Bill, in response to engagement with stakeholders. I want to know, first, whether you welcome that and what you think about it and, secondly, going on a bit, your view of the overall measures in the Bill in driving us towards this nature recovery environmental improvement.

Alan Law: We welcome the insertion of that clause. I have “could” underlined, rather than a more affirmative statement on the plan to undertake it. The ambition is clearly there to develop local strategies that add up to a coherent whole, but a little bit more in some of the supporting guidance or regulation to tighten up exactly how national standards will be met should be defined, and how those can be used in terms of local strategies. A timeline for production of the local strategies, again, would be great to see coming through while the Bill is in transition.

It will be really important to have some formal mechanism for scrutinising those plans and for advising on how fit for purpose they are. They will go back up to the Secretary of State, who provides that scrutiny. Forgive us for the presumption, but perhaps a body such as Natural England could provide that sort of role.

Dr Young: We were really pleased to see that addition in the Bill, because it makes the link. It is clear in the explanatory notes that it is talking about a nature recovery network. I will reiterate how important a nature recovery network is to tackle the massive declines that we have seen in nature over our lifetimes.

I agree with Alan’s point that the Bill uses the phrase “could contribute”. Certainly, the Bill’s ambition is clear, but there is always a danger of the ambition not being implemented in the way the Government foresee. When resources are tight, organisations will do what they must do rather than what they should do. It would be good to see a change in some of the wording in the Bill from “may” to “must” so it achieves the ambition we really hope it will achieve. The Bill uses the phrase “a network of areas”. It would be really good if the term “a nature recovery network” were included in the Bill rather than just in the explanatory notes, so that we are really clear what we want the Bill to do and what we want people to do.

It will be important to think about how this is implemented. Again, we are really pleased that the duty on local authorities in an earlier section of the Bill has been improved so that it is about local authorities not just having regard to the protection of biodiversity but enhancing it and having regard to local nature recovery strategies. However, in the past, “have regard” has not been a very strong term and has not led to sufficient action to halt the declines. A slight change of wording—perhaps to “act in accordance with local nature recovery strategies”—would really shift the focus from thinking to doing and taking action.

We would like local nature recovery strategies to be more clearly required to be expressed in the planning system. I think local authorities and public bodies having regard to local nature recovery strategies in their decision making about planning and spending would lead to stronger action. It would also help to a certain extent with the point that colleagues have made about consultation, because the planning system provides us with a ready-made administrative system for good consultation.

Q62 Alex Sobel: I just have one question. I think there is general consensus that we do not want a lower standard of environmental protection after the end of the end of the transition and the implementation of the Bill. Do you feel that the Bill replicates our current level

[Alex Sobel]

of environmental protection—the level as it was when we were a member of the EU—or will it deliver a lower level of environmental protection?

Judicaelle Hammond: There is no reason, given the way the Bill is framed at the moment, that those standards will drop. The CLA is on record as a strong supporter of high standards remaining, not least because that gives us an opportunity to use high standards as a unique selling point both in the export market and internally. These are absolutely necessary, and we need to make sure that we maintain them.

The Committee may want to consider the kinds of issues with trade deals that are being raised at the moment with the Agriculture Bill. They apply in exactly the same way to the need to ensure that we do not get imports that are produced at much lower standards of environmental protection—and, indeed, climate change action—than would be allowed here. That is an element of the Bill on which there could be some really useful reflection.

Dr Mitchell: There are a number of safeguards in the Bill to ensure that our environmental standards are not lowered. The environmental governance aspects around target setting, the embedding of the environmental principles and the introduction of the OEP should ensure that our standards are not lowered.

One of the things that we need to consider alongside our standards is the fact that farmers are doing a lot to maintain our environment as well as creating habitats and enhancing it. We ought to recognise that as well as all the things that we do to improve and enhance our environment, there is a lot of work in terms of good day-to-day management and maintenance that farmers do to maintain our landscapes. At the moment that does not seem to be recognised in the Bill, and we would like that to be recognised a bit more.

Alan Law: There are two aspects here—differentiating ambition from certainty. On the one hand, the Bill provides the mechanism through target setting to go beyond existing standards. That is entirely welcome. As yet, we do not have the clarity around those targets, but it is entirely welcome. The other area is around potential regression. There is a protection in the Bill through clause 19 around primary legislation, but that does not apply to secondary legislation, so conservation regulations in that area could be subject to regression.

Q63 Ruth Edwards (Rushcliffe) (Con): My question is particularly directed at Dr Young and Mr Law. Do you believe that 10% is the correct level of improvement for the biodiversity net gain targets?

Alan Law: I would reframe the question to say a 10% minimum. The work that we have done with stakeholders around those thresholds suggests that many are indeed willing to go higher than that, but there is a sense that applying a mandatory higher level at this stage would be counterproductive. We are content with it, but we apply it as a minimum. I would also say that it is 110%, of course, rather than 10%—it is 10% on top.

The Chair: You are saying that 10% is the minimum but also the maximum.

Alan Law: No, 10% is the minimum.

The Chair: Any advance on 10%, Dr Young?

Dr Young: It is important that 10% should not be a cap on the ambition for net gain. Net gain can make a really good contribution to nature's recovery and we certainly welcome seeing it in the Bill and that it is mandatory. Having quoted 10%, however, we would not want to limit the ambition of those developers and local authorities that would like to go higher.

Dr Mitchell: Net gain provides an opportunity for some farmers who can be the deliverers of it, which is important to consider, but we should not forget that farmers can be developers themselves. They may want to replace a farm building, which may require them to meet the net gain requirements.

We are pleased to see in the Bill that there is an exemption from the need to provide net gain for permitted development. That is really helpful and important, especially for smaller developments on farms that farmers can do through the permitted development rights. We have to remember that in some areas of high environmental value, going beyond 10% might be quite difficult for the farmers, because they are doing 110%, which means that they may have to contribute quite a lot or they may have to get someone else to do the biodiversity credits for them.

We are conscious that in some areas, permitted development rights may not apply for some reason—for example, in national parks. In those areas, farmers would be disadvantaged. Not only would they have the additional costs of applying for planning permission, but they may have additional specific design requirements to meet in that national park area, and they would have to meet the net gain requirements on top of that, so they are already possibly at a disadvantage. One suggestion we have is to broaden the exemption that I just talked about to deliver the net gain to areas where the permitted development rights do not currently apply.

Q64 Richard Graham (Gloucester) (Con): I want to come on to the thorny issue of conservation covenants and potential abstraction compensation. May I start with one question to Mr Law of Natural England? From your point of view, what could conservation covenants deliver on the ground? If you could be as concise as possible, that would be great.

Alan Law: At the moment, we have a range of tools available to us to deliver conservation outcomes. We can designate sites, we can offer incentives and we can engage through the planning system to try to deliver planning gain. Conservation covenants would provide another tool we could use that would be between some of those existing tools.

Q65 Richard Graham: You clearly see it as a positive. Can you give us one example of what could be delivered? Bring it alive for anybody watching this great programme.

Alan Law: We could have conversations with landowners about new agri-environment agreements. Our ambition is to see public investments in public benefits in perpetuity. We could explore the desirability of a covenant with the agreement of the landowner to secure the long-term value of that investment. We could alternatively use a covenant as a different means of ensuring an area is protected in the long term, as an alternative to designation.

Q66 Richard Graham: That is not quite a specific example, but it gives us some structural ideas. Ms Hammond, you welcomed the idea; you are in favour of it. Can you give us an idea of how your members would benefit from conservation covenants?

Judicaelle Hammond: Yes, as you say, we welcome the idea. Depending on how they are set up, we think that covenants are a flexible way to ensure that conservation aims are advanced. They enable two parties to enter into a contract for the long term, which my members value, because most of them will think of their business in multigenerational terms. This is an opportunity for our members to deliver some of the ambitions.

Q67 Richard Graham: And access to an enhanced environment for members of the public, as well.

Judicaelle Hammond: Yes.

Richard Graham: Thank you. Dr Mitchell—

The Chair: Just a moment, before we move forward, you are quite entitled to ask specific questions of specific people, but does anybody else want to comment on the issues that have been raised so far? Yes, Dr Young.

Dr Young: I think conservation covenants provide a really useful tool for securing long-term environmental gains. Our concern about the effectiveness of this is that net gain, for example, which they could work well with, ought to be secured in perpetuity. It should not be too easy to discharge a covenant and risk the loss of biodiversity and other public goods. The terms used in the circumstances for modifying or discharging them ought to be clear enough to give that confidence.

The Chair: Right, Mr Graham, if you would like to carry on.

Q68 Richard Graham: Dr Mitchell, in your written evidence you expressed, as did Ms Hammond, considerable concern about the powers to amend or revoke licences for the abstraction of water. As I read it, the changes recommended in clause 80 are all about where the modification is to protect the environment. For example, you might have a member who owns land high up in the Welsh hills, and it may be thought helpful for people living in Shropshire, Worcestershire and Gloucestershire to have a catchment area or enlarged reservoir for water, to avoid people being flooded downstream. In that situation, is it right that your members should be compensated?

Dr Mitchell: Yes, we do have concerns about the provisions in the Bill to revoke or amend abstraction licences. I think that is the clause we are talking about.

Q69 Richard Graham: It is very specific about the situations. The Bill spells it out clearly:

“No compensation where modification to protect environment”.

It then goes on to specific issues and I gave you an example of one. Surely, in the situation I gave you, it would be wrong to expect the taxpayer to compensate the farmer?

Dr Mitchell: What we are concerned about is not only the fact that the abstraction licence can be withdrawn or amended without compensation, but if you look at the tests to assess harm or impact on the water environment, there is a low evidential bar. They are broadbrush proposals, so there are dual concerns about this.

Q70 Richard Graham: So it is a general concern rather than a specific issue.

Dr Mitchell: It is a general concern.

Richard Graham: Is that the same for Ms Hammond?

Judicaelle Hammond: We share some of the NFU's views, particularly about how the reason for the necessity of the variation or removal is framed. In the Bill, it is very broad and it is not clear that it will be evidence based. That is certainly a concern that we share. I would add that abstraction licences are a business asset and there are property rights, so from our perspective removing them without compensation is an infringement of property rights.

Richard Graham: Okay, point understood.

Q71 The Chair: Are there any wildlife implications, Dr Young?

Dr Young: This is not an area that I work on, but I am happy to consult colleagues and provide information to follow up.

The Chair: That is fine. I just want to make sure you are not missing out on something.

Dr Mitchell: To add to what Judicaelle said, if the proposals go ahead as currently drafted, they will create a lot of uncertainty for some of our members. They could potentially undermine business liability and productivity for some of our members.

Q72 Richard Graham: I understand, but that is a hypothetical risk. You have not given a specific example of one, although I gave you a specific example where I think the public interest would be at stake.

Dr Mitchell: Yes, but they are clearly broadbrush proposals and the evidential bar is low. Abstraction licences are important for business security and certainty. Years' worth of investment has gone into some businesses to ensure that people have access to water. That investment has been made in the knowledge that they have permission to abstract. It could create a lot of uncertainty for a number of our members.

An additional aspect that we are concerned about is the excess headroom provisions, because we are unsure how you could develop an equitable system to assess the underuse of water. There are various reasons why you might not use your licence, including the weather or crop rotation.

The Chair: It is a significant issue, but we are going to have to move on.

Q73 Jessica Morden: The Bill loads lots more powers and responsibilities on bodies such as Natural England. Given the big cuts you have faced, how much more do you anticipate you would need to take on the new responsibilities?

Alan Law: Fortunately, there is a spending review coming up. We are looking at refocusing our organisation in a way that aligns closely with the ambitions of the Bill and the 25-year plan to focus on nature recovery. That means looking to operate at a larger landscape scale and to use our statutory powers at a local authority scale, rather than solely focused at the end-of-pipe development control scale.

We welcome the powers and the ambitions set out here. I was being slightly flippant about the spending review, because wherever that money goes it goes, but our ambitions will be to refocus our organisation to use our incentive, convening, statutory advice and regulatory functions in ways that allow us to build larger-scale nature recovery.

A point was made earlier about whether we should focus on existing areas of high value for nature or wider areas. The point I want to emphasise is that we know—basic ecology tells us—that trying to protect small isolated sites over time does not work. Over the last 50 years, we have been exercising a regime that is effectively holding back the tide, stemming species extinctions on these sites. Unless we extend beyond those sites, it is inevitable that we will see losses of further species interest on these sites as the pressures from the environment and people's activity continue to grow. This is something that we have to do and it is about rebalancing our focus to what the challenges are for the environment right now, rather than what they were 50 or 60 years ago.

Dr Young: I do not want to repeat what Alan just said, but I totally agree. I want to stress how important we feel Natural England's role is in developing and helping to deliver the local nature recovery network and local strategies. It is able to convene partnerships, it has a wealth of knowledge and we really think it should play a central role.

Q74 Bim Afolami (Hitchin and Harpenden) (Con): Dr Young, what role could local nature recovery strategies play in targeting funding under the environmental land management scheme? How could those two things interact?

Dr Young: There is a real opportunity to integrate policy delivery where there is a need for action to be geographically targeted. Some of the options that will be developed under environmental land management will be much more effective for the delivery of public goods and for nature if they are targeted in particular places and form a connected network. Local nature recovery strategies have a mapping element that shows opportunity areas, so they can be used to help with targeting and alignment with other policy areas, such as water policy, so that we can see multiple benefits from delivering particular actions and therefore get more value for money.

Alan Law: Your question is absolutely fundamental. It is imperative that local nature recovery strategies provide an effective mechanism for drawing together different funding streams into a coherent delivery pattern on the ground. Whether it is ELM, net gain or potentially water company investments—a whole range of sources—we need to be able to target coherently. To do that, we need a degree of consistency of standard in place around those local strategies, because how could you offer—

Bim Afolami: Otherwise it would be apples and oranges.

Alan Law: Absolutely; farmers in one part of the country would be operating under a totally different regime from those in another part. It is really important that that consistency is put in place and that we have a network of local strategies.

The thing I want to emphasise, though, is that I am not advocating national prescription. This is not about some ivory tower in the centre coming up with a land use map and saying, "There you are—that is what has to take place on the ground." It is about standards and principles and applying those locally, because for these plans to work, they have to be owned by local people, and particularly by the land management community on the ground.

Q75 The Chair: Dr Mitchell, do you want to say something on farms operating under different regimes?

Dr Mitchell: I think I mentioned this before. My question is whether it is appropriate for local nature recovery strategies to be used to target funding for environmental land management. I say that because if the local nature recovery strategies had been set up for a different purpose—say, for a special planning purpose—and ELM is being bolted on, do we have the same principles and an underlying objective behind the strategy? As I think I said before—I hope I did—farmers get very nervous when lines are drawn on maps, and they get very nervous if there is a postcode lottery and they may be excluded from taking part in a future scheme.

Q76 Bim Afolami: On this point, let us think about food production. Without making the point too bluntly, I think everybody is thinking a lot more about food production now than they were six months ago, and that is a good thing. On food production—you mentioned this earlier—what difficulties are there, or what questions are still open, around farmers producing food, the environmental land management scheme and the local nature recovery strategies? From the CLA's perspective, how do you think of that network of things? It is quite complicated, and I want to get a sense of how you see all those things, particularly in relation to food production.

Dr Mitchell: From the NFU's perspective, we think that the ELM scheme will be really important in future, but it has to work hand in hand with food production. The measures that are developed need to consider farmers' views, alongside protecting and enhancing the environment. Those things need to be considered together.

As I understand it, from a recent document that DEFRA has published, there will be three tiers to a future scheme—or that is what is proposed. Designing those different tiers will be really important in ensuring that the scheme remains accessible to all farmers and that the payment rates act as an incentive or are encouraging. As I say, they need to be designed alongside food production and they need to work for farmers as well as for the environment.

Can I add a point on conservation covenants? I think it came up in relation to ELM previously. We have concerns about conservation covenants. We have no objection to—indeed, we support—farmers working collaboratively, but we have a number of technical concerns about covenants. We have talked to various people, including non-governmental organisations, and I do not think our proposed changes are very controversial or change the objective of the Bill.

First, we think there ought to be clarity in the Bill to ensure that landowners do not sign up inadvertently to a conservation covenant, which I think is a danger. The Bill, as drafted, says that an agreement only needs to meet certain tests or criteria for it to be a covenant, but it does not need to state explicitly that it is a covenant. We think that ought to be addressed in the Bill. Farmers need to be aware of the seriousness and significance of signing up to a covenant. It is not a contract; it binds successors in title, and farmers need to be aware of that.

Secondly, the design of covenants needs to be sufficiently flexible. Specifics such as the length of the agreement and modifications or variations that can be made to the covenant need to be considered by the landowner and the third party. The points are quite technical, but hopefully they are not controversial and would not change the objective of the Bill.

Q77 The Chair: Ms Hammond, you are nodding. Before we move on, do you want to comment?

Judicaelle Hammond: Yes, thank you for that. We agree that such a clarification would be helpful. The Bill could be tightened in that regard. The one thing I would add on conservation covenants before I answer Mr Afolami's question is that we have reservations about covenants being de facto, by default, in perpetuity, not least because of climate change and the fact that what you do with a piece of land, given the topology and given what we know is going to happen with climate change, regardless of our success in containing it, might mean that in 30 years' time it might make sense for nature to do something slightly different with it because the habitat has moved. That is something we need to continue being flexible about.

As for your questions about—this is my way of rephrasing Mr Afolami's question, I hope I get it right—how we knit together food production and the environment, we do not see a divergence between the two. This Bill and, indeed, the Agriculture Bill give us the opportunity to bring the two together. There are three critical elements if this is going to work. First, clear standards and long-term targets will be provided by the Bill. The second element is advice—something that perhaps we are not talking about enough in farming and the environment. That reflects the findings of the review that Dame Glenys Stacey carried out into the future of farming inspections and regulation. Advice is the first step to improvement. It might well be that advice and different technologies work together really well. For example, precision farming is a case in point where, if you are looking at how to use your inputs as effectively and efficiently as possible, it is good for food production, it is good for your costs as a business and it is good for the environment. The third element is to make sure that the incentives work right, in the way the market is going in terms of labelling and expectations, but also in terms of public policy where there is a market failure.

Q78 Deidre Brock (Edinburgh North and Leith) (SNP): In your view, is there sufficient clarity in the Bill regarding the OEP and its role, particularly its relationship with environmental governance bodies, including Natural England, the Environment Agency, the Committee on Climate Change and so on? If you do not think there is sufficient clarity, what would you suggest might be included to make that happen?

Alan Law: From our point of view, we think there is. The Environment Agency is a regulator. What the OEP brings is a body that looks at the operation of public bodies in relation to our environmental ambitions and duties. We do not see an inherent tension. I think there will be areas where we both have a legitimate interest in providing advice to Government. When the national planning policy framework is revised and revisited, we would probably both have inputs to make around that, but we would seek with the OEP to set out under a memorandum of agreement where our respective boundaries lay and avoid any duplication. That is certainly the intention.

Dr Mitchell: I want to add a quick point on the OEP because I think the Bill largely addresses some of the concerns we had about how the new regulator would work with the existing regulatory bodies. I think that is largely sorted out. We think that the OEP should be

required to act proportionately. At the moment, the OEP is required to act objectively and impartially, and we think that ought to be extended to proportionately. At the moment, it only has to have regard to act proportionately. It seems to be an omission, so that is one of our asks.

Q79 Deidre Brock: Given the experiences of Natural England and, so far, little detail around the setting up of the OEP and its funding—I know there is a commitment to multi-year funding, and so on, but little real meat to flesh it out—are there safeguards in the Bill to ensure that the funding will be protected?

Alan Law: The Bill has provisions for the OEP to advise on the adequacy of funding. I am not sure there is much more I can add to that. Clearly, there is a requirement on the Secretary of State to report regularly.

Q80 Marco Longhi (Dudley North) (Con): My question is for Dr Mitchell. To clarify a point you raised earlier around covenants, as I understand it, the Bill suggests that these are voluntary. That for me is the key point. You raised a concern about farmers inadvertently signing up. Do you have any further thoughts about that? I assume that they will be advised by the legal profession about what they will be taking up in that respect.

Dr Mitchell: Yes, you are right; they are voluntary agreements, and they have to be between a third party and a landowner. Our concerns are based on the fact that you could be signing up to a covenant, but it does not have to state expressly that it is one. So long as it meets certain tests or criteria, it could be considered to be a covenant, but if it does not state expressly that it is a covenant, farmers may not actually know that it will be a covenant.

I realise the Bill is not in place yet, but we had a recent example where farmers were being asked by a charity to put in ponds and to maintain them over a certain period of time. To all intents and purposes, if you looked at that letter of agreement, it could be considered to be a covenant. We are concerned that, unknowingly or unwittingly, farmers may sign up to one. Clearly, they are quite serious; they could be in perpetuity, but they certainly bind successors in title. We want to make sure that farmers are absolutely clear about what they are signing up to. A small amendment to the Bill, setting out that if something is a covenant it has to state that, would be really helpful.

Q81 Robbie Moore: I want to return to nature recovery strategies to clarify a point that was made earlier. Do you agree that nature recovery strategies are only part of the picture when it comes to ensuring biodiversity recovery? For example, biodiversity net gain, tree-planting measures and so on will all be key. It was mentioned earlier that clause 98 contains the word “could”. Do you agree that it is appropriate to use “could” rather than “should” because this is part of a wider range of measures to reach the end goal?

Alan Law: Yes, to be absolutely clear, not all wildlife will be in a nature recovery network or a nature recovery strategy, but what we are looking for in the nature recovery network and local expressions of those plans are the skeleton and vital organs of a healthy organism. We would still expect, of course, to see wildlife and

other environmental features beyond that, outwith the nature recovery network itself, but we are trying to design something on a scale that can be healthy and resilient—that can deal with pressures, variation, pollution, climate change and so on—and that cannot be done on a small scale on its own. However, that is not at all to say that we are designing everything into this network and that everything outside the network does not need to be worried about.

Judicaelle Hammond: To add to that, nature recovery networks are certainly one really important and very useful element, but they are not the only one; for example, what is being set up under the ELM scheme is another way, and covenants are another way. This gives us an opportunity for a more consistent and better joined-up way of delivering what is in the Bill.

We are really strong supporters of the Bill, but if there is one thing that is probably missing from it in comparison with what is in the 25-year environment plan, it is any reference to heritage. I mention that now because for me it is part of thinking about land issues in the round and not just looking at nature, climate change or other things. Heritage is the sixth goal in the 25-year environment plan, but it does not appear anywhere in the Bill. If you think about it, heritage is part of the natural environment; it contributes to making places distinctive and has a lot to do with wellbeing and people's enjoyment of the natural environment, but things that do not have an obvious economic use are not necessarily paid for.

People want parkland, stone walls and archaeological features, but they are not necessarily prepared to pay for them, and they can be quite expensive. We have already lost about half the traditional farm buildings. If they are not in the Bill, they will not be measured. If they are not measured, will they be reported on? If they are not reported on, will they be funded? That is an issue we had under the common agricultural policy regime and we are quite keen on avoiding that being the case under the post-Brexit regime.

The Chair: We are expecting a Division in about two minutes.

Q82 Saqib Bhatti: I will try to be quick. We started the discussion by talking about more clarity on local nature recovery strategies. As the discussion has evolved, it has become clear how complex these things are. My challenge is that the Bill is not the place to have further clarity; it is in the secondary legislation where you will have public consultation and contributions from experts.

Dr Young: We would like to see local nature recovery strategies as a holistic response to the current biodiversity crisis. I agree that there is provision in the Bill for some of the things we have talked about in terms of a consistent strategy for nature. *[Interruption.]*

The Chair: Order. Ladies and gentlemen, you will have noticed that there is a Division in the House. Because we are within two minutes of the end of this session, I invite witnesses to submit any written evidence that you may feel you have not aired. Thank you for your attendance. We will resume after the vote, with injury time added.

3.27 pm

Sitting suspended for Divisions in the House.

Examination of Witness

Rico Wojtulewicz gave evidence.

4 pm

The Chair: I apologise for the delay, which was due to Divisions in the House. I am afraid there may be a Division on Third Reading as well, but we will cross that bridge when we come to it. Good afternoon, Mr Wojtulewicz. For the benefit of the record, please identify yourself and the organisation that you represent.

Rico Wojtulewicz: My name is Rico Wojtulewicz. I am head of housing and planning policy at the National Federation of Builders and the House Builders Association.

The Chair: Thank you very much. I apologise again for keeping you waiting.

Q83 Dr Whitehead: Good afternoon. Before our break, we were talking about local nature recovery strategies. There is obviously a requirement in the Bill to have regard to such strategies in planning, but not a duty to use them. Do you feel that that is likely to translate into clear requirements on developers, or might there need to be some clarification in the Bill about how that might proceed?

Rico Wojtulewicz: Clarity would be very helpful. Developers really struggle with wishy-washy comments from planners and local authorities that perhaps do not have an established strategy that they can follow. That is definitely one of our concerns about this sort of approach. It is really important that developers can be part of the strategy and are not asked to deliver somebody else's strategy. That is vital going forward.

Q84 Dr Whitehead: In the context of recovery strategies, one suggestion is that permissions for, say, residential building could require a target of a specified percentage of canopy cover on developments. As a number of people have said, it is significant that the section in the Bill on trees deals with cutting them down but is silent on planting them. Do you think that a target for a specified percentage of canopy cover on developments might be welcome among builders if it could be incorporated into plans in a clear way?

Rico Wojtulewicz: Ideally, yes. The difficulty is that every site will be very different, so if you specify a particular type of site, it might be quite difficult. In somewhere like London, where you desperately want an increased density, if you specify a particular type of canopy cover, it might be very difficult to deliver that, whereas in somewhere like Cornwall you might be able to deliver increased canopy cover with less concern.

It also depends on the type of canopy cover that you are looking at. If, as part of your biodiversity strategy, you know that you would like to encourage a particular type of species to visit that site, and maybe encourage a nature network to improve, you need to know what species of tree or plant you would like to use. That information is very scant, which is a real difficulty for developers. The majority of the people I represent are small and medium-sized builders, although we have some larger ones, and they win work on reputation, so a good site is vital. That is almost part of the sales pitch in the end, but unless you have that feed-in knowledge it is very difficult.

We work with an organisation called the Trees and Design Action Group, with which we have been partnered for a while. It produces a document called “Trees in Hard Landscapes”. That allows us a better idea about what we can do on sites. That expertise is not necessarily shared across the wider industry and specifically among local planning authorities.

Q85 Rebecca Pow: Welcome. Thank you very much for coming. I know that many house builders have already done some really excellent work on biodiversity and net gain, voluntarily, off their own bat. What is your view about mandating it to get environmental improvement? Do you think the 10% specified in the Bill is the right level?

Rico Wojtulewicz: I honestly could not—I do not think anyone could—give an honest answer to that. When we were approached, we welcomed biodiversity net gain because we recognise it is vital. We recognised that 10% might feel like an arbitrary figure, but if it is deliverable, why should developers not go for it?

We are at the start of understanding what we can deliver and how. I can give three perfect examples of that. We have the great crested newt district licensing scheme, which has only really come to fruition in the past few years. We worked with Natural England on that. That eDNA tests newts in a local area, which means you do not have to do a ginormous survey. That is a very new technology and has only just been introduced. Two other ones are bee bricks and swift bricks. Those allow more bees and swifts to visit a site and be part of the network of biodiversity on that site. Those are new technologies. It seems amazing that we could not incorporate those before in developments, but we are really at the early stages.

From our point view—whenever I speak to our members—we will do as much as needs be, as long as there is an industry out there. If you look at ecologists, do we have enough ecologists in local authorities to offer advice and guidance? Do we have the right network of information, so that it is simple and easy to use—so that all developers, whether self-build or building 2,000 homes, can understand what to deliver on site to reduce the burden on professional ecologists, who might want to tailor a scheme to make it unique.

Q86 Rebecca Pow: The Bill is a framework Bill, so the 10% is signalling that this is the direction of travel. I just want to hear you say whether you are pleased about that. Is there a good direction of travel? All the nitty-gritty about exactly what you are asking will be set in the regulations and secondary legislation, and I hope you will put into that. I have met lots of house builders, and my impression is that they welcome this because it signals a paradigm shift in the way our development will go.

Rico Wojtulewicz: Broadly yes, but of course, again, it is site specific. Not every site can deliver. There will still be exemptions, and that is part of the Bill. Small sites have not been exempt, and we do not want them to be. This should be uniform across the whole industry, and we should all be trying to have an ambition. If that ambition is 10%, it is 10%, but Government and partners must do all they can to assist builders to deliver that, preferably on site rather than off site.

Q87 Abena Oppong-Asare: Currently, the Bill is not explicit enough about irreplaceable habitats. There is some concern about unique habitats, which can be paved over, as long as developers can show net gain overall. How well founded are those concerns?

Rico Wojtulewicz: As far as I understand it, protected habitats will remain protected. The work we have done with Natural England identifies that. They have been very keen for us to ensure that that occurs. Small developers will typically be the ones who are delivering on those sites more often than the larger house builders, because they might lose one particular site within a larger site. A lot of the larger developers specifically will be delivering on agricultural land. It is on those smaller plots of land that there perhaps may be more danger of those protected wildlife sites being lost. We think that Natural England will put the right protections in place so that it cannot just be offset.

Q88 Saqib Bhatti: Following on from the Minister’s question, I would like a bit more clarity. I understand that the biodiversity net gain concept is being embraced, and you welcome that. It is a minimum of 10%, so there is potential, if a developer wants to go higher than 10%, that they can do that. As a federation, you are not against that; you are embracing that. Am I clear about that?

Rico Wojtulewicz: Yes, absolutely. If we can go higher, we will. Help us to get there.

Q89 Alex Sobel: The Bill creates space, as you said, for local nature recovery strategies, which can be used in both the planning and development phases. During those phases, who will have responsibility for ensuring that those strategies are being followed?

Rico Wojtulewicz: We assume it will be the local authorities, with their guidance and local plans. We hope it will be. All developers really want is clarity.

Q90 Alex Sobel: And you are not finding it in the Bill as yet?

Rico Wojtulewicz: No, we are not. The difficulty is that you need to ask yourself whether a local authority really knows what it wants to deliver and how it wants to deliver it. The Bill can say whatever it likes if local authorities cannot deliver it and do not understand how to deliver it. We do not even have the right information; for example, we do not know what migratory flightpath certain birds might take. How can you deliver all that without having all the information first? That is where the Bill has to be a developing document that changes, because at this stage it is the first step to understanding how we can deliver something really special.

Q91 Cherilyn Mackrory: On that point about the importance of clarity, as an ex-councillor myself I understand the differences between local authorities when it comes to the planning process, although there are guidelines, such as the national planning policy framework and so on, that they can refer to. This is a framework Bill, as the Minister has already said, and it shows the direction of travel. One important point is the consistency that will be established between local authorities, and the mandatory net gain. Will that be helpful for developers? Can you outline the opportunities that you think your sector can gain from that direction of travel?

Rico Wojtulewicz: The duty to co-operate between local authorities will be vital. You cannot control where a particular species will be migrating, moving or living, so that is really important for the development industry. If we look at something such as a wildlife corridor, which could stretch across a few local authorities, some people would perhaps say we should not build on any of that wildlife corridor, but we do not necessarily take that view.

We think that, depending on the species that utilise the wildlife corridor, we could be part of improving the opportunities for them to utilise it, such as by undercutting hedgerows or raising hedges so that hedgehogs can travel across the entire site. Perhaps there is a particular type of bird that utilises that corridor. How can you encourage more of that biodiversity in the plants you plant? Is it food? Is the right type of lighting used to attract them? Maybe you have a particular type of bat that does not like a particular type of lighting.

Developers can be part of that and encourage it, to ensure that we are delivering a better network. The difficulty always is that the minute a developer is announced as being part of any wildlife stretch, corridor or site—even just an agricultural piece of land that perhaps does not have strong biodiversity—the automatic reaction is, “This is going to be damaging for biodiversity.” It does not necessarily have to be.

Q92 Cherilyn Mackrory: Does that mean that there is an opportunity there for the sector to up its game a little bit in how it demonstrates, particularly to people at a parish council level, how they can enhance the natural environment? I am thinking particularly of more rural areas, where you have developments going up on the edge of a village. That can be very contentious, as I am sure you are aware, but if developers were given the opportunity to say, “Because of this legislation, we are now going to do this,” do you think that would potentially help those relationships?

Rico Wojtulewicz: Yes, in a perfect world, but not always, because local parish councils perhaps become set in their ways in believing that a particular thing will damage their area. A great example that you mentioned there is building on the edge of a village. We would love to be able to build on the edge of a village. Unfortunately, opposition from parish councils is so strong that many developments end up going quite far away from the parish. Then people say, “Now we don’t have the right infrastructure in place.” That is because if you are building, say, 20 homes in a community, you may get more opposition than if you are building 200 on the outskirts.

So, yes, while that could be the case, it has to be about accepting that developers are trying to do the best thing, and not simply about having extra regulations or extra ideas put on top of them. When you go back to the beginning of the planning process, we already have the issue whereby 30 homes can take three years to get permission, and 500 homes three miles away might take six months. You think to yourself that you want the homes and you want more dense communities so you can use these bus services, and maybe even train services, and you get better commercial opportunities, but you are not really understanding the process for that. So, yes, hopefully.

Richard Graham: Mr Wojtulewicz—if I have pronounced your name correctly.

Rico Wojtulewicz: Perfect.

Q93 Richard Graham: Thank you for joining this session. For all of us, housing and planning is such a massive constituency interest and concern. My experience of the past 10 years as MP is that, time and time again, developers appear to have been behind the curve. When you look at the provision of broadband, so often houses were built without it. When we look at solar panels, the same thing. Electric charging, the same thing again.

There are outstanding exceptions to that. For example, a housing association called Rooftop based in Evesham has done some things in my constituency that are largely social and affordable housing that have solar panels and electric charging points. However, it is not always the norm and the Bill seems to me to open the way for house builders and developers to think proactively about what sort of contribution they can make to a net zero carbon future. How do you think this Bill might help house builders and developers adopt that approach and come up with creative ideas that deliver the homes we want while boosting the goals of this Bill to protect and improve the environment?

Rico Wojtulewicz: I will take each one of those individually. If you are trying to put broadband into a site, you may ensure that you can have high-speed broadband throughout the whole site. It is not your job to be the BT or the Openreach of that world. You cannot connect that site, typically. It is more difficult to do that and, especially in rural communities, there are smaller groups living there. You can make sure your site is broadband ready but somebody else has to connect it.

We had the same issues with electric charging points. Many of our members have had to pay for substations to be put in when, effectively, the energy company was making money in perpetuity. Mr Graham said contributions: it is not contribution, it is cost. It is increasing the value of the property and increasing delays. We need a strategy for local authorities to do a better job of understanding where those areas will be connected and why.

Q94 Richard Graham: Just to be clear, that does risk sounding a bit like “Well, we’re not going to do that sort of thing because it all costs us a little bit of money and our profits will be reduced slightly.” Looking at the salary of Persimmon’s chief executive, one wonders whether all of that story is necessarily accurate. Don’t you think there is a case for house builders to get ahead of the curve and do things that everybody wants to see and people expect in their houses now, and if they have got it already, their houses would be more popular and sell for more money?

Rico Wojtulewicz: In essence, you may be correct, but if you have built a site that is high-speed broadband ready and Openreach cannot come in to connect that site for two years, and they are the only provider available—

Q95 Richard Graham: That is a separate issue, isn’t it?

Rico Wojtulewicz: It is a key issue.

Q96 Richard Graham: What we are talking about is retrofitting on developments that were not ready.

Rico Wojtulewicz: No, it is not retrofitting, it is connecting the initials.

Q97 Richard Graham: I am encouraging you, Mr Wojtulewicz, to look at the positive opportunities for your members and for you to identify what they are, rather than complaining about the additional cost that might be involved.

Rico Wojtulewicz: You cannot separate the two because it is not necessarily about the cost. The cost is also in delay. It would be great in a perfect world, but if you have to connect that site up and nobody can move into that site unless it is connected up and you have to wait for somebody to connect it up for you, that is a delay that ends up being a cost. You may have to pay council tax on each one of those properties until it is inhabited. The cost—you cannot separate the two. It would be great if we could. It would be great if we had all the right opportunities in place.

I will pick on solar panels as a great example. Many of our members install solar panels. It is easy for housing associations to do that because they maintain the site themselves. When a developer does it, we have no issue about putting in solar panels, but when we look at it, we say: “Wouldn’t it be better for that money to be contributed to a district scheme where the maintenance is either done centrally by the developer or the local authority takes it over, so that in five or 10 years’ time, those solar panels are maintained and can also be replaced?”. If it is a homeowner’s choice to do that, we find that they do not get replaced or maintained and are not part of the fabric of the building. That is why in the part L regulation on energy efficiency, we encouraged using the money that might be used to enforce solar panels to be used on a district system, because solar panels themselves are an add-on, not part of the fabric. If they are part of the fabric, absolutely, but this is not a cost. What you are asking is: “How can we retrofit solar panels in the future?” We need to have an energy system that works for that neighbourhood so that we have local energy generation.

Q98 Richard Graham: Do you want to have one last go very briefly at identifying what opportunities you see from the clarity of the Environment Bill on house building or carry on with a series of negative comments?

Rico Wojtulewicz: If you accept the realities of what I have said, absolutely. The opportunity also needs to be strategic. If local authorities can play into the strategy of their neighbourhood, there are many opportunities to deliver cleaner air by having electric chargers; to ensure that broadband is better connected; and that we have local energy generation because house builders are playing their part. Those are the fantastic opportunities that we need to have a conversation about and how we deliver them, and not simply put it on the developer, because it is not as deliverable as you might think it is.

Q99 Richard Graham: We will interpret that as meaning that your members are ready to play their part.

Rico Wojtulewicz: To play their part, yes.

Q100 Dr Whitehead: On a slightly different topic, the question of building waste wood in the waste stream has been a live issue for quite a while, and the extent to which legislation should be introduced to ban waste wood from the waste stream—that is, other things need to be done to it higher up the waste hierarchy. That issue

particularly involves wood that has been used in building. Very often builders just put their wood in waste streams when they have finished building the property or properties. Do you have a view on that? Do you think legislation is required, possibly in this Bill, to ensure that that wood does not go into the waste stream and is used higher up the hierarchy or are there things the building industry could do to make sure it does not happen?

Rico Wojtulewicz: It is definitely not my expertise, but if it is a real concern, the industry would support measures to ensure that that does not occur.

Q101 Kerry McCarthy (Bristol East) (Lab): To go back to the 10% target, I thought you were being quite enthusiastic about quite a lot that could be done from the house builders’ side of things. As parliamentary species champion for the swift, I was glad that you mentioned swift boxes, which are great, but there has been a 57% decline in swift breeding pairs since 1995, according to the RSPB. That is just one example, but if you look at biodiversity loss across the board, some people would argue that 10% is only really keeping things at a standstill. Do you feel that if you were pushed to do more, you would be able to respond and try to meet a higher target? If a 20% target was in the Bill, what would be needed from your point of view to enable you to help with that?

Rico Wojtulewicz: Guidance on what we could do to increase the swift population, such as on what trees and food they might like and what lights do and don’t attract the food that they enjoy eating. All these little things actually make a big difference. If that knowledge is there, it feels quite isolated. I think we are very enthusiastic about the things we can do, which will effectively make our sites better at delivering what people want.

The difficulty is that sometimes politicians perhaps do not understand the development process and what occurs. We in the development industry need to ensure that we have a greater understanding of what we can do on site. Perhaps you would have a particular target in an area that you know would encourage more swifts. Perhaps you could issue specific guidance for that local authority, as part of the network.

Kerry McCarthy: I think Brighton and Hove has just done it, and Exeter. I am working on Bristol.

Rico Wojtulewicz: They have. I am from Brighton.

Q102 Kerry McCarthy: On the skills side, it is one thing for a developer to bring in an ecologist or someone to advise on these measures at the smaller scale of things. To what extent is any of this taught at construction college? Should it be? Should we teach builders about biodiversity and things that grow, instead of just teaching them about bricks and mortar?

Rico Wojtulewicz: I think that is a really good point. The majority of our members are small and medium-sized, where someone might be a bricklayer one day and a site manager the next. They are trained to a high level—typically level 3, with more of them taken on than level 2. This is absolutely an opportunity to ensure that the education is there, not only because it would allow for better building approaches but because it would reduce the burden on a local authority always to have an expert.

The more that the development industry can do to deliver what we can, the better. That means that local authorities can be certain that what is being delivered is correct and right for their local area. That is a great idea, and it would absolutely have the support of the National Federation of Builders.

The Chair: We will have one final, brief question from Saqib Bhatti.

Q103 Saqib Bhatti: Building on whether it is 10% or 20%, the fact of the matter is that, whether for the house-building industry or other industry, the tier 1 suppliers and operators lead innovation and set the standards that trickle down through the industry. Certainly, if a single small business of constructors achieves a net biodiversity gain of 10%, that will not trickle up immediately. It will take time. Is it not better to have a minimum of 10%, letting those who want to do more to do so and letting the skills from tier 1 guys, like Barratt Homes, who have been doing this, trickle through and become the industry standard?

Rico Wojtulewicz: No, I think you actually have that the wrong way around. It is the small and medium-sized companies that push this information up. We see that with bricks such as swift bricks, which were not developed by Barratt but by some smaller organisation that thought, “Can we utilise these on site?” Many of our members are now considering how to use a SUDS—sustainable urban drainage systems—pond to encourage better wildlife and better sites.

A lot of innovation comes from the bottom. Berkeley Homes is a great example of a company that really pushes to innovate. However, look at—I mentioned part L earlier—the use of air source heat pumps, which is a great way to decarbonise our grid. The majority of people using them are small and medium-sized developers. Many of our members use them. They have perhaps historically not been used as much on the very large sites.

There is a part to play for both, but we typically get into this idea that it is always the big boys helping the rest, whereas I actually think it might be the other way round. Having more education for builders is a good example. Four or five construction apprentices could be trained by a small or medium-sized developer. If they take on more level 3 apprentices, they would probably have a better knowledge than the level 2s. Already you can see that the skills element is filtering up, not down.

The Chair: Mr Wojtulewicz, thank you very much indeed for enlightening us with the information you have given the Committee, to enhance our understanding. Thank you also for your patience in staying with us during the Divisions. We are most grateful to you. Can we now have a swift change of team, please, for the final session of the afternoon?

Examination of Witnesses

Ruth Chambers, Rebecca Newsom and Ali Plummer gave evidence.

4.30 pm

The Chair: Good afternoon, ladies. I apologise for starting half an hour late, from your perspective, but we will finish at 5.30 pm on the dot. For the record, may I ask you to identify yourselves and the organisation for which you work, and its purpose?

Ruth Chambers: I am Ruth Chambers, and I represent Greener UK, which is a coalition of the big 13 environmental non-governmental organisations in the UK, including Greenpeace and the Royal Society for the Protection of Birds. We have come together to ensure that Parliament and Government hear from the sector in a united way, so that our asks are presented with clarity and purpose.

Rebecca Newsom: My name is Rebecca Newsom. I head up the political affairs unit at Greenpeace UK. As Ruth said, we are a member of the Greener UK coalition.

Ali Plummer: I am Ali Plummer. I am a senior policy officer at the RSPB.

The Chair: Thank you all very much indeed for joining us.

Q104 Dr Whitehead: I know that there has been a considerable amount of discussion among environmental and green groups about how the Office for Environmental Protection will work within the Bill, and to what extent it will be sufficiently independent to carry out the function that is widely regarded as the function that it should carry out on environmental protection overall. How do you think the OEP could be strengthened in the Bill, and do you think that the Bill has it right regarding the teeth that the OEP will need to hold the Government and public authorities to account?

The Chair: It is not necessary for every member of the panel to answer every question, but in answer to this first question it may be helpful for you to set your stall out a bit as well.

Ruth Chambers: That is a very important question. There are three ways in which the independence of the Office for Environmental Protection will be ensured. The first is through the legal foundations provided by the Bill. The second is through its culture, which we will not talk about today. The third is through its organisational design, and the initial budget that it will get. Again, that is not relevant to the Bill, but it is a very important issue to ensure that we get the OEP off to a good start, so that it is not hampered from the get-go.

In terms of the legal foundations, there are two main ways in which the independence of a public body can be assured through law: how it gets its money and where its members come from. At the moment, although there have been some welcome strides forward, the Bill unfortunately falls down in both those regards. In terms of where it gets its money from, we welcome the commitment that the Government made around October that the OEP will have a multi-year annual funding framework for five years, ring-fenced in each spending review. That is very helpful. We see no reason why that could not be enshrined in the Bill, to give those guarantees on an enduring basis. The route by which the OEP gets its money is also very important. We have argued that it should be able to submit its own estimate directly to Parliament in the way that other public bodies, such as the National Audit Office, can.

Secondly, where the body will get its chair and other members from will be entirely at the discretion of Government Ministers at the moment. For a body of this import, which is meant to be independent not just at the start but for the duration, we think that greater involvement from Parliament would be very helpful. We

are not asking for something unprecedented. Indeed, there are very good models where that is the case in practice. The National Audit Office and the Office for Budget Responsibility have already been flagged before the Committee. They are two examples of how you could crack the same nut in a slightly different way. Either way would be better than what the OEP has at the moment.

In terms of teeth, finally, we think that the way the enforcement functions are configured at the moment is certainly a step forward but there are some serious flaws, particularly in clause 35. One example is the upper tribunal being constrained in the types of remedies that it can issue and grant, should a public authority be found to be in breach of environmental law. We think it should have more freedom to impose the remedies as it sees fit.

Rebecca Newsom: I echo everything that Ruth just said. From Greenpeace's perspective, we have concerns around the OEP's independence, funding and enforcement powers, which definitely need to be closed. The scale of public concern for getting this right is such that over 20,000 Greenpeace supporters have been in touch this week with their MPs about this and other issues relating to the target-setting framework.

Ali Plummer: We share the concerns Ruth has outlined. I would add that part of getting a robust watchdog in place is the likeliness of its acting at its most effective. We welcome the escalating processes in the Bill, and there are opportunities to look to resolve issues before they get to full enforcement. To our mind, the way those remedies and escalating processes work most effectively is when you have a robust stop at the end, which encourages action before you have to get to that point. We welcome and share everything Ruth said in terms of strengthening the OEP in respect of both its independence and its ability to act as a true deterrent. We need to make sure that we are remedying any environmental damage or failure to comply with environmental law.

Q105 Dr Whitehead: Following on from that, the OEP is substantially seen as the guarantor, as it were, that the standards of environmental protection that existed when the UK was a member of the EU will not only be continued but will be enhanced. Do your concerns about the OEP's independence and other such matters relate to ensuring that we have that proper standard of environmental protection following the UK leaving the EU? Or do you have other concerns about the question of regression or otherwise in terms of environmental law, as we are now on our own in environmental law rather than substantially under the carapace of EU directives?

Ruth Chambers: That is an important question. Independent accountability and oversight will definitely be crucial in ensuring that our environmental laws are not only maintained but enhanced in the future, as the Government have said they want. That is an important element, but so are environmental principles—there are clauses that embed those principles in law, but again there are flaws in how that would be done. We can come on to those later.

There are also some potential loopholes in the Bill where standards could be weakened, almost accidentally. We will not talk about it today, but clause 81 in relation to chemicals in water is a good example of that. We feel

that there are a lot of good work and good standards in this Bill but there is a lot of wriggle room as well. We hope that the conversations we will have today and throughout the passage of the Bill will enable some of those loopholes to be closed.

An example of where there could be some wriggle room is in the section on the REACH regulation and chemical standards. It is a wide-ranging power, and extra oversight and accountability could ensure that the power is exercised in a faithful way. We are clear that clauses 19 and 20 are not tantamount to a binding commitment to non-regression. They are welcome and important transparency mechanisms, but that really is what they should be seen as. There are modest, pragmatic ways in which they could be improved. For example, we think that clause 19 is modelled on human rights legislation, but the way in which the Human Rights Act 1998 ensures that human rights are factored into new legislation and new policy is a little bit more stringent and strategic. There are ways in which those clauses could be tightened as well.

The Chair: Before we proceed, Ms Chambers, you indicated that we would not talk about a particular clause today. In so far as we have the time you are entirely within your rights to comment on anything that is relevant.

Ruth Chambers: Thank you.

Ali Plummer: If I could just add something, there are two parts to that question. One is about maintaining the robustness of enforcement mechanisms; what we are really looking for through the independence of the OEP is maintaining that in longevity. It is not necessarily about the intent of the body as it is being set up, but making sure that it maintains that independence and robustness going forward.

I guess a watchdog and enforcement body is only as good as the law it is able to uphold, which comes to the second part of your question. There are lots of welcome provisions within this Bill that should allow us to go much further and to build on existing environmental protections, but we would be looking for much more robust reassurance that that floor—those existing protections—will remain for us to build on. The second part is making sure that we are able to secure existing environmental legislation so that the OEP can continue to uphold that.

Q106 Rebecca Pow: Welcome, everyone, and thank you for coming. I just wanted to get some clarification, because there seems to be a view that in leaving Europe we are going to have lower environmental standards, but the whole point of this Bill and, indeed, the OEP is that it will enable us to have higher standards. First, we will roll over all the environmental law; we will then create our own measures, and it is quite clear to me that the Bill enables us to do so. At EU level, the Commission can issue judgments on a breach of law, but they are not legally binding on member states. Do you not think that the court order remedy in this Bill would be stronger than that?

Ruth Chambers: I would go back to my previous answer about the lack of remedies that the tribunal will have at its disposal. It is severely constrained by the clause, if you look at the small print.

Q107 Rebecca Pow: But it can ultimately issue fines if it so desires, and before that, the OEP will try to remedy any problems through discussion, advice, analysis and scrutiny. It will only go to the upper tribunal if it really needs those extra teeth, and that opportunity is there.

Ruth Chambers: We very much support your vision for how the enforcement system would work, where it is front-loaded, if you like, and the OEP acts as a strategic intervener and litigator rather than a serial nit-picker. Nobody wants a busybody poring over every single decision of every public authority; that is nobody's vision for how this body will work.

However, at the moment when we get to the end of the process, if a public authority is found in breach of environmental law after all of the good work that the OEP will necessarily have done, what we are left with is a statement of non-compliance. It is very hard to know exactly what bite that non-compliance will have, factoring in the upper tribunal not having a very effective or strong set of deterrents. It is helpful to have your reassurance, Minister, that the tribunal will be able to impose a financial penalty if it sees fit. It would be even better to have that reassurance written into the Bill so that there is absolute clarity on it, and stakeholders and public authorities know that there is bite to this process. That will provide the deterrent that we all want, so that things are sorted out early on.

Ali Plummer: It is also worth reiterating that the ability to levy fines is really welcome, but what we are actually looking for is to either prevent environmental damage in the first place or remedy it. Although a fine is a welcome part of that, we are really looking for remedial action, or the ability to ensure that the public authorities or others are taking the actions needed to remedy the environmental damage. While a fine can provide for some of that, it is not necessarily—

Q108 Rebecca Pow: But as I hope I made clear, that is the last step; remedy is the first step of the OEP. I hope it is very clear now that we have left the EU, and as a sovereign nation we will be responsible for setting our own environmental laws. It is then the role of Parliament to scrutinise those laws.

That leads me on to the whole issue of the targets, and what we will be scrutinising in order to improve the environment, which is the focus of the Bill. We have a triple lock within the system, and I just wanted your views on how you think that will work. We call it a triple lock because we have five-yearly improvement plans; we have annual reporting on how those five-yearly plans are going to get to the long-term targets; and we have the Office for Environmental Protection analysing all of that to drive environmental improvement. We think that is very strong, so I wondered what your views on that were.

Rebecca Newsom: The thing that I would want to say about that is that reporting and analysis are really important, but are not the same as interim targets actually having a legal force. It is a top priority from all of our perspectives to ensure that the short-term interim targets that lead towards end goals have that legal bite, so that there is absolutely no wiggle room in terms of the requirement on public authorities to ensure progress straightaway to meeting that long-term goal.

That is really important, particularly also because there is a track record for voluntary targets set by Government not being met or being abandoned—for example the 2020 target of not using peat in horticulture has not been met. Another example is that site of special scientific interest targets have also now been dropped, and they were voluntary. It is really important that we have that safeguard in the Bill, guaranteeing that the interim targets will have that force.

Q109 Rebecca Pow: To get our SSSIs, the 75% in good and favourable condition, is in our 25-year environment plan. The first phase of the Bill is the 25-year environment plan. It is called the environmental improvement plan. That is what I call the second side of the Bill. It is in the Bill. This actually provides all the levers and all the tools to do exactly what I think you all want us to do.

Rebecca Newsom: I think we are agreed to a large degree on the vision. The difference is that the environmental improvement plans are not legally binding. It is good to have a policy document, but it needs to have legal force. That is what is going to guarantee the drive forward of change in the short term.

Q110 Rebecca Pow: But targets will be the legal force; the setting of the targets is the legal duty.

Rebecca Newsom: Long-term targets definitely, but the interim targets will not have that force, as the Bill is currently set up.

Q111 Rebecca Pow: But wouldn't you agree, on the environment, it is an ever-changing, flexible scene? That is why we have interim targets.

Rebecca Newsom: Yes, absolutely. It is really important to recognise that, in different environmental areas, change towards long-term goals, and progress towards meeting them, does not always happen in a linear way. We recognise that, but that is not an argument not to make the interim targets legally binding. It is an argument for the Government to apply some flexibility in the type of interim targets they might set.

For example, in some areas, such as bird species abundance, you could have an interim target that relates to the planting of wildflower meadows or to particular types of tree planting in certain areas, because there is that flexibility and non-linearity towards the long-term goal. In other areas—for example, pesticide pollution in rivers—it would be much easier to do an outcome-based interim target. In both cases, they need to be legally binding. The Government could apply that kind of flexibility to the type of target, without compromising on the legally binding nature of it.

The Chair: Thank you. The Minister invited you to set out your concerns, and you have done so very lucidly, if I may say so. We cannot engage too long, however, in a bilateral discussion.

Q112 Deirdre Brock: I would like to direct this to Ruth Chambers. In your submission to the Committee, Greener UK points out that the requirement to have due regard to the environmental principles policy statement does not apply to decision making but is also subject to wide-ranging exemptions. I am speaking specifically of those mentioned in clause 18 regarding the Ministry of Defence and HM Treasury. It specifies “the armed forces, defence or national security”

and

“taxation, spending or the allocation of resources within government”.

Could you elaborate a little more on your concerns regarding that? Perhaps Ms Newsom and Ms Plummer would have something to add.

Ruth Chambers: I think the environmental principles clauses are really important and, in many ways, are a slightly overlooked part of the Bill, because everyone is interested in the OEP, and many people are interested in targets. The principles have become a little bit forgotten, so I am really pleased that question has been asked today.

They should be the bedrock of the Bill going forward. We were pleased to see the Government and the Minister say that they are intended to place environmental accountability at the heart of Government. That is a shared vision for what they should do. Unfortunately, we do not think that the framework as configured in the Bill will do that, for a number of reasons. You have highlighted one very important reason, which is that there are lots of carve-outs and exclusions. For example, the duty will not apply to the Ministry of Defence and will not apply to decisions like resource allocation and spending and so on. Already, we seem to be absolving quite a large part of Government from the principles.

Secondly, the duty is quite weak. It is to have due regard not to the principles themselves, but to a policy statement. The trouble is that none of us has yet seen what the policy statement says. Ever since it was first mentioned, we have been asking to see what it is, so that we can have some comfort that it will be a helpful tool for policy makers and for stakeholders. The sooner that it can be published—ideally, that would be during the Bill’s passage—the better.

The third reason is that this part of the Bill will apply to England only. We have questions as to what will happen to the principles in the rest of the UK and how trans-boundary decisions will be guided by the principles in the future.

Finally, on the policy statement, if you look at comparable arrangements for how policy statements on, say, national energy projects are endorsed and approved by Parliament, you see that they are subject to a motion that is voted on by Parliament. There is no such thing for this policy statement. We think that, if it really is that important, there should be some tighter parliamentary oversight of it.

Q113 Robbie Moore: I want to turn the conversation back to the OEP. Can you explain why the Committee on Climate Change and the Equality and Human Rights Commission have similar independence, if not slightly weaker, to the OEP? Have those bodies not clearly shown that the independence of the OEP set out in the Bill is credible?

Ruth Chambers: It is an interesting question about the EHRC. We recently came across something that, if it would help the Committee, we could provide a short note on. I think that last year the Government undertook what is called a tailored review of the EHRC. In its evidence to that review, the Equality and Human Rights Commission itself was arguing for greater independence, more accountability to Parliament and a slightly different model, but the Government said that they did not think that that was appropriate for that body. So even a body

that the Minister this morning was drawing some comparison with is saying that it feels that it is not sufficiently independent from Government.

We would not say that, for us, in the NGO sector, that is the best comparator. The two bodies that we think are more comparable in this space are the National Audit Office and the Office for Budget Responsibility—not necessarily in terms of their form and function, but in terms of how their independence is delivered via laws, both now and in the long term.

Ali Plummer: It is worth saying that what we are looking for here, ultimately, is that the OEP will hold the Government to account on meeting their environmental obligations, so building in some independent safeguards just to make sure that there is that gap between what the OEP can do, in terms of holding Government to account, and how it is set up is really important. As Ruth said, there are clear examples of that happening in other places, so what we are calling for is certainly not unique or unheard of in other places. I think that it would make sense to apply it to the OEP as well.

Q114 Kerry McCarthy: Could I ask about the global footprint issues? As you may have noticed, I have tabled a couple of amendments: 76 and 77. There are two aspects to this. One is our consumption—the consumption of commodities, how they are produced overseas and the fact that we are contributing to climate change, environmental degradation and deforestation as a result. The other side of the coin is that we are financing, British companies are financing or UK Export Finance is financing quite a lot of this work as well. Do you think that there is a case for going global in terms of this Bill? I am trying not to ask too leading questions, but my view would be that there is not much point in putting your own house in order at home and talking about planting trees here if the Amazon is being razed to the ground because of British consumption or British financing. I think that Greenpeace put something about this in its note to the Committee.

Rebecca Newsom: Absolutely—we totally agree with what you have just said. We have to think about our global impact, as well as getting things right here. There is a major problem with the UK’s global footprint at the moment. A lot of the products that we consume on the UK market often, when it is related to meat and dairy, are somehow connected, through the supply chain, to deforestation. For example, 95% of chickens slaughtered in the UK are farmed intensively in a way that means they are fed on soya, and half of Europe’s global deforestation footprint is in relation to soya. We know that it can be tracked back, but, at the moment, there is not that kind of transparency.

The way to deal with this issue is twofold: first, reduce how much meat and dairy we are consuming in the UK, because we need to be freeing up agricultural land globally to give back to nature and allow abundance to be restored. We know the Government are very keen on nature-based solutions for climate change, and a key part of the puzzle is giving land back to nature. That requires a shift in our consumption habits. A global footprint provision in the Environment Bill to allow targets for this would enable that to happen.

The other piece to the puzzle is sorting out our supply chains and putting a requirement on corporations to clean up the supply chain and conduct due diligence.

That can be delivered through the amendment you tabled on enforcing the 2020 deforestation deadline; the Government have backed that previously, but it needs legal enforcement, and also the establishment of due diligence legislation in six months' time, which would set up that framework to enable it to be delivered.

Ruth Chambers: Can I add one thing to that? Again, this is a vital issue. If we take a step back and think about the journey of this Bill, it has been on a journey, and we have been on a journey with it. Its existence came from draft provisions from the European Union (Withdrawal) Act 2018, which were intended to close the environmental governance gap I have already talked about that arose as a result of EU exit. Then the Government took a very welcome step and decided to take the opportunity to enshrine domestic ambition in law through the Environment Bill, which came out in October and was re-published in January. This is the missing piece of that trilogy.

We totally understand that the Bill has been on a fast track—rightly, because nature's decline cannot wait a moment longer. We understand why it has not been possible until this point in time to include measures in the Bill, but we hope the Government will do all they can to ensure these important issues are addressed, whether substantively or by using the Bill as a very important springboard ahead of the international summit later this year.

Q115 Bim Afolami: I want to ask our visitors about regulatory complexity when it comes to environmental regulation. I do not know how many bodies there are, including Natural England and this new OEP. I would like you to describe how you feel it works. Do you think we need fewer? Do you think the OEP can help bring together some of this work? I am interested in your views on that.

Ali Plummer: From my perspective, one of the things the OEP can do is help bring a strategic overview of how some of this is working, to really drive and make regulation work a bit better in this country. One of the things regulation suffers from is underfunding and under-investment, to be honest; that applies particularly to bodies such as Natural England and the Environment Agency. Natural England has suffered huge budget cuts, and when it comes to its ability to properly regulate the things it is supposed to, it is struggling to fulfil some of its statutory duties. As a result, one of the things the OEP can do is take a much more strategic overview and hopefully provide a bit of insight and guidance—and enforcement, when needed—to make sure regulation is working effectively. It is not the OEP's role to step in and perform the roles of these regulators, but it can take a much broader view and make sure the regulators are doing what they are supposed to be doing, and are properly upholding environmental law.

Q116 Bim Afolami: That makes sense to me, but do you not fear, as a lot of businesses, landowners and farmers do, that there are so many different types of environmental regulator that it is difficult to keep up? It creates its own inefficiencies. Might it be easier if we had a more simplified structure? That does not mean you regulate more or less; it means you regulate more simply. Is that something you think would benefit the environmental outcomes? It is my contention that it

would, because it would be clearer and easier for everybody, from Government to individuals, to follow what needs to happen.

Ali Plummer: For the most part, when we have seen reviews of existing regulators and of implementation of environmental law, what tends to be lacking is proper implementation. It is not necessarily a question of rewriting, simplifying or restructuring stuff; it is making sure that there is access to the information and guidance that business and industry need in order to comply. I am not sure that simplifying and trying to bring those bodies together would resolve that issue. We need up-front investment in regulators and to ensure that everyone has access to information and understands what they need to do to comply.

Ruth Chambers: To my mind—again, it is an important question—the clarity and shape of the future delivery landscape are very important. That seems beyond the scope of the Bill and the provisions that we are talking about. The Bill does include how the OEP can and should relate to some of the bodies in the existing landscape. There are provisions relating to how the OEP and the Committee on Climate Change should co-operate to ensure that there is no duplication and overlap, so that they operate seamlessly. We welcome the Government amendments in that space, too.

We spoke earlier about the UK. The OEP will be a body for England and potentially Northern Ireland. The Scottish and Welsh Governments are bringing forward their own legislation with their own versions of environmental governance. We hope that some of those proposals will be live at a time when this Bill is still live. There would be considerable merit in looking at them side by side, to see how they work across a UK-wide delivery landscape.

Q117 Bim Afolami: You have anticipated my next question on the UK. Do you think it would be simpler, from a regulatory perspective, and more effective, if the Scottish, Welsh and Northern Ireland devolved Governments worked with the Office for Environmental Protection that we are setting up, rather than setting up duplicate versions of their own?

Ruth Chambers: It might well be, but that ship has sailed, unfortunately. The Scottish and Welsh Governments are now making their own devolved governance arrangements. I think the Scottish legislation will be coming shortly. It is less clear when Welsh proposals will be out, but we hope that will be shortly. It is important to look at them side by side, to ensure that they interrelate on things such as transboundary issues. There is a clause in the Bill that requires future environmental governance bodies to co-operate and share information. I think that is very important.

To go back to Northern Ireland, if I may, we spoke about environmental principles being a slightly forgotten part of the Bill; we also feel that way about the Northern Ireland clauses in part 2. Again, we talk about the OEP and principles, but the Northern Ireland environmental governance provisions are a game-changer for Northern Ireland. We should not underestimate their importance. We hope that they get due consideration in the Committee, either in the oral evidence sessions or when amendments are proposed. They are vital; we cannot stress that enough.

Ali Plummer: On the issue of co-operation across four governance bodies, it is really important for citizens to be able to access complaint mechanisms. It should be

clear that if they make a complaint to one body, and that is not the right place, it will be shared with the four country bodies. If there are four mechanisms, they need to work in co-operation, because they will all be upholding devolved environmental legislation. It is important that if a citizen makes a complaint to one point, they can have confidence that it will be looked at, no matter where in the UK they made it, and that it will get to the right place, without them necessarily needing to understand the interaction between these systems.

Q118 Abena Oppong-Asare: I want to go back to the brief conversation about the interim and long-term environmental targets, which you touched on, Rebecca. As you know, provisions on that will be in the Bill. Do you think the clauses give a sufficiently clear direction of travel on the sort of targets that will be set?

Ali Plummer: Not currently, the way the Bill is written. The provisions to set targets in priority areas are welcome. We are looking for slightly more clarity and reassurance in two areas: first, on the scope of targets that will be set, to ensure there are enough targets set in the priority areas, and that they will cover that whole priority area, and not just a small proportion of it; and secondly, on the targets being sufficiently ambitious to drive the transformation that we need in order to tackle some big environmental issues.

While there is a welcome duty to set targets—on, for example, the priority area of biodiversity—I think we are looking for more confidence that the Government’s intent will be carried, through the Bill, by successive Governments. I am not sure that that sense of direction is there. While there is a significant environmental improvement test, I do not think that quite gives us the confidence that the Bill will really drive the transformation that we need across Government if we are to really tackle the issues.

Q119 Abena Oppong-Asare: I am putting you on the spot here, and the Bill is quite broad, but are there any specific, target-related things that you want to see in it?

Ali Plummer: If I can look at the biodiversity provisions for a bit longer, we really want targets that drive the recovery of biodiversity across the board. With the way the Bill is drafted, we have concerns that you could see quite narrow targets set in some areas to do with biodiversity. For example, you could see targets set around habitat extent that would not necessarily speak to the quality of that habitat. They might not necessarily drive the improvement that we need in order to not just halt the declines in biodiversity but drive recovery.

We would want broad targets around species abundance, populations and the quality of habitat, as well as the extent of the habitat. I appreciate that the Bill is framework legislation, but we want to make sure that when targets are set and revised, it is within a strong and ambitious framework, with a clear vision of what we are trying to achieve, which, ultimately, is recovery of our natural world and our environment more broadly.

Abena Oppong-Asare: Thanks, Rebecca?

Rebecca Newsom: I echo everything that Ali has said. In terms of the target-setting framework and making sure that the long-term and interim targets are comprehensive enough, that really comes down to amendment 1, which would require an appropriate number and type of targets to be set in each priority area. Also,

amendment 81 is about requiring the taking of independent advice, and full public consultation, which will inform the target-setting process. Finally, there is the one on ensuring that global footprint is included in the list of priority areas, so that there is a holistic view of the environment nationally and internationally, and improvement across the board is being pushed through that target-setting framework.

While those changes are absolutely vital, there are two areas where, in our opinion, such is the sense of urgency, the evidence base and the public demand for action in the short term that two short-term targets need to be put in the Bill. The first one is the 2020 deforestation target, which I have already touched on. The second would be a 50% plastic packaging reduction target by 2025, which is basically about providing a level playing field for retailers and suppliers, off the back of the voluntary commitment that Sainsbury’s has made, but no others have, and off the back of calls that retailers have made to us. They say they would support a plastic packaging reduction target in law, to allow the drive towards reuse as a level playing field in that sector.

Abena Oppong-Asare: That is really helpful.

Ruth Chambers: Very briefly, because I think my colleagues have covered the position extremely well, all I would add is that what we are seeking is not a different policy objective from the one that the Government are set on. We very much agree with the policy objective, which is to ensure that ambitious, enforceable, legally binding targets are set to drive environmental improvement; there is nothing between us on that. I think our difference is on how the framework is configured to achieve that, and whether what is written in the Bill is sufficient and gives the right signals, not only to business, as you heard this morning, but the public, and future Governments in which current Ministers may not have such an active role. It is about that clarity and the clear direction of travel, which we do not think is there, for the reasons that my colleagues have explained.

Abena Oppong-Asare: That is very helpful; thank you.

Q120 Alex Sobel: I have just one question—I know we have had a long sitting, because of the vote. The clauses on environmental principles have been widely criticised for being creatures of policy, with many carve-outs and exclusions. Do you agree with those criticisms, and if so, what would your recommendations be to improve the Bill and ensure that we do not have carve-outs and exclusions?

Ruth Chambers: As we discussed with Deidre, the carve-outs are not helpful, because they absolve much of Government from applying the principles in the way that they should be applied. The most simple solution would be to remove or diminish those carve-outs. We do not think that a very strong or justified case has been made for the carve-outs, certainly for the Ministry of Defence or the armed forces; in many ways, it is the gold standard Department, in terms of encountering environmental principles in its work. There seems to be no strong case for excluding it, so remove the exclusions.

There are also proportionality and other limitations on how the policy statement should be taken forward. Again, we do not see a strong case for those being embedded in the law. As I mentioned, we should strengthen

the duty, so that it is not just a duty to have due regard to a policy statement, which is a next-step-removed duty, but a duty in relation to the principles themselves. To repeat the point, it would be brilliant if we could see the policy statement soon, so that we can help the Department and the Government shape it into a really helpful vehicle for everybody.

Q121 Robbie Moore: How important do you think it is that businesses are brought on board throughout the process in relation to meeting the global footprint target and in relation to the due diligence requirement?

Rebecca Newsom: It is really important. There have been indications from companies that they are interested and support the idea of a due diligence framework. Again, it is about setting up a level playing field. There have been voluntary commitments over the last decade through the consumer goods forum to deliver deforestation-free supply chains by 2020. Those commitments have not been met or delivered on, basically because it has been a voluntary framework and the mechanisms have not been in place to deliver on it. The Bill is an opportunity to do that, and to set it in law and give the direction of travel. There is business interest in doing that because it means that the companies that want to move ahead and be progressive are not going to be at a competitive disadvantage.

Ali Plummer: More broadly, getting business on board across the whole Bill is really important. As we have talked about quite a lot, it is a bit of framework legislation. An awful lot will need to be delivered through actions taken elsewhere—for example, actions coming through the Agriculture Bill and through house builders. You had a session earlier on planning. It is about getting business on board and getting understanding. This will need to be delivered across society. It is beholden on us all to contribute to delivering the ambition of the Bill.

Getting understanding and input from business, particularly in the target-setting framework in terms of what will need to be in place to deliver that, is really important—not just for the global footprint bit but for the Bill more broadly. Finding that coherence and narrative between the first and second half of the Bill, and in other Bills including the Agriculture Bill, is also really important, so that they work together to deliver the Government ambition on environmental restoration and recovery.

Ruth Chambers: Again, this is a really important question. From our engagement with businesses across the piece—our members have many contacts with all sorts of businesses—we do not detect that business is opposed to such measures in any way. Of course businesses want to know the detail and the nature of the measures and any particular mechanisms that are proposed. The easiest way to do that is to set out a policy proposition and then consult on it. We would encourage the Government to do that as quickly as possible. That consultation can be done at the same time as the passage of the Bill. That is not unheard of. Certainly, we would want to see that. I worked on the Modern Slavery Act 2015, which did a similar thing in relation to a transparency-in-supply-chains requirement. That was done with the consent and help of businesses.

Finally, there is a group called the Global Resource Initiative, which is a taskforce that has been looking at the questions that we have been talking about. We hope

that it will publish its report while the Bill is still live. If it does, we would encourage you to look at those recommendations as well.

Q122 Dr Whitehead: Turning to another part of the Bill, as you know there is a section concerning single-use plastics and proposals to raise a tax on them to discourage their use. Is the emphasis on plastics in single use the right way round in the Bill? Should we perhaps think about single use, which might include plastics, and legislate for that? What are your thoughts on that? Are there ways to legislate to take that view into account?

Ruth Chambers: In our evidence we very much recognised that point. Our preferred position would be not to introduce charges just for single-use plastics, because although it sounds really good, it could have unintended consequences. If we really want as our policy objective to drive down single-use cultures and practices, we need to look at including a broader range of material. We would suggest an amendment to that part of the Bill that related not just to single-use plastics, but to all single-use materials.

Q123 Dr Whitehead: I will try not to take too long; I know that people want to get home. One part of the plastics concern in the Bill is about transfrontier exports. As a result of the powers that could be in the Bill, it is suggested that restrictions could be placed on the export of plastics to non-OECD countries, but there are potential problems even within OECD countries as far as receiving exports of plastics is concerned. One view is that we might resolve the issue simply by setting a date for the banning of plastic exports, provided we have the resources and plant to recycle and reprocess plastics within the UK. Do you have a view on that? If so, what date do you think that a ban might properly be introduced, taking into account what we would need to do in the meantime to accommodate that ban within the UK?

The Chair: Ms Newsom? You are nodding.

Rebecca Newsom: I do not have a specific recommendation on a waste export ban date, but it is important to remember the big picture. Plastic production globally is set to quadruple, at the same time as a lot of countries across the world are due to enforce their own plastic waste export bans, coming from the UK. The only way to deal with the problem without causing a massive spike in incineration is to reduce how much plastic is used in the first place. That is why we have placed the emphasis on the reduction side of things. We need to emphasise the waste hierarchy. Reuse needs to be at the top of that, without emphasising as much on the recycling side because of course we need infrastructure there. But there is no way that the UK's recycling infrastructure, even with a lot of extra investment, will be able to cope with the anticipated rise in production and with the waste export bans, so we need to turn the tap on the production at source.

Q124 Dr Whitehead: So you might favour something in the legislation that requires attention to the waste hierarchy, for example, in terms of the passages on waste and resources.

Rebecca Newsom: Definitely. As Ruth said, we would support making sure that there are reduction targets stemming from the waste priority area across all materials. Such is the urgency specific to plastics that Greenpeace

would support a plastic reduction target for packaging in the Bill in the short term, with an emphasis on reuse to avoid unintended environmental consequences.

Ruth Chambers: I definitely agree with all of what Rebecca has just said. Certainly one of the schedules in the Bill talks about disposal costs, which does not seem to sit readily within the strategic framework that Dr Whitehead has outlined. I do not have a view on the date, but you should certainly put that question to my colleague Libby Peake when she gives evidence on Thursday.

Finally, to reinforce a point that was made in the discussion, a key to ensuring that such a ban is to be enforced effectively is resourcing—the resourcing of bodies such as the Environment Agency. That point has come up a few times now in the discussion. It is obviously not an issue that the Bill has much ability to direct—it is an issue of much broader import than that—but it keeps coming up. If the Bill is to matter and to be delivered and implemented successfully, the resourcing needs to be there to match that over the long term.

The Chair: I need to bring the Minister back in. Ms McCarthy, do you want to come in briefly?

Kerry McCarthy: We are having a sitting on Thursday, when we may be looking at things such as the waste hierarchy, so I can probably save my question for that. It was mentioned earlier today that, because there is already technically a waste hierarchy that is enforceable in law, we do not need anything here. I would like to return to that, but I think we can do it at the Thursday sitting. I am flagging it up now in case Thursday's witnesses are listening.

The Chair: Final questions or statements from the Minister.

Q125 Rebecca Pow: Thank you all for your input. I know that all your organisations have engaged previously, and it is invaluable. We have had a lot of talk today about targets. I partly get the impression that you think we should have much stricter, tighter and more defined targets set in the Bill. We will set legally binding targets in the four areas specified as well as the PM_{2.5}. Do you feel that the intention is that we fully engage further with NGOs, the public and experts to set these targets as we go through, and potentially learn lessons from other areas where targets have been set but have not worked very well? What is your view on that, in order to help us get the right targets? Do you think that is the right way to do it?

Ali Plummer: I think they are really welcome and vital. This area of the Bill is quite sparse. The targets are difficult. We are trying to tackle some challenging and difficult issues. One of the things that we will be looking for is the welcome conversation that the Government will open with experts, practitioners on the ground and stakeholders to make sure that we are genuinely setting achievable and ambitious targets. We are setting a high level of ambition but we are also clear what we need to do in order to achieve those targets. Those two conversations need to go hand in hand. We cannot set high-level ambitious targets without having a genuine conversation about how we are going to get there. Otherwise, we will end up setting long-term targets and potentially arguing for the next 15 years about how to do it and then have to start the whole process over again.

We are looking to build some of that Government intent into the Bill. We then have certainty and clarity that not just this Government but successive Governments will continue that intent and make sure that the Bill is going in that direction—in particular, on the advisory function, making sure the Government have access to good-quality expert advice. It follows more of the model we see in the Climate Change Act 2008, where there is a “comply or explain” mechanism built in. The Government can take this expert advice, which is public, transparent and clear, and comply with it, or give a good, clear explanation why not. Those are the sorts of things we are looking for. As Ruth reiterated earlier, I think we are as one on this. We totally recognise the Government intent. We are looking for a Bill that will make sure that successive Governments hold that intent. That open dialogue, where we can all have a genuine conversation about what we need to put in place to tackle these issues, is welcome.

Rebecca Newsom: I basically fully agree with what Ali has just said. I am also grateful for the intent; it is about translating it into a robust legal framework. I would add that, alongside getting the advice functions right, it is also about the public consultation through the target-setting process. As you said, continuing this conversation through formal consultation processes is key for the ongoing target-setting framework.

Ruth Chambers: Again, I endorse what my colleagues have said. I want to say two final things. First, we are asking for some of the very good intentions and objectives that we have talked about today to be more explicit, rather than implicit, so that whether we are a business, a member of the public or a future Minister, we have that clarity going forward.

Minister, you helpfully referred to the target development process, which will not form part of this Bill but will nevertheless be an important match to it. It will happen over the next few months, and if the targets in the first tranche are to be set by 2022, although that sounds a long way away, we all know from the way Governments work that it is actually not that far. The sooner that process can start in earnest and the sooner there can be clarity about how stakeholders can be involved, how we can feed in and when the consultation is going to be, the better, so we can make sure that we play a full and meaningful part in that.

The Chair: Thank you very much indeed. I think that brings the proceedings fairly neatly to a conclusion. As I have said to everybody else and will say to you, earlier this morning the Committee passed a resolution agreeing to accept written submissions. If there is anything that you feel you missed out or wish you had said, please put it in writing and let the Committee have it, and it will be taken into account.

Ms Chambers, Ms Newsom and Ms Plummer, thank you very much indeed, both for your patience and for the information you have given to the Committee. We are all grateful to you, and look forward to a successful resolution.

Ordered, That further consideration be now adjourned.—(Leo Docherty.)

5.25 pm

Adjourned till Thursday 12 March at half-past Eleven o'clock.

Written evidence reported to the House

EB01 49 Club

EB02 Coca-Cola European Partners

EB03 Local Government Association

EB04 Society of Independent Brewers (SIBA)

EB05 The Royal Town Planning Institute

EB06 Cycling UK

EB07 Building Engineering Services Association (BESA)

EB08 Girlguiding

EB09 United Kingdom Onshore Oil and Gas (UKOOG)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

Third Sitting

Thursday 12 March 2020

(Morning)

CONTENTS

Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 16 March 2020

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The Committee consisted of the following Members:

Chairs: SIR ROGER GALE, † SIR GEORGE HOWARTH

† Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Morden, Jessica (<i>Newport East</i>) (Lab)
† Ansell, Caroline (<i>Eastbourne</i>) (Con)	† Oppong-Asare, Abena (<i>Erith and Thamesmead</i>) (Lab)
† Bhatti, Saqib (<i>Meriden</i>) (Con)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP)	† Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op)
† Docherty, Leo (<i>Aldershot</i>) (Con)	† Thomson, Richard (<i>Gordon</i>) (SNP)
Edwards, Ruth (<i>Rushcliffe</i>) (Con)	† Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab)
† Graham, Richard (<i>Gloucester</i>) (Con)	Adam Mellows-Facer, Anwen Rees, <i>Committee Clerks</i>
† Longhi, Marco (<i>Dudley North</i>) (Con)	† attended the Committee
† McCarthy, Kerry (<i>Bristol East</i>) (Lab)	
† Mackrory, Cherylyn (<i>Truro and Falmouth</i>) (Con)	
† Moore, Robbie (<i>Keighley</i>) (Con)	

Witnesses

Sarah MacFadyen, Head of Policy and Public Affairs, Asthma UK and the British Lung Foundation Partnership

Liam Sollis, UK Head of Policy and Advocacy, UNICEF

Katie Nield, UK Clean Air Lawyer, ClientEarth

Professor Alastair Lewis, Chair, Air Quality Expert Group

Stuart Colville, Director of Strategy, Water UK

Ian Hepburn, Chair, Blueprint for Water

Chris Tuckett, Director of Programmes, Marine Conservation Society

Public Bill Committee

Thursday 12 March 2020

(Morning)

[SIR GERALD HOWARTH *in the Chair*]

Environment Bill

11.30 am

The Committee deliberated in private.

Examination of Witnesses

Sarah MacFadyen, Liam Sollis, Katie Nield and Professor Alastair Lewis gave evidence.

11.32 am

The Chair: Good morning. I thank the witnesses for attending. This is an important Bill, and it is important that we have the opportunity to hear expert evidence. You are probably aware that members of the Committee have already received the briefings that you issued, so I do not propose to request that you go through yours; you can assume that people have read it, so we will go straight into questioning. I ask each witness to introduce themselves for the record, from left to right—purely topographically—and to say which organisation you represent.

Liam Sollis: Hi everyone. My name is Liam Sollis. I am the head of policy at UNICEF UK.

Katie Nield: Hello. My name is Katie Nield. I am a clean air lawyer at a charity called ClientEarth.

Sarah MacFadyen: I am Sarah MacFadyen. I am the head of policy and public affairs at the British Lung Foundation.

Professor Lewis: Hello. I am Alastair Lewis. I am a professor of atmospheric chemistry. I am here as the chair of the Department for Environment, Food and Rural Affairs advisory group on air pollution—the air quality expert group.

Q126 Dr Alan Whitehead (Southampton, Test) (Lab): Good morning. This may be a bit of a challenge, but for the Committee's edification, could you—between you, or one or two of you—give us a little scene-setting about the impact of air quality on human health, with regard to asthma rates, disability, causes of death and so on, and then briefly set out for us where you think we are with Government action in this area? That is particularly important for what we may put into the Bill.

Sarah MacFadyen: I will start on health impacts. Air pollution is absolutely a risk to everybody's health. Our understanding of the evidence base on how it relates to different health conditions is growing all the time. We know for sure that air pollution is a carcinogen, and it is absolutely linked to the development of lung cancer, including in people who do not have other risk factors such as smoking. We know that air pollution is also a cause of heart disease. There is also evidence that is not quite as strong, though definitely emerging, suggesting

that air pollution could be a cause of asthma and a whole range of other health conditions, including things like diabetes and dementia. It is a really rich area of research at the moment.

As well as causing ill health, air pollution has a huge impact on people living with a long-term health condition, especially respiratory conditions such as asthma or chronic obstructive pulmonary disease. There is really strong evidence that breathing polluted air will make people's symptoms worse and could trigger an attack or an exacerbation—in some cases even hospitalisation.

Professor Lewis: It is worth unpacking that air pollution is not one thing; it is a whole range of different chemicals and entities. We may get into more detail on that. Broadly speaking, in the UK we are concerned about particulate matter, which is the small, fine, respirable particles—small droplets or small solids—that can get into your lungs and cause irritation. The health impacts have been described.

There is also a gas, nitrogen dioxide, which is brown—you see it as a haze. That has been covered a lot around diesel engine emissions, and it has similar effects. The third gaseous pollutant is surface ozone, which causes harm and irritation to the lungs and causes damage to crops and plants and reduces agricultural yield. Each of those has its own effect and each needs its own solution, so it is always worth breaking air pollution apart to understand which of the pollutants we are talking about, and which actions will bring about improvements.

Liam Sollis: Infants are likely to breathe as much as three times as much air as adults, because they breathe faster, and for other reasons, so children are particularly vulnerable to the impacts of air pollution. We have heard about some of the health impacts of that. There is growing evidence every single day about the impact on lung health, the propensity for risk of cancer, and how air pollution can affect a child's lung development. There is new evidence that suggests it may have an impact on child brain development as well. When it is seen through the crystal clear lens of the impact on child health, we see it really needs to be prioritised.

I say that partly because about a third of children in the UK—4.5 million children between the ages of zero and 18, and 1.6 million children under five—are growing up in areas with unsafe levels of particulate matter. Those are huge numbers. When we reflect on the Bill, and the extent to which we should push for high levels of ambition on what we can achieve, in relation to the targets set and the implementation plans that follow, we need to keep the impact on the most vulnerable people in our society right at the front and centre of our thoughts.

Katie Nield: To add to that, and hopefully bring this back to the opportunity that is on the table through the Bill, all that makes it really clear that we need a legal framework that sets a meaningful ambition to protect people's health, as well as requiring action to achieve and deliver on that ambition. We already have legal limits for air quality and the emission of certain pollutants in law, but what we have does not achieve them.

Most specifically and starkly, the legal limits we have for particulate matter pollution—one of the most harmful pollutants to human health—are not strong enough to protect our health, and the health of children and vulnerable people. Those limits are more than two times higher—that is, two times less strong—than the guidelines

that the World Health Organisation set back in 2005. That is why we are really keen for the Environment Bill to provide the opportunity for setting a higher level of ambition when it comes to protecting people's health, and the opportunity to commit the Government to achieving those World Health Organisation guideline levels of particulate matter, and to putting a plan in place to show how they will do that.

Q127 Dr Whitehead: I guess you were surprised that the Bill does not require legally binding targets to be set until October 2022 and does not go any way towards ensuring that the UK meets World Health Organisation clean air emission limits, for example. Are there particular measures that you think should be put in the Bill to enable those things to be addressed properly? How might we ensure that the limits are properly reflected in the legislation?

Professor Lewis: I will comment on the setting of targets, which is obviously an area in which a lot of people have an interest. It is worth understanding that there are quite a few components to what setting a target means, and there is more to that than simply crossing out an existing 20 or 25 and writing in 10. Although there is probably universal agreement that we want to head for a limit value of around 10, from a scientific perspective, we have to be absolutely sure that we have all the other parts in place at the same time, particularly the means to assess progress. It is no good setting a limit if we are not confident that we can measure progress towards it. That is considerably harder than picking the number that you would like to shoot for.

I have some sympathy about the timescales, if the timescales are to allow us to get the assessment framework right, because I suspect that will take a bit of time. The UK is potentially going into a place, in terms of the limit value, where no other large developed country has been before, so we are likely to need infrastructure, methodologies and so on to assess progress towards that, for which there is no blueprint. The WHO does not tell you how to do the assessment side. If all that is wrapped up in the discussion of what is a target and setting a target, we need to be a bit cautious about trying to do things too quickly, in case we do not get the assessment part of the equation right.

Katie Nield: I mentioned that the existing legal limit for particulate matter is too weak. It is great that the Bill acknowledges that, because it is the only target that is specifically required by the Bill—a new binding target for PM_{2.5} pollution. It is really positive that the Bill, in that respect, recognises the current weaknesses.

What the Bill does not do and does not tell us, however, is how that target will actually be set to better protect people's health. As you alluded to, the decision on that is kicked down the road for another two and a half years. Issues around finding out exactly how it will be assessed aside, we are frustrated because we know that we need action to tackle this pollutant now. We have heard from the other panel members the impacts that it is having on people's health now. We do not want the ambition to take urgent action to tackle this pollutant to be stalled for another two and a half years.

There is evidence that it is possible to achieve the WHO guidelines for this pollutant by 2030. The Department for Environment, Food and Rural Affairs released a report last year that concluded that. London is arguably

the city in the country with the largest-scale problem when it comes to particulate matter, but it is also said to be possible in the capital too. With all the evidence there, despite the ins and outs of exactly how the target will be assessed, and the fact that it might be set out in subsequent secondary legislation, the Bill provides a real opportunity to set out the Government's stall now, and show that they are committed to real ambition to protect people's health now, rather than delaying action any further.

Sarah MacFadyen: We fully understand that the Government's intention with the legislation is to allow them to consult with the right experts on the environment and health to set the right targets, but we feel that, with air pollution, the World Health Organisation has made its recommendation very clear, and it is the expert on this. There is a really strong case for taking that guideline and committing to it in the legislation, in addition to doing the work around that to set out exactly how we will reach it and monitor our progress.

Liam Sollis: The logic that underpins the WHO recommendation is to set a benchmark that says, "If the PM_{2.5} levels exceed this level, you will be doing irrevocable harm to people's health." We need to make sure that we target below that, because it has been designated by health experts as the very maximum that we can legitimately see as permissible. That level of ambition needs to be front and centre, because health is the common purpose that underpins the air quality component of the Bill.

On the timing of the targets, some important points have been made. We want to make sure that the process of setting the targets and the assessment processes that will follow will not stall action and implementation and hold things up any longer than they need to. We need action now, because people are falling ill and dying now. The more impetus there is, and the quicker we can move towards that, the better for people's long-term health.

The Chair: I shall bring in the Minister responsible for the Bill, Rebecca Pow.

Q128 The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): Thank you all for coming in. I want to pursue this subject a little further. It is clear that we recognise how damaging PM_{2.5} is to human health, as we have made it the only legally binding target in the Bill. I hope you welcome that.

I want to address Professor Alastair Lewis first, from a more scientific perspective. While the WHO has said that it might be possible to get to that target quicker, it did not say how to do that or what the economic impacts were. I would like you to go into the detail of why that is so difficult to do right now. One key aspect of the Bill is that experts will be involved in consultation right the way along the line. How important is it that we do not rush into something, but take important guidance and expert advice?

Professor Lewis: There is quite a lot in there. The first issue is what the WHO is really telling us. One technical point that we need to be clear about is that harm from air pollution does not stop magically at 10 micrograms, and it does not say that it does. That is set as a benchmark that we should all aim for, but harm continues below that. If someone lives in a house and their

exposure is 10.1 and someone else lives in a house where it is 9.9, the health impacts are basically the same. We have to think about continuous improvement everywhere, not just the limit values in isolation. The WHO is not suggesting that if we all got to 9.9, we should stop thinking about air pollution. We have to think about that component.

The reason it is particularly challenging the lower you get is that less of the pollution comes from obvious sources. Most of us visualise air pollution as something coming out of a car exhaust or a chimney. In terms of particulate matter, we would consider that a primary emission—you can see it coming from the source. More and more particulate matter that we will breathe in in 2025 and 2030 will be secondary particulate matter. Those are particles formed in the atmosphere from reactions of chemicals from the wider regions around us. It becomes harder because we cannot just work on the sources in the cities themselves and go to the bogeymen sources we have gone at before; we now have to work across a much broader spectrum of sources. The chemistry of the atmosphere works against you because, often, that is non-linear chemistry. You have to take a lot of pollution out to begin to see relatively small benefits. None of those are reasons not to have action now, but there are some underlying fundamental issues around reducing particulate matter.

Q129 Rebecca Pow: Some of it comes from Europe, doesn't it?

Professor Lewis: Europe will be a significant component. You cannot reduce particulate matter without the co-operation of your neighbours, because it is quite long-lived in the atmosphere and it blows around. It is particularly significant in the south-east and London. Other sources come in from suburban areas, from agriculture and so on.

There are a lot of areas that will need to be worked on simultaneously. It is rather different from how we have dealt with air pollution in the past, where you could get a really big hit from closing down some coal-fired power stations or working on one particular class of vehicle, which is what we have been doing for nitrogen dioxide. As we look over the next decade for particulate matter, we will have to have actions all the way across society, from domestic emissions—what we do in our own homes—to how we generate our food, how industry operates and so on. This is about not underestimating the scale of the task.

Your final point was on how achievable this is. The WHO does not tell you whether 10 micrograms is achievable in your country or not. In fact, in many countries in the world, it will not be achievable, because of natural factors—forest fires and so on. In the UK, whether it is 100% achievable—meaning that every square metre and person in the UK can be brought under that limit—is probably questionable. If you ask me whether the vast majority of the UK could be brought under that limit value, the answer is probably yes.

That has implications on how you choose the right targets to set. The limit value is one, and it very much focuses the mind on what you are trying to achieve. However, we have seen perversities around only having a limit value, because it means that more and more attention is placed on to a smaller and smaller number of places, which does not necessarily always deliver the

largest health benefits. The Bill sets out the headline of potentially 10 micrograms per cubic metre, but alongside that we want to see a long-term target around continuous improvement, measured across the population as a whole. We do not want to see pollution simply smeared out a little bit, to artificially get underneath the limit values. I have said quite a lot, so I will probably stop there.

Q130 Rebecca Pow: Just to encapsulate that, is it right to have the legally binding PM_{2.5} target and to set the other targets when we have more evidence, given that we all want to be really ambitious for the health aspects?

Professor Lewis: Obviously we will need this target around population improvement. However, even when setting the limit value now, we have to be quite clear about how we will assess that. It is technically quite a challenging thing to do. Nobody would want to set a target, discover that we came up with the wrong way to assess progress, and then potentially argue in the courts over whether progress had been made. Having real clarity now about how we will measure progress towards the specific 10 microgram per cubic metre limit value is really important, and we will want to take quite a lot of expert advice on that, because nobody has done this before.

The Chair: There is no obligation to do so, but if any other witnesses want to add anything to that, they are very welcome to.

Katie Nield: I will take a step back and think about the purpose of the targets. Obviously, we already have legal limits and emission-reduction commitments within existing law, and we are hearing that the Government are committed, quite rightly, to improving on those, which is great. However, I am concerned that the actual architecture of the Bill does not provide us with that comfort.

There is a requirement for the Secretary of State to review the targets periodically, but only against a requirement that a change would significantly improve the natural environment. There is a huge omission in that statement: there is no mention of human health or of the need for these targets to be there to protect human health. That seems to be a really stark omission that could be quite easily fixed within the Bill. Surely the whole purpose of these air quality targets is to protect people's health. At the moment, there is not enough comfort in the Bill to make sure that that is the case.

We are talking about long-term targets. There will definitely be a need to review and change things as evidence and the means of assessing things go forward. We need a Bill that constantly requires those things to be the best that they can be, to protect people's health. At the moment, the Bill is kind of silent on that point, which is a major concern.

We also talked about the importance of expert evidence. The Bill requires that the Secretary of State obtains expert evidence before setting targets, but it could provide that mechanism in a much more transparent and meaningful way. There is no requirement for the Secretary of State to take that advice into account, for that advice to be published, or for the Government to respond to or to explain why they are doing things contrary to that advice. To set a meaningful, long-term framework, tying up those gaps within the Bill is really important.

The Chair: Thank you. Diedre Brock, do you have any questions?

Diedre Brock (Edinburgh North and Leith) (SNP): Not particularly at this time.

The Chair: In that case, I call Robbie Moore.

Q131 Robbie Moore (Keighley) (Con): Professor Lewis, what sorts of measures would you expect the Government to have to implement to meet the World Health Organisation levels by 2030?

Professor Lewis: The Government have a clean air strategy. It is quite a lengthy document, and necessarily so because of the problem with needing to reduce emissions effectively all the way across society's use of chemicals and so on. We have made significant progress on reductions in emissions from vehicles, but there is still some way to go on that. One area that we will have to look at is, even when the vehicle fleet is electrified—by 2030, the majority of passenger cars may be electric—vehicles will still be a source of particle pollution from brakes, tyre wear, road wear and so on. Although electrification has huge benefits for air quality and will hopefully completely eliminate nitrogen dioxide, simply buying electric cars in isolation will not completely solve their contribution to air pollution. We will need measures to try to get cars out of city centres and so on, even if they are electrified. That is one thing.

A major component of particulate matter forms from the chemistry that I have talked about, involving ammonia from agriculture. That has been a persistently difficult source of pollution to reduce; it is very diffuse and comes from all sorts of agricultural processes. That is a sector that has not seen many declines. There will have to be substantial reductions in agricultural ammonia emissions to meet that target. That is the one area where I have some concerns, because historically we have not made an awful lot of progress on that.

Another contributor to the formation of particles in PM_{2.5} is our consumption of chemicals. A lot of the reactive chemicals that we use and consumer products that the industry uses go on to react in the atmosphere and form PM_{2.5}. We will all collectively have to work to reduce our consumption of those.

Then we get to sources that are very hard to reduce. That is why we may be left with some very stubborn areas. You cannot completely remove PM_{2.5}, because in the end it is generated from friction, and it is very hard to live a life that does not involve some form of friction and the wear of surfaces. Food and cooking are sources—it would be hard for any Government to commit to banning food.

I have touched on a few contributors, but I could probably have listed 15 more. Individually, they all sound quite small; in combination they have a large effect. We will be facing some that will be very difficult to reduce, just because they are so integrated into our lifestyles, particularly in the most densely populated cities, where the sheer volume of people and activity is in itself a generator of PM_{2.5}. I would not want anyone to go into setting a target without being very clear that there are some activities that we undertake where you cannot totally eliminate emissions. But as I say, the vast majority of the UK could, you would hope, be brought under a 10 micrograms limit.

Liam Sollis: To build on that, there are so many different areas that potentially contribute to air quality in the country, so it is all the more important that there is a cross-governmental duty to ensure that different Departments of Government and different areas of life across the UK are all working towards that common ambition. We must think through how that can be articulated in the Bill, making sure that there is co-ordinated action that is not led just by DEFRA, but that brings together a whole number of different Departments to meet those common aims.

There is mention in the Bill of the environmental improvement plans—that is very welcome. I do not think that there is any explicit mention that air pollution needs to be included within those EIPs. Ensuring that air pollution is a priority throughout all elements of cross-governmental co-ordination on the environment is definitely something that we would like to see.

The Bill contains emphasis on local bodies and local government action to make sure that we reduce air pollution. That will become a reality only if there is a national action plan ensuring that there is co-ordination and adequate levels of support and funding. I know that some money was announced in the Budget yesterday that links to this issue. We would welcome more information on how that is being focused and prioritised to make sure that the allocation of that money is linked to where the greatest health impacts are across the country and to make sure that the most vulnerable people are being protected.

The only other thing I would add to that in this broader, more holistic approach to tackling air pollution is the impact from European countries, which the Minister mentioned. As we get further along the line and reduce air pollution more, that will become an increasing factor on air pollution in the UK. We have the opportunity of COP 26 later this year—a real marker in the sand whereby the Government can take leadership and start to bring other countries along with it in relation to air pollution.

As we get further down the line and get closer to 2030, we are trying to get much further along with the air pollution targets. It will become increasingly important that we are able to galvanise action from our European partners as well. This year is a really important moment for that. The signing of this Bill and the follow-on plans that will come afterwards are a really important way of galvanising that action, so we should prioritise that.

The Chair: I am going to start taking questions in twos because we do not have a lot of time left, but is there a follow-on question specifically on that?

Q132 Jessica Morden (Newport East) (Lab): How does what the UK does to tackle air pollution compare to other countries?

Professor Lewis: It depends how you want to measure success. We do quite well in terms of the concentrations that people are exposed to relative to other European countries, but we have the great advantage of a massive Atlantic ocean upwind of us, so that is probably not a fair measure of success. We have some natural geographic advantages.

Another measure of success is national emissions. There are a basket of air pollutants with which we have targets under both the Gothenburg protocol and the

national emission ceilings directive. They set the tonnages, effectively. On those, the UK meets its targets reasonably well. It does not stand out as being an overperformer, but it is not a laggard either. Most of the large European economies have seen their emissions reduced broadly at the same rate, but we do slightly better in terms of concentrations and exposures just because of geography.

The Chair: Thank you. I will take two questions now. Perhaps the witnesses will decide between them who is the most appropriate person to respond in each case. I know that might be asking a bit much, but try and think about that.

Q133 Abena Oppong-Asare (Erith and Thamesmead) (Lab): I want to ask about the respective contributions to air pollution made by road, air and sea transport and other emission sources such as energy from waste, incinerator plants, wood burning and ammonia from farming.

Q134 Bim Afolami (Hitchin and Harpenden) (Con): Professor Lewis, I was very interested when you talked about the different chemical reactions and the effect of agriculture upon the PM_{2.5} particulates in the air, and how we should be fully aware that it is not just car exhaust fumes. Bearing that in mind, would you be cautious about putting into law something that the Government would not necessarily have control of or the ability to fully manage themselves, and might potentially end up as a big problem?

Professor Lewis: I can answer that directly now. You certainly would not want to put in promises to control things that are outside your control. There are things such as natural emissions. For example, there are chemicals emitted from trees that contribute to air pollution when they mix with other things. You certainly would not want to commit to controlling those.

If you are alluding to ammonia being an uncontrollable emission, I do not think it is. Ammonia is something that can be controlled. There are a lot of interventions that can reduce those emissions. There is probably a minimum level of ammonia that you would argue is uncontrollable, but we are way away from that at the moment.

On each of those pollutants and each of the ones that contribute to the chemistry, you do need to sit down and think very carefully about which bits are under your control and which bits are not.

Bim Afolami: And indeed the interaction between different bits.

Professor Lewis: It is a lot of detail, but the contribution from ammonia, for example, comes when it mixes with some of the end products of emissions from car exhausts. So you have two completely dissimilar sources that are not even geographically located together, but when the atmosphere brings them together, the acid and the alkaline react. That is why you need to look right across the emissions sources and not be too focused on just dealing with one.

The Chair: And on Abena's point?

Professor Lewis: I can answer on the contributions, because this is the sort of thing that is reported in the national atmospheric emissions inventory; there is a lot of detail on the individual contributing sources. This is where the world will change in the next 10, 12 or 15 years,

because at the moment we have a huge contribution to urban air pollution from vehicles, and particularly nitrogen dioxide, but that will slowly move out and we will see the mix change. With other transport sources, such as trains and aeroplanes, we imagine that train contributions will decrease and aeroplanes will probably stay the same. It will evolve over time.

Katie Nield: It is worth stressing that although there could be many, many different sources of particulate matter pollution, so many of them are controllable. As you were saying, emissions from road transport are controllable, as are those from agriculture and domestic burning. There is a huge amount left to be done to control those emission sources. The concern I have with the Bill is that, although there are environmental improvement plans and it is great to have something to point to show what the Government are doing to achieve the targets, I do not have enough comfort from the Bill that that is what those plans will achieve for air quality.

I have two main concerns with respect to those plans. First, there is no mention of the need to protect human health. Again, the requirement in the Bill is to set out steps to improve the natural environment. There is nothing about the need to protect human health as part of that. Again, that seems to be a stark omission.

Secondly, although the plans must include steps to improve the natural environment, there is nothing up front that requires that those steps are sufficient to be likely to achieve the targets that the Government commit to. It seems that the plans should be the vehicle for achieving the targets, so I do not see why the law does not recognise that.

From an air quality point of view, the Bill represents a bit of a step back from what the law says at the moment with respect to current air quality targets, because the plan-making provisions that we have in the current law to meet targets are much stronger than those that the Bill provides for. That is a major concern for us.

Sarah MacFadyen: Regarding the mix of sources and where the emissions are coming from, the British Lung Foundation is generally most concerned with emissions from transport, because that is the primary source in busier towns and cities, which is where the majority of people are living, working and breathing. That is why that partnership between national and local government is so important on this issue, because the situation will look different in different places.

We have quite a lot of patient groups based in cities and towns along the south coast, for instance, who are very concerned about air pollution. Obviously, shipping is a big contributor when you are on the coast. We need to be able to look at this issue in local areas and see what the biggest contributors are there. We need both the national strategy and the support for local government to tackle what is going on in their areas.

The Chair: I will take two more questions. We really are pushed for time, so if Members could make their questions as concise as possible, that would be really helpful. We will start with Kerry McCarthy and then go to Cheryl Mackrory.

Q135 Kerry McCarthy (Bristol East) (Lab): My question is specifically directed at ClientEarth. You have taken the Government to court over their failures on air

pollution three times now. Do you feel that the Bill gives sufficient powers to take action against the Government if there are future failures? Also, my concern is about the buck being passed to local authorities to a large extent. In the wider picture, I have just heard that Bristol has finally got its directive from the Government today, but unless funding is released for transport, housing and all the things that go with it, it will be very difficult for local authorities to do what is required, so where is the balance? Who should be held to account, and can they be held to account under the Bill?

Q136 Cheryl Mackrory (Truro and Falmouth) (Con): I suppose that my question follows on from that. I am lucky enough to represent a coastal rural community. My confusion is about how we measure these targets. I do not know what success looks like where I live, compared with London, for example. We might also set targets in the Bill, but where I live might have met them already while London has not. Who are we setting the targets for? I find it a bit too complex, which is why I am leaning towards using secondary legislation to manage that. Following Kerry's question, I would also like to hear a little more about the role of local authorities.

Katie Nield: I will go first, given that the first question was directed at ClientEarth. The cases that ClientEarth has taken against the UK Government have been key both to driving action to meet the legal limits we already have and to highlighting this as a serious issue and highlighting Government failures so far. It is really important that the Bill allows people to continue to do that against these new binding targets. They need to be meaningful, and that means that the Government need to be held to account against them. That is key.

What is also key is that we should not have to rely on organisations such as ClientEarth or individuals to take action. That is another reason why it is really important that the Office for Environmental Protection—the new environmental watchdog set up by the Bill—has adequate teeth to do that job and scrutinise Government actions. I assume you heard in previous evidence about the shortcomings of the Bill in that respect, so I will not repeat that.

In terms of action from local authorities, what has come out in the discussion so far has been clear: air pollution is a national problem and there are a huge number of different sources that need to be dealt with. It is not a localised issue with just a small number of hotspots that need to be cleared up. What we are concerned about is pushing the burden of responsibility on to local authorities to deal with this problem—that will not be the most effective way to tackle this national public health crisis. We need the Bill to reflect that, and we need the environmental improvement plans to reflect that.

At the moment, the Bill provides some new powers to local authorities, and those are very welcome, but it risks putting the burden of responsibility on them. This goes back to the point Liam was making earlier about the opportunity to introduce a broader ranging duty on all public bodies across different levels of Government and different Departments from the central level to ensure that they are doing their bit to contribute to those targets.

Professor Lewis: I would like to comment on assessment in a rural environment, because that is really important. Most people potentially live in places that will not be

anywhere near a measurement point. It has been possible to bring action on nitrogen dioxide because there was a very good way of assessing it: we knew where the pollution was—at the roadside—and there was a network of measurements and, crucially, an ability to predict, model and fill in the gaps in between, where everybody else lived. That provided you with the evidence base with which you could say, “These areas exceed; these areas don't.”

It is harder with PM_{2.5} because it does not come just along the roads, although there are sources there; it comes from many places. You might rightly ask, “How will I know if it is getting better in my constituency?” The answer is that if we do adopt things like a 10 microgram target and continuous improvement, we will have to do more measurements, because we will not have the evidence to present to say whether it is getting better or not. There is a fundamental difference as you go lower and lower: the challenge in proving that things have got better, and particularly in places that historically we would not have thought of as pollution hotspots, is pretty hard. People should go in with their eyes open that there will be more of a burden in demonstrating that progress is being made.

Katie Nield: I suppose setting an ambition for that target also provides an opportunity for us to better assess it and better understand the impacts it is having on our health, so it is an opportunity.

The Chair: I am afraid we have time for only one more question, and I am not sure that we will have adequate time for all the witnesses to respond. Alex Sobel, please be very brief.

Q137 Alex Sobel (Leeds North West) (Lab/Co-op): I will try. My city, Leeds, has some of the worst air quality in Europe. We are getting a clear air zone, but it is nine months late due to Government methods. A DEFRA fact sheet says that NO_x—nitrogen oxides—emissions fell by only 33% between 2010 and 2018, and PM_{2.5} by only 9%. The NO_x limits are the same for the EU and the WHO, but the WHO's PM_{2.5} limits are much lower than the EU's. How can we get to a safe level by 2030, given where we have got to at this point and what we can do with the Bill?

The Chair: Very quickly.

Sarah MacFadyen: I think we have covered a bit of that already, but the actions laid out in the Government's clean air strategy are going in the right direction. We need to look across all sources. Within Leeds, a huge part of that will be road transport, but it is not the only part. We know that clean air zones are a step in the right direction, and that the modelling around them shows that they will reduce nitrogen dioxide and some particulate matter. To reduce PM further, we will need to consider having fewer cars on the road—not just newer or electric models—and look at investing further in clean public transport and in walking and cycling. We will also need to look at wider sources, such as fuel burning, industry and agriculture.

The Chair: Order. I am afraid that brings us to the end of the time allotted for the Committee to ask questions. On behalf of the Committee, I thank the witnesses for their forbearance. I know it has been

[The Chair]

difficult to squeeze in all the information, but I am sure the whole Committee has found it very informative and helpful in shaping our views.

Examination of Witnesses

Stuart Colville, Ian Hepburn and Chris Tuckett gave evidence.

12.17 pm

The Chair: Good afternoon. We will now hear evidence from Water UK, Blueprint for Water and the Marine Conservation Society. We have until 1 pm, but it has been very difficult to get through all the questions in the time allocated. As Members of the Committee do not seem to understand what “concise” means, I ask them to condense their questions. Our witnesses are very welcome. Do not feel that you have to answer every question if you do not have anything to add to what the others have already said.

Q138 Dr Whitehead: Good afternoon. I want to start with some thoughts about water efficiency, and specifically the extent to which it is widely thought that the Bill perhaps misses the opportunity to strengthen water efficiency targets and encourage homes and businesses to reduce their water usage. Do you think there should be powers and targets included in the Bill to enable those efficiency measures to be expedited?

Stuart Colville: My name is Stuart Colville and I am from Water UK. The position of the water industry is really clear on this. Looking at the second half of this century, we are starting to see projections of water deficits in every part of England, and water efficiency is clearly part of the toolkit for dealing with that. We would like to see some of the Bill’s resource efficiency clauses used to bring forward a scheme to label water-using appliances—dishwashers, washing machines and that kind of thing—coupled with minimum standards. We feel that is really important. The modelling shows that if you do not do that kind of thing, you end up having to bring forward a lot of supply-side measures, such as strategic transfer schemes or desalination plants, which are not only very expensive, but quite carbon-intensive. That is the kind of measure we are looking for from the Bill.

Ian Hepburn: I am Ian Hepburn of Blueprint for Water, which is part of the Greener UK coalition. We entirely support and endorse the view that there should be opportunities for water consumption reductions in the Bill. We have identified a couple of parts of the waste and resource efficiency element of the Bill that could allow for the relevant reduction opportunities to be put in, in the form of mandatory water efficiency labelling and setting standards. There is an absence of a target, and if this Bill could be used to produce a target for water efficiency, we would be very supportive of that.

Q139 Dr Whitehead: I want to touch on the other aspect of water that we have heard rather a lot about recently, namely flooding, and observe that the Bill likewise holds no powers or duties on flood defence or work on drainage of waste water to reduce flood risk.

Do you think that is an omission in the Bill, or are there other ways in which such measures could be reliably incorporated into legislation?

Stuart Colville: From a water industry perspective, the most serious omission, or the thing we would most want addressed, is a recognition in statute of these things called drainage and waste water or drainage and sewage management plans. There is no adjacent duty on those others in the water industry to co-operate and collaborate in the development of those plans. Those plans are slightly technical, but we see them as fundamental to our long-term ability to deal with increased rainfall patterns, climate change and so on, to ensure that there is enough capacity to meet that.

At the moment, the onus is placed on water companies, which is correct because they are at the heart of that planning process, but there is an absence of any requirement on other operators of drainage systems to be part of that. In practice, we are already seeing that leading to some variability across the country in the quality of co-operation, whether with strategic road operators or local authorities. The most serious omission for us is that lack of obligation on others to be part of that process, to be around the table and to think about how these very long-term plans will work.

Ian Hepburn: If I could add briefly to that, one of the big opportunities missed in this Bill is to provide for a strategic catchment-scale management of water. Without that, we have lots of little piecemeal bits of mechanisms, bits of legislation, the flood and coastal erosion risk management strategy, the resource management plans that are coming in—a whole host of different elements, none of which are joined up. That join-up cuts across to the Agriculture Bill and the opportunities there under the environmental land management scheme to generate natural flood management opportunities.

If none of those are joined up and it is not dealt with in a strategic way, we will still be doing things using a very piecemeal, bitty approach, and that is not the way water works. Water falls, it moves, it goes into the sea; that is what you have to manage. You are managing the issues that we will increasingly face, too much water and too little water. We have to manage for that. We have to manage that so that we are able to take out water for our own communities and purposes, while having enough left for the environment.

Chris Tuckett: I am Chris Tuckett from the Marine Conservation Society. I entirely agree with what Ian says about the connectivity between different parts of the environment. Yes, if you are managing the environment in terms of waste water and drainage, that also means that potentially preventing things such as bathing water quality impacts down at the sea. It is about looking at the different aspects in a more integrated way. Some of it is in the Bill—certainly in part I, which is quite general and integrated—but the connection is quite often missing. It should not be missed; in thinking about the Bill, we should think about the connections in our environment.

The Chair: Minister, would you like to add to our proceedings?

Q140 Rebecca Pow: I would love to. I want to be clear about resource and water efficiency, which was mentioned earlier. That is catered for in clause 49. I take the points about needing to look at the wider issues of all water

resources. We have to set a water target in part 1 of the Bill. I am interested to know your thoughts on what sort of target you would like to see, because we have that opportunity in the Bill.

Chris Tuckett: First of all, I am delighted to be here. I am quite surprised I am here, because the Bill does not actually mention marine—it mentions the Marine and Coastal Access Act 2009, but it does not talk about the marine environment.

Rebecca Pow: But it mentions the natural environment, and to be clear, that includes marine. That is why you are here.

Chris Tuckett: Yes, which is great, and I really appreciate that. We would really like a little bit of clarity, and for the Bill to mention marine, because 55% of our territory in England is under the sea, yet the Bill does not mention the words “sea” or “marine.” There are some simple changes and a few amendments that I know have been agreed that can fix that very simply.

As far as targets go, it is incredibly difficult to look at the different parts of the environment—water, biodiversity, land and air—and put one target on them. For the marine environment, the best we have at the moment is good environmental status. That is to be achieved by the end of 2020. We are pretty certain that it will not be. Following the assessment at the end of last year, 11 out of 15 indicators of good environmental status are not at green; they are failing. There is a lot of work to be done.

In terms of the target for water, good environmental status is probably as good a measure as we can get. That needs to be there. It will not be met by the end of 2020. Thinking further about the value of the environment, particularly the marine environment from a climate point of view, do the indicators to achieve good environmental status need to be upped a bit more, to make sure we take account of climate change and the role that the marine environment has in that? For water, we need a basket of measures.

Ian Hepburn: I cannot argue with any of that. It is quite difficult to pick one target, because there are many targets for the water environment that we would want to see. The most obvious target is the water framework directive target for good ecological status or potential for all waters by 2027. I seriously doubt we will meet that; most people think we will not. That is only one part.

I would like someone to invent a target that integrates all needs for the water environment. I have not seen it yet. I could not pick one particular target right now that I would like to see. There is a need for a multitude of targets. Picking one will not be sufficient.

Stuart Colville: Do you mind if I add two quick things? First, it is clearly right to have more than one target for water in the Bill. My personal preference would be to have a distribution input target, which is a technical thing that simply measures the amount of water taken away from the environment, whether for residential or commercial purposes or so on. Placing a target aimed at the ecological outcome—or the impact most associated with the ecological outcome, the removal of water—would drive a bunch of incentives and behaviours by water companies and others that would promote good ecological outcomes. There is something there around abstraction that is quite interesting.

There is clearly also something on ecological status or ecology. The targets we inherited from the water framework directive will expire in 2027. We are not really having a debate yet about what should come afterwards. However, if you look at the investment lead times of the water industry, for example, you are talking about 10 or 15-plus years, so we really need to have a debate now about what comes after 2027, regardless of the percentage compliance that we actually achieve under that. We already need to start planning those longer-term investments.

The third area, which is perhaps more difficult, because it is newer, is the idea of public health. All the existing legislative framework around protecting waterways, and the environmental outcomes around waterways, are predicated on the protection of invertebrates and species and biodiversity. If you look at the water framework directive, the urban waste water treatment directive and so on, that is the outcome that they aim at. We are increasingly seeing society expecting to have the ability to bathe, swim and paddle in inland rivers, or to go down to the local pool of water and splash around with a dog or whatever. The gap in how we—the industry and Government regulators—react to that is between whether we take that inherited legislation, which is clearly based on environmental parameters, or whether we think about protecting public health in that environment, because that will trigger a lot of investment and money, and a lot of carbon—

Q141 Rebecca Pow: Can I quickly follow up on something? In the light of what you have all said, we already have a pretty heavy legislative framework for water and the water space; we already have water management plans, catchment plans—a raft of information—which is why a lot of that is not reiterated in the Bill. The message I am getting from you is that there are myriad targets that we could set. I would say that the Bill offers the opportunity later to set any targets that we want. Do you agree that it is good that a water target will be set in the beginning? I think our marine lady particularly welcomed that. This shows how complicated setting targets is, and that we would need to take a great deal of advice in the secondary stage of the Bill in order to do that. This is what the Bill offers us the opportunity to do. Do you welcome that general approach?

Stuart Colville: Yes, I completely agree.

Chris Tuckett: Yes. If I could add to that, the additional thing that the Bill will potentially bring is teeth to some of those targets. The water framework directive target is for 2027. Who knows whether we will get there; we have missed a number of points along the way. It is the same with the marine strategy framework directive. When I talk about good environmental status, that is related to marine strategy. The targets are there—there is a ream of targets—but the regulatory bite and the consequences of the targets not being achieved is missing. If we could bring that through, that would be great, and a huge improvement.

Ian Hepburn: I would add very quickly that the opportunity for interim targets to be set and managed over a shorter timescale than the one global target ought to be taken advantage of.

Q142 Deidre Brock: I have been doing quite a lot of work examining issues around munitions dumps around the coast of the UK. In fact, I called for an environmental

[Deidre Brock]

audit—on both land and sea—of the Ministry of Defence’s activities. Clause 18 excludes

“the armed forces, defence or national security”

and

“taxation, spending or the allocation of resources within government” from the scope of the policy statements. I am interested to hear your thoughts on that.

Chris Tuckett: I have to confess that it is not something that I have scrutinised; I should have. Munitions dumps, disused landfill sites, unclaimed landfill sites are potentially a risk to the environment in the round. Where there is coastal erosion, they are absolutely a risk to the marine environment. If there are loopholes in the Bill in relation to those sorts of risks, and there is the opportunity to deal with those loopholes here, we absolutely should. But we must look at it in the round, because there are a number of different sorts of sites that are like that.

Ian Hepburn: I do not see a reason for having gaps in terms of responsibility. There is a potential impact on the environment. They may be treated slightly differently, perhaps because of their special positions, but I do not see a reason why there should be a gap.

Q143 Deidre Brock: You think a blanket exemption is not appropriate.

Chris Tuckett: The environment does not see any difference, does it?

Q144 Saqib Bhatti (Meriden) (Con): Mr Colville, you spoke about the water industry. Do you agree the Bill is a step forward with respect to the regulation of the water industry? Obviously, the current process can constrain water companies and increase uncertainty about regulation and so on, but bringing the process in line with other sectors can strengthen Ofwat’s ability to improve the way water companies operate and the information they receive.

Stuart Colville: You are referring specifically to the changes to licence amendments and the process around that.

Saqib Bhatti: Yes.

Stuart Colville: This is clearly an area that needs to be approached with caution, because the licences that water companies hold are extremely important to the way that they operate and for attracting investment, essentially. We think the Bill broadly strikes a reasonable balance between the powers that the Government and the regulator feel that the regulator needs, while maintaining protections for investors and continued investment.

Q145 Marco Longhi (Dudley North) (Con): I am interested in the panel’s views on the role of local government and, more broadly, on the regulatory framework once we have decided what the medium and longer-term targets may be. As I observe the water economy—if I could use those terms a little loosely—it seems very fragmented. We have water providers, water treatment, marine, canals, x, y and z. How do you see the regulatory framework, as that develops, once we have decided what those targets should be? I just want to make sure that we do not put the cart before the horse, if that makes sense.

Stuart Colville: I think the role of local authorities is crucial. We are seeing an increasing move towards catchment-based planning across the UK. Local authorities bring a sort of accountability that industry and regulators

cannot. Involving local authorities more in the medium-term or long-term plans around some of our most important river catchments is really important—bringing them into the partnerships that are being constructed to think about how best to maintain and improve water quality, flood resilience and so on.

I do not necessarily see a role for the Bill in promoting that. I think it is already happening to some extent, and we are seeing work quite well in particular areas. It requires a proof of concept and a scaling up of what is already happening.

Chris Tuckett: Absolutely, it is complicated. The Bill is huge. The governance framework is also huge.

Q146 Marco Longhi: It follows on from Mr Hepburn’s comments earlier on integrated thinking. Given the fragmentation of the whole environment around water, it is a complicated equation.

Chris Tuckett: The systems thinking around governance, as well as the environmental system itself, is really important. There is a specific example I have around local government. The inshore fisheries and conservation authorities that operate around England, at six or 12 nautical miles—the inshore area—get their funding through local authorities. We know that due to the situation local authorities are in, some of that funding is lost along the way. It just happens.

The funding position there is pretty dire, so from a marine point of view, to regulate the inshore and to do this job properly and recover our marine environment, we need the regulators to be in place to have the power and, bluntly, to have the funding to be able to do the job. That goes for the Association of Inshore Fisheries and Conservation Authorities and for the Marine Management Organisation.

With local authorities, you of course also go on to the waste and resources side of things, which I think you will be talking about later. It is important to think about their role on such things as deposit return schemes versus what would happen within a new system that is set up. I am sure DEFRA is absolutely on the case with thinking about governance arrangements, the flow of money and how all that works as part of this, but it is vitally important.

Q147 Kerry McCarthy: Can I just ask a quick question about chemicals in the water supply and whether the Bill does enough to increase the monitoring of pesticides and other pollutants in the water? You are all nodding, but nobody is answering.

Ian Hepburn: It is not something I have looked at in depth, but certainly there seems to be concern—this is from other organisations that support and work with Greener UK—that there is a large number of substances out there that will be risky as far as human health is concerned, let alone the health of the environment. That will need to be regulated. I do not see within the Bill that there is necessarily the right framework to do that monitoring.

It is also probably worth touching on the fact that if one puts that responsibility on the Environment Agency, which has had fairly significant depletion of its resources, it may be that there is no capacity, even if you include that responsibility in the Bill, to get that monitoring done. I think that is something that we need to bear in mind when developing something that will help us

watch these novel substances, both alone and in how they operate together in the environment, because they do pose risks.

Stuart Colville: I would just observe that regulators and the water industry itself have a programme of research into what I suppose you would call novel contaminants or novel pollutants within watercourses and water bodies. That is funded at a reasonably high level and will continue. In fact, the next round, between 2020 and 2025, is about to start. That looks at things such as microplastics, antimicrobial resistance and exotic chemicals that may be leaching into watercourses from various forms. I suppose the question is whether there needs to be some duty or obligation through legislation to formalise that somehow. My sense is that the current system, which is overseen by the Environment Agency, is reasonably effective at keeping an eye on those substances and trying to work out what is actually in the environment.

Chris Tuckett: Clause 81 of the Bill, which relates to water quality, gives the Secretary of State powers to look at the substances that are regulated through what is now the water framework directive. That is good, and we do need flexibility on the sorts of chemicals that are monitored. It is slightly different for pesticides, but it is important to adapt as new chemicals come on to the market. What we would say about that clause is that there should be absolutely no regression on standards. Those standards that are there should not be reduced in any way.

Stuart Colville: Just to be clear, we would agree with that.

Q148 Abena Oppong-Asare: There are a few requirements for consultation on water quality in the Bill, but they are only to ask the Environment Agency. If any changes made under this section of the Bill are subject to the negative resolution procedure, do you feel that that level of scrutiny is enough, or do you think it should be extended? I just wanted to hear your general thoughts on that.

Ian Hepburn: This is on clause 81?

Abena Oppong-Asare: Yes, I should have been clearer.

Ian Hepburn: It is an important issue. There is no overall requirement for non-regression, so changes could occur in either direction; they could reduce the standards and they could remove substances. We consider that that is highly inappropriate. There must be a degree of protection in there. We would certainly want to see a general improvement in the way in which any move to alter the substances or the standards is addressed. It will need to have specialist advice. There is an obligation to consult the Environment Agency, as you say, but it needs to go beyond that; it needs public consultation, and it needs an independent organisation like the UK technical advisory group—UKTAG—which currently advises on the water framework directive. That would need to be incorporated, and I believe it would need the affirmative procedure and proper parliamentary scrutiny alongside that.

Abena Oppong-Asare: You said parliamentary scrutiny.

Ian Hepburn: Yes.

Stuart Colville: I completely agree with all that. The clause gives quite a lot of power to the Secretary of State in ways that we cannot really predict, sitting here

today, so we want to see a bit more structure or a few more checks and balances within that. The affirmative procedure is one way of doing that. Consultation and a requirement to talk to the experts are all helpful in that context.

Chris Tuckett: The scope of the water framework directive goes out to 1 nautical mile, so it goes into the sea. When you are talking about chemicals and where they are going, it is going to impact there as well.

Q149 Alex Sobel: The River Wharfe in my constituency and in Robbie's has significant sewage outflows when it rains, with *E. coli* levels 40 to 50 times the EU bathing water limit. Only 14% of our rivers are, by EU standards, in a good ecological state. Considering that track record, do you think the Bill will improve the quality of our rivers? Chris alluded to this earlier, so perhaps she wants to respond.

Chris Tuckett: Absolutely; it needs to be managed as a system. The targets need to be there and need to bite. You talked about *E. coli* and bathing waters. To be fair, good progress has been made on bathing water quality, but absolutely, there are some exceptions, like the one you talk about. Stuart mentioned the temptation to use bathing waters year-round in different places—swimming in rivers and all that sort of thing—so the need is there, from a recreational point of view, to do more. The biting part of the Bill around targets is pretty crucial.

The measures around waste water management and the need for planning for waste water management are also really welcome. Obviously, Stuart will come in on that. For a long time, there has been a requirement to plan around water resources, but not around waste water management. It is necessary to plan ahead on that, and to understand what the volume of water is likely to be under climate change conditions. It will increase. Having a sewerage system that works and can cope with that kind of capacity is a big ask, but it needs to be planned for. So yes, I think there are things here that will help.

Stuart Colville: Perhaps I could add two things. I agree with all that. First, on *E. coli*, that speaks to my earlier point that the legislation is aimed at ecological outcomes, not public health outcomes, which is why that issue is there. For me, there is the long-term question to address—probably through the target-setting process—of what we as a society and legislators feel about that.

The second point I would make is that one of the principal causes of spills of sewage into rivers at the moment is blockages, and the main cause of those is wet wipes congealed with fat, oil and grease within the sewerage network. One of the things we are calling for is for some of the producer responsibility powers in the Bill to be used to do something about that. We know it is an increasing problem. It costs £100 million a year and it is a direct cause of several pollution incidents we have seen across the country. That is why we hope this framework will at least address that element of the cause of what you describe.

Ian Hepburn: You have alluded to the fact that we have not done desperately well in terms of achieving good ecological status for water bodies. In England, 61% of the reasons why water bodies are failing are down to agriculture, rural land management and the water industry. I believe that the Bill does a lot to

address the water industry aspects; it does not seem to do very much on the agriculture and rural land use aspects of the pollution. Of the 37% of reasons for failure that are attributed to agriculture and rural land management, 85% are down to, effectively, diffuse pollution from farm land and rural land use. It is a big issue, and has been for a long time. We have not got around to dealing with it. We need join-up between the Environment Bill and the Agriculture Bill to ensure that we deal with that sector.

We have been talking about clause 81 and the need to have it framed in a way that does not allow regression. There must be a temptation somewhere down the line—not necessarily in this Parliament, but in future—to lower the bar because of the levels of failure. We need to resist that, and ensure that under the framework, that is unlikely to happen.

Q150 Robbie Moore: I have a question for the Marine Conservation Society, although I am happy for the other witnesses to comment. How important do you think that the waste and resource efficiency measures in the Bill are as a means of tackling pollution in the marine environment?

Chris Tuckett: They are really important. As I said earlier, it is about systems thinking. What is happening on land, what is happening at source, and where does that go through the environment? Ultimately, quite a lot ends up in the sea. We welcome the waste and resources clauses. I think you have a session this afternoon in which you will go into more detail on the ins and outs of what is needed.

The clauses are absolutely welcome, particularly the enablement of deposit return schemes. That needs to happen as soon as possible, please. That would be great. A lot of other countries have done it, and there are figures of up to an 80% reduction in litter as a result of having deposit return schemes in place, through improvements in recycling. That is really important.

We also very much welcome extended producer responsibility. The emphasis within the waste and resources portion of the Bill should be very much on the waste hierarchy—reduce, reuse and recycle—but very much on the “reduce” bit to start with. Obviously, there has been a lot of discussion on marine plastics—the “Blue Planet” effect—and some measures have come in as a result of that, but not an awful lot. The Bill takes all of that forward, which is great and we welcome that. The sooner it happens, the better.

For the deposit return schemes that the Bill enables, we really hope that the legislation will be passed as soon as possible. It will be a comprehensive system that includes all types of containers—drinks containers—and all sizes. We at the MCS have been picking up litter from beaches for more than 25 years. It is not getting a lot better. We really hope that it will do soon as a result of the Bill.

Q151 Cherilyn Mackrory: I believe clause 81 sets out the same powers that we already had under the European Union with regard to ensuring that water quality is maintained. The only way is up, in my opinion, on that. I wanted to come back to the run-off from agricultural land. I believe that that is covered more in the Agriculture Bill than in the present Bill, with incentives given for good stewardship of land, and so on. I wanted to get your feelings on that. It does not change the wider

regime for assessing and monitoring water quality that is enshrined in English law under the 2017 environment regulations. Do you feel that the Bill sufficiently sets out the direction of travel on leaving the European Union? As I say, the only way is up. Does it give you sufficient comfort that there will no regression?

Ian Hepburn: The problem is that we do not see non-regression. The way could be up or down, given the way the Bill’s provisions are set out. There is nothing to stop the Secretary of State from changing the substances listed or the standards for those substances in the same way that there would have been had we been part of the EU and, alternatively, had we had a non-regression clause within the withdrawal Act. Again, that has gone. As my colleagues have made clear in earlier sessions, we consider that clauses 19 and 20 do not amount to non-regression obligations. That is the risk that we see. We think that some amendments to clause 81 could soften the impact of the risk and of going in the wrong direction.

Q152 Cherilyn Mackrory: To my mind it feels as though the Secretary of State is able to leave that open to do things differently from before, and that it is not an intention to regress.

Chris Tuckett: I absolutely would like to think that. I really would, and I think we all agree this is a significant piece of legislation under this Administration. I am sure this Administration would absolutely think that this was about non-regression, but for the future, for the continuity of the Bill and what happens under the next Administration and the one further on, making that very clear would be extremely helpful.

Stuart Colville: I will make one quick comment on agricultural run-off, if I may. Incentives being put in place through the Agriculture Bill, which are really important, need to be coupled with a decent regulatory baseline. At the moment there is mixed evidence about that baseline. One option might be to set a target through the Environment Bill, not just on water and some other sectors, and to think about how that works with agriculture. That refers back to the integration point that we discussed.

Rebecca Pow: We have a couple more minutes. This is not a question, but an observation. The whole purpose of the Bill is to significantly improve the natural environment; that is why the targets are set there. They should achieve what has just been referred to. We have not touched on water abstraction, on which there is a measure in the Bill.

The Chair: We will have to be very quick.

Q153 Rebecca Pow: Do you agree that amending the water abstraction licences regime will help us to better manage our water resources? Perhaps our water company specialist might comment.

Stuart Colville: Our view is that it will help a bit. It is a necessary but not sufficient condition for managed abstraction in the long term. Ultimately we will need investment to develop the abstraction sources, as well as in potential projects to move water around and store it in different ways, but it is helpful.

Ian Hepburn: My very quick point is that it is good. It is essential. We need to keep it, accelerate it and bring it forward. The issue is with things like chalk streams.

Abstracting from the aquifers has been going on for so long that it needs action now. You could easily build in mechanisms through minor amendments to the Bill that would allow a 2021 date to be set, and then a negotiation period to be set for the individual organisations that would be affected. We must remember that this will not happen everywhere; it is only for the habitats and sites that are most threatened by abstraction. The bottom line is that for the sake of some of these scarce habitats, we just need to get it done, to borrow from an overused phrase, really quickly.

The Chair: Order. That brings us to the end of the time allotted for the Committee to ask questions. On behalf of the Committee, I thank the witnesses for the very thorough and informative way in which they have responded to the questions.

1 pm

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

Fourth Sitting

Thursday 12 March 2020

(Afternoon)

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Examination of witnesses.
Adjourned till Tuesday 17 March at twenty-five minutes past
Nine o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 16 March 2020

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The Committee consisted of the following Members:

Chairs: SIR ROGER GALE, † SIR GEORGE HOWARTH

Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Morden, Jessica (<i>Newport East</i>) (Lab)
† Ansell, Caroline (<i>Eastbourne</i>) (Con)	† Oppong-Asare, Abena (<i>Erith and Thamesmead</i>) (Lab)
† Bhatti, Saqib (<i>Meriden</i>) (Con)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP)	† Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op)
† Docherty, Leo (<i>Aldershot</i>) (Con)	Thomson, Richard (<i>Gordon</i>) (SNP)
Edwards, Ruth (<i>Rushcliffe</i>) (Con)	† Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab)
† Graham, Richard (<i>Gloucester</i>) (Con)	Adam Mellows-Facer, Anwen Rees, <i>Committee Clerks</i>
† Longhi, Marco (<i>Dudley North</i>) (Con)	† attended the Committee
† McCarthy, Kerry (<i>Bristol East</i>) (Lab)	
† Mackrory, Cheryllyn (<i>Truro and Falmouth</i>) (Con)	
† Moore, Robbie (<i>Keighley</i>) (Con)	

Witnesses

George Monbiot, Journalist and Environmental Campaigner

Dr Richard Benwell, Chief Executive Officer, Wildlife and Countryside Link

Libby Peake, Head of Resource Policy, Green Alliance

Richard McIlwain, Deputy Chief Executive, Keep Britain Tidy

Dr Michael Warhurst, Executive Director, CHEM Trust

Bud Hudspith, National Health and Safety Adviser, Unite

Nishma Patel, Head of Policy, Chemical Industries Association

Lloyd Austin, LINK Honorary Fellow and Convener of LINK's Governance Group, Scottish Environment LINK

Alison McNab, Policy Executive, Law Society of Scotland

John Bynorth, Policy and Communications Officer, Environmental Protection Scotland

Public Bill Committee

Thursday 12 March 2020

(Afternoon)

[SIR GEORGE HOWARTH *in the Chair*]

Environment Bill

Examination of Witnesses

George Monbiot and Dr Richard Benwell gave evidence.

2 pm

The Chair: We now come to the first panel of witnesses this afternoon. We will hear oral evidence from Mr George Monbiot, a journalist and environmental campaigner, and Dr Richard Benwell, chief executive officer of the Wildlife and Countryside Link. Welcome. I have already introduced you, but can I invite the two witnesses to say a few words about who they are and what they bring to proceedings?

George Monbiot: George Monbiot; I have a long-standing interest in wildlife, environmental and countryside issues. Many of those wildlife issues are covered by this Bill.

Dr Benwell: Wildlife and Countryside Link is a coalition of 56 organisations working to improve the natural environment, animal welfare and people's access to a healthy environment.

The Chair: We have until 2.45 pm before we reach the end of this session. I will call Dr Alan Whitehead to open up with one or two questions and then go to the Minister.

Q154 Dr Alan Whitehead (Southampton, Test) (Lab): Good afternoon. A pretty direct, straight initial question: do you think this Bill is up to the task of protecting the environment in its own right? If you do not, what do you think is missing from the Bill that would enable it to do that job better?

George Monbiot: There are several areas that are clearly missing, because of the scale of the impacts and a long-standing failure to engage with them. One is the unlicensed release of game birds. They amount at some times of year to a greater biomass than all the wild birds put together and have a massive ecological impact, yet their release is unregulated and uncontrolled.

The Chair: Sorry to interrupt, but the acoustics are not brilliant in this room. If people could speak up a little, it would be helpful.

George Monbiot: I am so sorry. Associated with that is the widespread use of lead shot. It is completely incomprehensible and unacceptable that in the 21st century we are still allowed to spray lead shot all over the countryside with, again, significant environmental impacts. We have also, as a nation, completely failed to get to grips with phytosanitary issues; as a result, we are in a situation where just about every tree will eventually meet its deadly pathogen, because we are so successfully moving tree and other plant diseases around the world.

A previous Environment Minister, Thérèse Coffey, said that one dividend of Brexit would be that we could set much tighter phytosanitary rules. Well, I think we should cash in that dividend and see how far we can

push it. There might be an option to say, "No live plant imports into the UK that are not grown from tissue culture." At the moment, ash dieback alone is likely to cost around £15 billion in economic terms. The entire live plant trade has an annual value of £300 million, so in raw economic terms, let alone ecological terms, it makes no sense to continue as we are.

A fourth issue that I would like to introduce as missing from the Bill is the release of the statutory environmental agencies from the duty imposed on them in section 108 of the Deregulation Act 2015: to "have regard to...promoting economic growth."

Doing so might be appropriate in some Government agencies, but when you are meant to be protecting the natural world and ecosystems, that should come first. Very often, promoting economic growth is in direct opposition to the aims of protecting the living world, so it seems perverse to me that agencies such as the Environment Agency or Natural England should have a duty to promote economic growth.

Dr Benwell: I would like to start by saying that this is not a run-of-the-mill Bill; it is a really, really exciting piece of legislation that has the potential to be amazing. It has a huge job of work to do. The latest "State of Nature" report found that 44% of species are in long-term decline and that 15% of species here in the UK are at risk of extinction.

The trend of the decline of nature has been going on for a very, very long time. To put a Bill before Parliament with the aspiration of finally bending that curve to improve nature is a really big aspiration, and this Bill has many of the building blocks to start doing those things. It is really exciting; in particular, the promise of legally binding targets for nature is a tremendous step forward from where this Bill started—we really welcome it, so thank you for that. I hope that the Committee is excited about the prospect of considering a Bill that, hopefully, people will talk about for a very long time. That said, of course, I think that improvements need to be made to realise that ambition. If we were able to talk about two areas of improvement and one area of missing provisions, I would be very grateful.

Two areas really need improvement. The first is the targets framework. Although we have that promise of legally binding targets, at the moment the duty in clause 1 could be satisfied by setting a single target in each of the priority areas of air, water, waste and wildlife. Consequently, I think the first thing that we need to think about is how to shore up that provision, so that enough targets of the right ambition are set to deal with that whole natural environment improvement.

The second area that I would like to turn to if possible this afternoon is the nature chapter, in which there are, again, some really positive provisions. The system of local nature recovery strategies has the potential to start directing how we spend our natural environment money with much greater efficiency. At the moment, we spend our environment money in separate silos in the most inefficient manner imaginable—we spend our flood money here, our biodiversity money there and our air quality money there, and all that is usually tagged on after the end of the development process. In those local nature recovery strategies, we have the chance to align development planning and environmental spending in a way that can really up value for money and improve the way we use our cash.

The second bit in the nature chapter that really has good potential is the promise of net environmental gain in development. I have always thought of this as a sort of Jekyll and Hyde policy: if it is done badly, it can be a licence to trash, but if it is done well, it can be extra money from development to internalise some of that environmental cost that at the moment is not factored into the damage of development.

Again, those areas need a couple of improvements. Particularly on net gain, we need to ensure that it is properly covering the whole of development. At the moment, major infrastructure projects—nationally significant infrastructure projects—are not included. That is a big lacuna.

On local nature recovery strategies, the things that we need to tighten up are the duties to use those strategies. At the moment, there is a duty to do five-yearly planning and policy making, but that does not necessarily feed through into day-to-day planning and spending decisions. Focusing in on that duty, which is the one that also operationalises the local nature recovery strategies, is another really important way to fix the Bill.

If that can be done, not only can we start to think about bending that curve here in the UK—it is really important to remember that some big international negotiations are coming up this year: in Glasgow in November and before that, in autumn time, in Kunming, for the convention on biological diversity, where the world will come together to set biodiversity targets.

If we can fix this Bill and make it one that genuinely says, “Here in the UK, we will have a legal commitment to restore nature and the tools to do that”, not only could we start to bend the curve here but we could once again set a model for improving nature around the world.

Q155 Dr Whitehead: Thank you for that; it very much coincides with my general thoughts about the Bill. I guess that, as part of your homework for your appearance this afternoon, you may have had the misfortune of having to read through the entire Bill, from end to end.

I wonder whether you have any thoughts on how the Bill, though its various clauses and powers and permissions, actually does the task that it needs to do between Administrations and different stages of the process of protecting the environment, which will take place over a number of years. I am talking about how the Bill really does the job of surviving between Administrations and perhaps doing something like the Climate Change Act 2008 is doing—not necessarily binding future Administrations, but standing there as something that has to be done, so that an Administration must have very good reasons why they should not do the things subsequently, even if they are not as well disposed towards environmental improvement as the one we have at the moment.

Dr Benwell: I will make three points on that: two about the targets framework and one about the Office for Environmental Protection.

We want the targets framework to be a legacy framework—one that will keep having statutory force from Administration to Administration and ensure that the suite of targets can work for the natural environment as a system in place over time. That is why, even if this Government intend to set a really strong set of targets, we need to ensure that the duties in the Bill are strong enough so that when we come to a period of review later, any gaps that emerge are once again filled.

We talked earlier about the marine strategy framework directive targets, which end in 2020. We talked about the water framework directive targets, which end in 2027. We have thought about the ambient air quality directive targets, which end in 2030. The Bill needs to do the heavy lifting of ensuring that when those targets come and go, future Governments are obliged to revisit them and see which need to be put back in place.

I thought the Minister started a really fun game earlier of, “What’s your favourite target?”

Caroline Ansell (Eastbourne) (Con): You should chip in!

Dr Benwell: Thank you; I could do a little list now.

On biodiversity, we would have species abundance, species diversity and extinction risk. On habitat, you would have habitat extent and quality. On waste and resources, you would have resource productivity and waste minimisation. On air quality, you would have SO_x, NO_x—sulphur oxides and nitrogen oxides—ozone and ammonia. And on water, you would have biological quality, chemical status and abstraction. There is a great set there, but some of those exist in law at the moment, so we do not need them now. What we do need is a framework that will ensure that when they come and go, future Governments have to fill that gap.

There are several ways to do that. You have heard about the options in relation to an overarching objective that could be a touchpoint for setting targets. You could simply list those targets in the Bill and say that they all have to exist somewhere in law. Alternatively, you could look at the significant environmental improvement test in clause 6 and make it clear that it needs to achieve significant improvement for the environment as a system—not just in the individual areas listed, but across the whole natural environment. That is so we know that we will have a strong set of targets now and in the future.

I will be briefer on the next points, but that was point one. Point two would be about ensuring that action actually happens. The environmental improvement plans should link to targets. There should be a requirement for environmental improvement plans to be capable of meeting targets and for the Government to take the steps in those plans. And the interim targets to get you there should be legally binding.

Point three—I promised I would be faster—is about the Office for Environmental Protection and ensuring that it has the independence and powers to hold the Government to account on delivery.

I have just remembered one thing missing from the Bill, in response to Dr Whitehead’s first question: the global footprint of our consumption and impacts here in the UK. Adding a priority area for our global footprint and a due diligence requirement on business would be a really remarkable step, again, to show our leadership around the world.

George Monbiot: All I would add to that brilliant and comprehensive review is that there has been an extraordinary failure on monitoring and enforcement of existing environmental law in this country. We see that with Environment Agency prosecutions and follow-ups, and similarly with Natural England.

You can have excellent laws in statute, but if the resources and the will to enforce are not there, they might as well not exist. At every possible opportunity in the Bill, we need to nail that down and say, “That money

will be there, and those powers will be used.” That is particularly the case with OEP, but it also applies to the existing statutory agencies.

Q156 Rebecca Pow (Taunton Deane) (Con): Thank you so much for coming in. How lovely to have some enthusiasm! I will build on that enthusiasm for a second. I know there are probably lots of things that people think ought to be tweaked. Overall, can you sum up what you think the opportunities from this Bill will present to us?

Given that we have left the EU, I personally see this being a much more holistic system. I would like your views on that. You might also touch not only on the opportunities for improving the overall environment, but how this will touch on our society and business; we have to bring those people along with us.

George Monbiot: I think there is a fantastic opportunity in clause 93, which inserts the words “and enhance biodiversity”. That is something we can really start to build on. We find ourselves 189th out of 216 countries in terms of the intactness of our ecosystems. We have seen a catastrophic collapse in wildlife diversity and abundance, yet for far too long our conservation mindset has been, “Let’s just protect what we have”, rather than, “Let’s think about what we ought to have.” I would love to see that built on.

We can further the general biodiversity objective by saying, “Let’s start bringing back missing habitats and species to the greatest extent possible,” with the reintroduction of keystone species, many of which we do not have at all in this country, others of which we have in tiny pockets in a few parts of the country, but we could do with having far more of.

We could re-establish ecosystems that might in some places be missing altogether, such as rainforests in the west of the country; the western uplands of the country would have been almost entirely covered in temperate rainforest, defined by the presence of epiphytes—plants that grow on the branches of the trees. There are only the tiniest pockets left, such as Wistman’s wood on Dartmoor or Horner wood on Exmoor. Those are stunning, remarkable and extraordinary places, but they are pocket handkerchiefs. They would have covered very large tracts.

We need to use this wonderful enhancement opportunity, which the Bill gives us. There is a lot to build on in clause 93. We can say, “Okay, let’s start thinking big and look at how we could expand that to a restoration duty and, hopefully, a reintroduction and re-establishment duty.” That harks back to clause 16, where we have five very good environmental principles; I think they have been introduced from international best practice. But perhaps we could add one more to those, which would be the restoration of damaged or missing habitats and ecosystems and the re-establishment of nationally extinct native species. We will then not only be firefighting with the Bill, but looking forward to a better world, rather than a less bad one than we might otherwise have had.

Dr Benwell: That is a lovely way to put it: starting to think about restoration and improvement, rather than clinging on to what we are missing. That is the opportunity provided by the Bill.

Q157 Rebecca Pow: It does say “significantly improved”. That is the purpose of the Bill.

Dr Benwell: I am with you. I am saying that is a very good thing. Ensuring that we do that at a systemic level rather than improving one or two cherry-picked areas is something that we need to lock down in the targets framework.

You are right: the approach of doing things in a holistic manner, rather than just choosing one or two favourite options, is so important. It is the core insight of such a broad swathe of environmental thinking, from James Lovelock’s Gaia theory, on the one hand, to Dieter Helm’s theory of natural capital on the other. The common insight is that the environment has to operate as a system. If you choose one thing to focus on, you end up causing more problems than you solve. Think of tree planting. When that is the only, myopic target, we end up planting trees on peatlands and making things worse, or doing what was proposed the other week: planting trees on beautiful, wildflower meadowland. You have to think about the system. That is the promise here.

There are two other big opportunities, if you are asking where we could get excited about with the Bill. We need to think about the benefits of the environment for human health. If we could get a handle on the World Health Organisation target regarding the 40,000 premature deaths from air pollution a year, and demonstrate to the Government that there are wide-ranging benefits from environmental improvement, that would be thrilling.

On the business point, it is such a cliché but it remains true that what businesses really want is certainty. In the natural environment sector, they have never had anything more than fluffy aspiration. So many environmental policies of the past have said, “Ooh, we’ll do nice things for nature and we might see some improvement.” If we nail it down with a strong set of legally binding targets, businesses will know that they need to start changing their practices and investing money, and we will see some change on the ground.

There are lots of particular provisions in the Bill that could work well for businesses, such as net gain—at the moment, it is a patchwork from local authority to local authority, but we can standardise that now—and local nature recovery strategies, where we will know about targeting business investment in the future. There are big opportunities. We just need to tighten up those few provisions.

George Monbiot: To pick up on Richard’s second point about health and connectedness, almost all Governments have always agreed that outdoor education is really positive, yet nobody funds it. There is a massive loss of contact between schoolchildren and the living world, and I hope the Bill might be an opportunity to put that right. That is another thing that I would add to the shopping list.

Rebecca Pow: Thank you very much, gentlemen. The 25-year plan is being enacted through the Bill, and the plan does touch on the area that you mention, but thank you.

Q158 Deidre Brock (Edinburgh North and Leith) (SNP): I will ask two questions that I put to previous witnesses. The first is about clause 18, and the exemptions for the armed forces, defence or national security, and

for taxation, spending or the allocation of resources within Government, and whether you think that is appropriate. I have been doing some work on munitions dumps around the UK coast. I have also called for environmental audits to be done of the Ministry of Defence's activities—for example, on land and sea—so I would be very interested to hear your thoughts on that.

On clause 20, and the requirement in the Bill for the Secretary of State to report on international environmental protection legislation every two years, do you think it might be more appropriate for the OEP to do that, and to decide what international legislation is really important, rather than the Secretary of State?

Dr Benwell: On the exemptions from the principles policy statement, it is important to think about the weaknesses in that section as a whole. It is unfortunate that the legal duty attached to the principles is to have due regard to a principles policy statement, rather than some sort of direct duty on the principles themselves. I am hopeful that the principles policy statement, when it comes out, will do some beneficial things, if it reaches into all Government Departments and sets a clear process for the way the principles should be considered. I hope that the Department will be able to share its thinking on the principles policy statement as we go. Engagement has been very good, on the whole, with the Bill, but it would really help to see that principles policy statement in public.

The exemptions are very wide-ranging. It perhaps makes sense for certain activities of national security to be exempt. However, there is no reason to exempt Ministry of Defence land, for example, which includes areas of extremely important biodiversity. In fact, that is probably one area where we will see net gain credits generated on public land under the net gain clause, so it is strange that that is exempt.

Perhaps the weirdest exemption is the one that essentially takes out everything to do with the Treasury. When we are thinking about things like the principle of “the provider is paid and the polluter pays”, it is very strange that nothing to do with taxation or spending will be considered in the principles policy statement.

As for clause 20, I think you could do both. It would be perfectly possible for the Government and the OEP to consider international examples, and I think it would be very useful to benchmark both primary legislation and secondary legislation, in terms of non-regression. The Bill as a whole can make sure that we never have to rely on that if it is strong enough and brave enough.

The Chair: Mr Monbiot, do you have anything to add?

George Monbiot: No, that was a lovely answer.

Q159 Caroline Ansell: Dr Benwell, thank you for sharing your favourite targets and your points. I want to pick up on two points that you made. One was around operating as a system, and the other was around opportunity. Clearly, through the Bill, the Government are looking to lead on this, but I think it is widely acknowledged that it is going to take everybody. In terms of local nature recovery strategies and their production, what role and opportunities do you see as part of that system for your organisation and for the wider partnerships?

Dr Benwell: The opportunities are to align spending in a much more targeted manner and to build in environmental thinking at a much earlier stage in development and other decision making at the local level. At the moment, there is no real strategic planning for nature above the local authority level. This is an opportunity for local know-how to combine with national priorities in a way that will help to bake in the environment right at the start. That should explicitly link to policies such as environmental land management, so that farmers who invest in measures that make sense for the local environment will be paid more. That is a very sensible way to target agri-environment schemes and a very good way to target things such as net gain spending.

The problem is that, at the moment, the duty to use local nature recovery strategies is a duty to have regard to local nature recovery strategies in the exercise of the new biodiversity duty, which itself is a duty only to make plans and policies. There are several levels before anybody actually has to use a local nature recovery strategy. The worst-case scenario is that we put a new obligation on local authorities to come up with these plans.

Q160 Caroline Ansell: Is that where your organisation might step in? How will your organisation and the wider partnerships contribute to that production?

Dr Benwell: We hope that all sorts of stakeholders will be involved in the production. We hope that Natural England will sign off the plans, to show that they are ecologically rational, and that non-governmental organisations will come together with water companies, developers and local businesses to make it happen. However, all of those need to be sure that the plans will actually be used in day-to-day planning and spending decisions; otherwise, they will waste a lot of time and money putting together things that will just sit on the shelf. The duties to actually use them are not quite there at the moment.

Q161 Kerry McCarthy (Bristol East) (Lab): I must have revised the questions I was about to ask about 20 times, Richard, because you just kept saying, “And another thing,” so I was like, “That one is gone.” There are a couple of things that you both touched on, but not in that much detail.

We heard from one witness that the Bill is slightly lacking an overarching vision, which they thought could be addressed by having not just environmental objectives but objectives on health and wellbeing—I see that they are debating that in the Lords today—a bit like in the Well-being of Future Generations (Wales) Act 2015. The other issue mentioned was resource use, because there is stuff about reducing single-use plastics but not about consumption patterns overall. Decarbonisation was mentioned as well. Do you feel that the Bill could encompass those things without being unwieldy?

The other thing, which is slightly connected, is the global footprint, and I have put down some amendments on that. I entirely agree that there is not much point in doing things here if you are buying in stuff that causes environmental degradation elsewhere, or if we are funding it. I wonder whether you can say a bit more. George, on that point, one of my amendments would add to the four priority areas of the global footprint. What would be the sort of targets that we would be looking at? What would be the first things that we would address on that front?

George Monbiot: Of course, footprinting is now quite a technical and well-documented field, in which we can see what our footprint is as a proportion of our biological capacity. In land use, for example, we are using roughly 1.7 times as much as the agricultural land that we have here. A fantastic objective—it would be a long-term one—would be bring that down to 1. If we were to look at living within our means as far as key ecological resources are concerned, that would be a wonderful overarching objective for anyone.

Dr Benwell: On global resources, we should set out with an aspiration to deal with the UK's entire environmental footprint eventually, including embedded water, embedded carbon and all those sorts of things, but for now it is very difficult to come up with reliable metrics for everything, so we should start where we can. One of the most straightforward ways is dealing with products in the supply chain that cause deforestation. It is basically the point that George was making. We know what those products are—it is things like leather, beef, soya, cocoa—

George Monbiot: Palm oil.

Dr Benwell: Palm oil, of course. It is perfectly possible to measure that footprint and set a target for reducing it. Businesses themselves came up with a voluntary commitment back in 2010, and it has had no real effect on the UK's impact on global deforestation in some of the most amazing areas of the world. It is time to back that up with a regulatory commitment, and that would be good for the businesses that have shown a lead. At the moment, the only ones who properly investigate their supply chains, disclose what they find and take due diligence are the ones that are trying really hard. Unfortunately, it makes them look bad when the ones that are doing the worst and most damaging practices are just not bothering to report.

We should start off with a priority area for the global footprint being a metric for deforestation. Then we should have a due diligence duty that requires all businesses to look across their supply chain for deforestation risks and, crucially, to act to reduce those risks where they find them. That would be a massive step forward. It would be such an unlocker in international negotiations, where the refrain is always that developed countries are not doing their bit, but are just exporting their harm. If we show that we are not going to play that game anymore and are actually going to take responsibility, that would be an amazing thing to lay on the table in international talks.

George Monbiot: To Richard's list of commodities with very damaging impacts, I would certainly add fish. We currently import all sorts of fish with devastating by-catch rates. The Fisheries Bill aims to improve performance within UK waters, although it is pretty vague at the moment. It would be profoundly hypocritical if we were to carry on importing fish from places with very poor environmental performance.

Q162 Kerry McCarthy: On the health and wellbeing point, it was mentioned as a possible objective, but we took evidence this morning about air quality and water quality, and witnesses in both sessions suggested that we were ignoring the impact on the human population. Should there be something in the Bill that talks about people, or should it be a Bill that talks about the environment? Should we bring people into it as well?

Dr Benwell: It should definitely be in there. I think there is full potential for that to be covered in the Bill. If there is not, it should be broadened out. Yes, definitely, we should think of our approach to the natural environment as serving wildlife and people. Setting an overarching objective is one way to do it, or you could deal with specific areas.

George Monbiot: And specifically listing children and future generations as people for whom there is a particular duty of care in terms of protecting the natural environment.

Q163 Cheryl Mackrory (Truro and Falmouth) (Con): Thank you for your evidence so far, which has been really informative. I want to take you back to the discussion on targets—we are hearing about these things quite a lot from different stakeholders—and to your example of Dartmoor, if I may. You might know more about this than I do, but it is my understanding that about half a millennium ago Dartmoor was actually an ancient woodland, and they cut down the trees to make the ships to build Henry VIII's navy. I do not know whether I am right about that, but that is what I have heard. I do not know whether the target for somewhere like Dartmoor should be to keep it as moorland or to regenerate it to woodland, if that was case.

I feel that the Bill is the overarching framework for a positive way forward, and that were we to try to lock in all sorts of specific targets it would lose what it is trying to achieve, because there would be so much going on. What is your opinion on taking the matter to secondary legislation in the future so that we could listen to experts? I do not know what the experts would say about somewhere like Dartmoor. They might have differing opinions, and then how would we know what success looks like?

George Monbiot: You raise the fascinating issue of baselines. What baseline should we be working to? Should we be working to an Eemian baseline—the previous interglacial, when there were elephants and rhinos roaming around, with massive, very positive environmental effects, and there was an identical climate to today's? Should we be aiming for a Mesolithic baseline, when there would have been rainforest covering Dartmoor; a Neolithic one, when it would have been a mixture of forest and heath; or a more recent one, which is basically heath and grass, with not much heath left?

The truth is that baselines will continue to shift because we will move into a new climatic regime. All sorts of other environmental factors have changed, so we will never be able to recreate or freeze in time any previous state. That is why I think that a general legislative aim should be restoration and the re-establishment of missing species, without having to specify in primary legislation which ones they will be. The restoration of missing habitats, as well as the improvement and enhancement of existing habitats, is the bit that is missing from clause 93. We could add in habitats that we no longer have but could still support. However, we should not lock it down too much.

A big problem with existing conservation, particularly with its single-species and interest-features approach, has been to lock in place previous instances of environmental destruction. You will go to a site of special scientific interest and it will say, "The interest feature here is grass no more than 10 cm high." Why is that the interest feature? Because that is the condition in

which we found the land when we designated it as an SSSI. Is it the ideal condition from an ecological point of view? Certainly not.

We need flexibility, as well as the much broader overarching target of enhancing biodiversity and enhancing abundance at the same time. We could add to that a target to enhance the breadth and depth of food chains: the trophic functioning of ecosystems, through trophic rewilding or strengthening trophic links—“trophic” meaning feeding and being fed upon. Having functioning food webs that are as deep as possible, ideally with top predators, and as wide as possible, with as many species at every level, would be a really great ecological objective.

Dr Benwell: You are right: we would not want to set detailed targets for the condition of Dartmoor in the Bill. That would not make sense. Nor, indeed, do we necessarily want to set numerical targets for anything else. What we need is the confidence that the suite of targets will be comprehensive and enough to turn around the state of nature. In the Bill at the moment, that legal duty could be fulfilled by setting four very parochial targets for air, water, waste and wildlife. I do not think that that is the intention, but when it comes down to it, the test is whether the target would achieve significant environmental improvement in biodiversity.

You could imagine a single target that deals with one rare species in one corner of the country. That could legitimately be argued to be a significant environmental improvement for biodiversity. Unquestionably it could, but what we need—I think this is the Government’s intention—is something that says, “We are not going to do that. We are going to treat the natural environment as a comprehensive system and set enough targets to deal with it as a whole.”

I can think of three ways of doing that. You could set an overarching objective that says what sort of end state you want to have—a thriving environment that is healthy for wildlife and people; you could list the different target areas, as I had a go at before, on the basis of expert advice, and make sure that those are always there; or you could look again at the significant environmental improvement test and make it clear that it is not just talking about individual priority areas but about the environment as a whole, on land and at sea. It does not matter how the Government do it. I think that is their intention. However, at the moment, we are not convinced that the legal provisions in the Bill would require that now or in future iterations of the target framework.

Q164 Abena Oppong-Asare (Erith and Thamesmead) (Lab): I wanted to follow up on your earlier comments about the target framework, when you said it needs to have more teeth—I agree about that. You specifically talked about how environmental improvement should be linked to targets. As you know, when it comes to targets, this Bill hangs a lot on significant improvement tests. Can you tell me more about those tests, and whether you think they are appropriate metrics?

Dr Benwell: The test is not really a metric; it is a subjective opinion of the Secretary of State. Of course, that will be an informed opinion, but the significant improvement test is, “In the opinion of the Secretary of State, will a significant improvement be achieved through a particular target?” I am sure the Secretary of State will take advice on that, but it is a fairly loose test at the moment, and one that does not necessarily guarantee

that sort of overarching improvement. I will leave it at that, because I am hopeful that in 3.5 minutes, we might return to net gain.

Q165 Abena Oppong-Asare: George, do you have any comments on that?

George Monbiot: No, I will leave the space for—
[Laughter.]

Q166 Marco Longhi (Dudley North) (Con): Building on what you said a few moments ago, do you feel that the Bill sufficiently empowers all Government Departments to protect and improve our environment?

Dr Benwell: “Empowers”, possibly; “requires”, not quite yet. We are hoping that the environmental improvement plan will be cross-departmental, and that it will contain specific actions that are demonstrably capable of reaching a target, just as we do with carbon budgets. That environmental improvement plan should set interim targets that are binding, and it should say, “These are the steps we are going to take to get there in the Department for Transport, in the Ministry of Housing, Communities and Local Government, and in the Department for Environment, Food and Rural Affairs.” That will give us the confidence that stuff is going to happen, rather than waiting 14 years and then realising we are going to miss it.

George Monbiot: To add one small and specific thing to that, clause 86 contains what appears to be a very heavy reliance on internal drainage boards and a potential enhancement of their powers. Those drainage boards are not accountable to any Government Department, so there is a remarkable democratic deficit there. If you go ahead with clause 86 in its current form, you are effectively letting go of governmental control over a very important and large area. They are a quite extraordinary, almost feudal set of organisations; for instance, there is a property qualification for voting in internal drainage board elections. They really are effectively a law unto themselves, with appalling environmental credentials and very poor flood prevention credentials as well. If you want departmental responsibility, I would disband the internal drainage boards—as they have done in Wales—and bring their duties into the Environment Agency or another statutory agency.

The Chair: I am afraid there will not be time for any further questions; we have to move on. [Interruption.] Well, I am afraid we have a very tight timetable. I will try to make it up subsequently to those who were unable to get in, but we have to conclude this session by 2.45, and it is now 2.44 and 35 seconds. Anybody who asked a question would be unlikely to get anything like a coherent answer in the time available, so we have to close this session.

I thank our two witnesses for the benefit of their experience and the advice they have given. We are very grateful. It has been useful and helpful to our deliberations.

Dr Benwell: Thank you.

Examination of Witnesses

Libby Peake and Richard McIlwain gave evidence.

2.45 pm

The Chair: We will now hear evidence from Keep Britain Tidy and the Green Alliance. We have until 3.15 pm for this session. I ask our witnesses to briefly introduce themselves and their organisation.

Richard McIlwain: I am Richard McIlwain, deputy chief executive of the charity Keep Britain Tidy. We work on issues of litter, resource and waste consumption, sustainable living and the improvement of quality places. We ultimately want to see a zero-litter and zero-waste society.

Libby Peake: I am Libby Peake, head of resource policy at Green Alliance, which is a charity and think-tank focusing on ambitious leadership for the environment. To achieve that, we work with other NGOs, including through the Greener UK coalition, as well as businesses, to identify the most resource-efficient policies.

Q167 Dr Whitehead: The framework I am looking for, particularly in the waste and resources section of the Bill, is something that encompasses all the stages of the waste hierarchy, and particularly reflects how that waste hierarchy is put forward in the waste and resources White Paper, which is supposed to be taken on board as part of the Bill. Do you have any thoughts about the extent to which the Bill focuses on the design, reuse and minimisation stages of the waste hierarchy? If you think that it does not fully do that, are there ways that it could be made more useful in that respect? Do you have any particular thoughts on how the Bill might be pointed more in that direction?

Libby Peake: I think you are absolutely right. We would certainly welcome the framing in the resources and waste strategy, which is trying to maximise resource use and minimise waste—we think that is the right strategy. There are some things in the Bill that would lead in that direction. The resource efficiency clauses could be very useful. One of our concerns is that these are enabling measures and we are not entirely sure how they will be used.

In terms of what has been talked about and debated, the focus has overwhelmingly been on municipal waste and plastics. To give a bit of perspective, it is worth remembering that plastics make up about 10% of municipal waste; municipal waste makes up about 12% to 13% of all waste; and waste is the final stage of the material cycle. Looking at the overall material impact that the UK is responsible for, 81% of the materials that meet final UK demand occur outside the UK. In terms of measures that we would like to see in the Bill, which we think could improve things, it would be really useful to take greater account of the global material footprint. That would send a powerful signal.

There are some simple measures in the Bill that could potentially be changed quite easily. The extended producer responsibility clauses are welcome. The clauses themselves look at things such as preventing material becoming waste and products becoming waste. The overall framing of it, however, is still on end of life and disposal costs, which does not necessarily point people in the right direction in terms of preventing waste and respecting the hierarchy.

I am sure that we will come on to the single-use plastics charge, which is also potentially worrying because it applies just to plastics. There are lots of other materials with impacts that could be avoided if the Bill took a bigger view towards that sort of thing.

Richard McIlwain: I completely agree. In many respects, all the key words and phrases are in the Bill, but it is about looking for the joined-up flow from a waste hierarchy perspective.

To go back to clause 1, where it sets the idea of long-term targets at 15 years-plus, it is very brief about waste and resource. I wonder if there, in terms of painting a picture, it could outline the sorts of issues that we are looking to push targets towards, such as becoming more resource efficient, reducing the amount of waste we produce overall, and improving our recycling rates across the whole range of wastes.

As Libby says, when we talk about recycling rates, we often talk about household waste and municipal waste, but a lot of inert waste and soil still go to landfill. There is an opportunity there to look more broadly across the whole piece.

Libby touched on a number of points, including the specific detail about extended producer responsibility and charges for single-use plastics. There are opportunities there to frame the language a bit more and, as Libby said, to be specific when we are talking about things such as charges for single-use plastics. We should not get hung up on the issue of plastic. Plastic pollution is an issue, but plastic itself is a valuable material. We want to reduce consumption of it but keep what is in the system going round and round as far as we can. That is where the targets that look at resource use, waste minimisation and recycling will be key.

Q168 Dr Whitehead: Those are excellent succinct responses. The circular economy directive already exists, but we are not now bound by it, as we are not an EU member. Do the measures in the Bill reflect the UK moving on from that directive—capturing what is in it and moving ahead of it? Are there things that could be done in the Bill to ensure that that happens?

Libby Peake: The Government have said that they are going to adopt the measures in the circular economy package, but we have not determined yet whether we are going to exactly match what the EU does in future. Yesterday, the EU published a circular economy action plan, which we will not be bound by. It is really welcome that the Government have said on multiple occasions that they want to at least meet, and preferably exceed, what the EU does, but there are some ways in which the document that was released yesterday is potentially more ambitious than the measures laid out here.

One of the things in that document is that the EU is planning to regulate and tax single use and planned obsolescence, and it is not focused specifically on plastics. If the UK wants to get a jump on the EU, there is an opportunity to do that by simply changing the language in the Bill so that we are tackling single use, rather than just single-use plastics.

Richard McIlwain: I agree that the EU has already talked about an ambition, even by 2030, to halve waste produced. That is very ambitious, granted, by 2030, but that is the level of ambition it is looking at.

As is always the case with enabling legislation, primary Acts, the devil will be in the detail of the statutory instruments, but there may well be some framing to do in the Bill to set the level of ambition about where we are ultimately trying to get to on the materials we consume, the amount we recycle, and the amount of waste we produce.

Even in the circular economy package, there are some targets that have been talked about in the resources and waste strategy, such as 65% household waste recycling. We are currently bumping around 45%, so we have

some way to go, but Wales is up above 70%. Perhaps we should be looking across at Wales as a leader, as much as we look to the EU.

Libby Peake: An earlier leaked version of the circular economy action plan that was released yesterday included a much more ambitious target, which was to halve resource use—not just halve residual waste. That did not make it into the final version, but it would have been revolutionary. It was widely applauded by the environment sector. It has not made it into the EU legislation, but that does not mean that the UK cannot aim for that and up its ambition. That is certainly something that we would like to see in the targets.

Q169 Rebecca Pow: On that point, one of the ideas is that we can do our own thing on our environmental targets. We do not have to do what Europe says, and potentially our targets could be better.

Yesterday, we had some business interests explaining how the measures in the Bill would help them change the design of their products so that they are more reusable and recyclable, longer lasting and so forth. What are your views on measures in the Bill that would help consumers to take more considered actions towards reducing waste and recycling? I am thinking particularly about the requirement for local authorities to be more consistent in their waste collections.

Libby Peake: I would say that, in terms of recycling collections, a lot of the things that the Government have proposed will certainly correct some of the long-standing shortcomings of the system we have had in the UK. We have a postcode lottery, because people do not necessarily know what can be recycled and it is quite confusing.

In terms of getting people to feel responsible for their decisions and the materials they create, the main mechanism in the Bill that does that is the deposit return scheme, because that is the one thing that will indicate to people that the material they have actually has a value; it is not just a waste material that you need the council to take away. We would certainly encourage the Government to come forward as quickly as possible with plans for an all-in deposit scheme that can encourage such thinking.

Richard Mellwain: I completely agree. There has been an awful lot of focus over the last few years on how we incentivise business to do the right thing. Often, that is about economics and the bottom line, and we sometimes forget that that is equally important for the citizen. We often come up with campaigns and ways to raise awareness—they involve pictures of dolphins and whales—and we appeal to people’s sense of morality rather than making it cheaper for them to do the right thing.

Libby mentioned a deposit return scheme, which works brilliantly in over 40 countries and regions around the world. We should absolutely be doing that on time, by 2023; we should not be delaying. Charges on single-use items, not just single-use plastics, is another economic nudge for people. On recycling, there are twin sides of the coin. We need to extend producer responsibility and simplify the types of packaging material, which will hopefully all be recyclable. On the other hand, having a harmonised collection system that allows people to collect those at home will make a big difference.

One further step that could ultimately be considered is whether you could place an economic incentive in the home through a scheme such as “save as you recycle”. Once you have harmonised people’s collection systems, you would make waste a separate chargeable service, so people pay for what they have taken away—in the same way that, if you are on a water meter, you pay for what you use. That would really focus minds. There is a real relationship between the producer’s responsibility and the citizen’s responsibility, but we need to incentivise both—not just business.

Libby Peake: That is a logical extension of the “polluter pays” principle. It is great that that is part of the Bill and that part of Government thinking is that the polluter must pay. At the moment, however, you are tackling only one side: the producers. People’s decisions produce waste as well, and not having “save as you recycle” variable charging, or what is traditionally called “pay as you throw”, puts people off a bit. Not having that does not necessarily carry through the logic of producer responsibility and “polluter pays”.

Q170 Rebecca Pow: I have a quickfire question. We have our resources and waste strategy, which sets our long-term targets for reducing waste and for sending zero biodegradables to landfill by 2030. Overall, do you see the measures in the waste and resources section of the Bill, which is large, as a big step forward in putting all this together?

Libby Peake: I think it is a really big step forward in sorting out the long-standing problems of the recycling system. It is not yet clear how it will deliver the Government’s commitments and aspirations on waste reduction and resource use reduction. In a way, it is slightly unfortunate—not that I would want to delay the Bill—that this has come out before the waste prevention plan update, which was due last year and which I understand will be consulted on soon. Hopefully, that will set out some more ambitious policies for how resource use and waste will be minimised before we get to recycling.

Richard Mellwain: That is a fair point. Absolutely, from a Keep Britain Tidy perspective, we welcome the measures in the Bill. The extended producer responsibility, DRS and charging for single-use items—we hope it is not just single-use plastic items—are big steps forward. As Libby says, in terms of extended producer responsibility, it talks about promoting not just recycling but refill. You would hope that the modulated sums applied to each piece of packaging would be far less if an item can be refilled or reused rather than simply recycled.

There does not seem to be much in there in terms of how we reduce our material footprint overall and how we reduce our waste overall. That is probably an area that we need to consider.

Q171 Deidre Brock: I want to ask about the targets timeframe. In the Bill, the targets do not have to be met until 2037. Does that date reflect the urgency of the situation we find ourselves in?

Richard Mellwain: In a word, no.

Q172 Deidre Brock: What do you think might be a realistic but slightly more ambitious target?

Richard McIlwain: The Bill allows for five-year plans and for interim targets within that. I do not believe they are statutory targets. We should be looking at statutory targets that are within a parliamentary cycle.

It is all very well having long-term, 15-year targets—that is absolutely the right way; the Climate Change Act 2008 is a classic example of that—but having statutory targets that are agreed at the beginning of each Parliament and then enforced through that Parliament will be key, not just in terms of arriving at the 15-year target, but in terms of giving investors, business and others confidence that they can invest in things that are not ultimately going to be stranded assets.

Libby Peake: It is quite difficult to say, because we do not know what the targets are going to be. Obviously whatever the targets are, we want them to be as ambitious as possible, and we want to have interim statutory targets to make sure that we are meeting them, like you get with the Climate Change Act.

The Chair: We have 14 minutes left and six people who want to use up that time. It is highly unlikely that I will get all six people in, but those who do get the opportunity to ask questions, please be as rapid as possible.

Q173 Marco Longhi: Do you feel that sufficient consideration has been given to the impact the Bill has on local authorities?

The Chair: That is exactly what I mean by a well-targeted question.

Richard McIlwain: I guess it depends what you mean by the impact on local authorities. If extended producer responsibility transfers the costs of dealing with packaging—whether it is in the recycling stream, the residual waste stream or as litter—and if that is a 100% net transfer and is fairly apportioned, that is a win for local authorities.

I do think there is a transition period; we need to look at how we transition from the systems we have towards the systems that we may well need, for instance in terms of harmonising waste collections. There is a role for the Government in looking at where they can overcome some of those transition needs, such as in contractual matters—for example, if local authorities look to break contracts early to comply with the harmonised systems, because some of them will be in longer-term contracts with the waste providers—to ensure that the costs do not fall unfairly on local authorities.

Ultimately, what I say in my role—we work a lot with local authorities—is that local authorities should look at this very positively. There are a lot of benefits coming down the line, not just in terms of the cost transfer but in terms of the service that they can provide to citizens, such as allowing people to recycle more and better, as long as those material cost considerations are ironed out early on.

Libby Peake: We know that local authorities are concerned about the impacts of the Bill, but as Rich said, what they need to remember is that the extended producer responsibility reform could really help them. We are moving from a system where local authorities and, ultimately, taxpayers pick up about 90% of the costs for our recycling system to a system where the producers pay 100% of the costs.

Certainly, in terms of how DEFRA officials have been looking at it and the consultations we have seen so far, they are very aware that they do not want to negatively impact local authorities. If you look at things like the commitment to bring in universal food waste collections, which is an incredibly important bit of this legislation, they have said that that will be fully funded. That is really important.

Q174 Alex Sobel (Leeds North West) (Lab/Co-op): The Government have brought forward legislation to ban certain types of single-use plastics, including straws, cotton buds and stirrers. Last year I ran a campaign in my constituency called “Sachet Away”, which reduced the use of single-use sauce sachets. How do you think the Bill could help in that? You mentioned charges, Richard. What do you think the effects of the Bill will be?

My second question, quickly, is that on the Environmental Audit Committee we had a lot of evidence, including from Zero Waste Vietnam, that our waste that was being exported was not being recycled or reprocessed, but was literally being dumped. Do you think that the Bill can raise people’s confidence that that that will no longer happen?

Richard McIlwain: Yes, that is ultimately what we should strive for the ambition to be. When we talk about single-use plastics, we must also remember cigarettes and cigarette butts, which are a form of single-use plastic. By count—by the number of them—they are the most widely littered item across the country. There is no reason, for instance, that an extended producer responsibility scheme could not be applied to the tobacco industry as much as to the packaging industry. Let us get some money in to sort that issue out, and plan prevention campaigns to stop that sort of littering.

Evidence from Cardiff University, Wouter Poortinga and others suggests that citizens respond more strongly to the idea of a loss than a benefit. I would argue that is why there is single-digit use of refillable coffee cups, as compared with paper cups. The discount is not attractive to people, and not many people know that if you turned that into a charge, every single person buying coffee would be subject to that charge, and it would get home much more quickly.

We did some YouGov polling—it is two years old now—which suggests that once you get to a 20p or 25p charge, not many people say that they would like to continue paying that for the benefit of having a paper cup. If we get this right and we look across the spectrum of single-use items, plastic items and cigarette butts, and apply extended producer responsibility charging and deposits correctly, those economic incentives could make a big difference, and we could take the public with us.

Libby Peake: I would like to add to the bans and charges point. Bans on stirrers, cotton buds and straws absolutely make sense, because those things are likely to wind up in the ocean. In advance of those bans coming in, we have seen lots of shifts to other equally unnecessary single-use items made from other materials. McDonald’s is now switching from plastic straws to 1.8 million straws a day that are made out of paper and are not recyclable. We know that bans will cause environmental problems down the line that could be avoided if we used foresight now. It would be great if the Government took

that stance and did not simply look at plastics. They can anticipate the perverse outcomes that we know are coming, and that can be prevented right now if we introduce the possibility of charging for all materials.

In terms of waste dumping, it is important to remember that it is absolutely illegal for the UK to send polluting plastic and polluting waste abroad. We are an independent signatory to what is called the Basel convention, which obliges wealthy countries such as the UK to ensure that we are not sending any material abroad if we have reason to believe that it will not be reprocessed in an environmentally sound manner. It is welcome that the Government are saying that they want to stop the practice, but what really needs to be done to stop it is much better resourcing of the Environment Agency and the other sorts of regulatory bodies. The EA's funding went down by 57% from 2010 to 2019, and that has had the knock-on effect of not allowing it to carry out the necessary inspections and ensure that this sort of waste crime, or this sort of contamination, is not leaving our shores. In 2016-17, it only carried out about one third of the targeted inspections of recyclers and exporters. In 2017-18, it only carried out three unannounced inspections. There is a vanishingly small possibility that people who are deliberately exporting contaminated waste are going to get caught. I think that speaks to the importance of properly regulating and resourcing all the regulators and the Office for Environmental Protection going forward.

The Chair: We are really running short of time now, so I am going to take two questions and put them to the witnesses. First, Richard Graham, and then Jessica Morden.

Q175 Richard Graham (Gloucester) (Con): My questions will be very quick, but they are separate ones for you both, if that is all right, Chairman, and please—swift answers.

Richard, you have said how important it is to have the cost of collecting waste separated, so that people know what they are paying for, are incentivised and so on. Do you think that those opportunities are actually in the council tax? That is what people are really paying, is it not?

Richard McIlwain: Yes, they are under council tax, and because they are under council tax—

The Chair: Sorry, I did say that we would take two questions first. Jessica Morden.

Q176 Jessica Morden (Newport East) (Lab): Very quickly, as a Welsh MP, thanks for pointing out that there are lessons to learn on recycling from Wales, as the fourth best recycling nation in the world. Are the provisions in the Bill effective in tackling fly-tipping and organised waste crime?

Richard Graham: My question was only for Richard.

Richard McIlwain: It is within the council tax—absolutely. People sometimes think that they pay an awful lot for waste disposal, when actually it is quite small as an overall approach to council tax. I would perhaps like to see local authorities being more obvious about the way that council tax breaks down. I know that sometimes you get a letter with your council tax bill and a nice little

pie chart, but I think we could be more active in explaining to people exactly what that tax does, which would then allow us at some point to break out waste as a chargeable service, as people would be used to it by then and would see the cost. Also, potentially, they would see the benefits of reducing their waste and having a smaller residual waste bin, because it will save them money.

Do you want me to say more, on fly-tipping?

Q177 Jessica Morden: Yes, fly-tipping and organised waste crime.

Richard McIlwain: The Bill touches on elements of fly-tipping. I think the electronic waste tracking will be a big step forward, but again there are some people who simply do not bother with a written transfer or an electronic system, no matter what. I think it will make the system more effective and more efficient, but I also think that there is work to do to think about how we drive down 1 million fly-tipping incidents every year.

What we need to do, in my opinion, is reform the system of carriers, brokers and dealers, so that it is much harder to become a registered waste carrier. I would then have a big national campaign that makes people aware that if they give their waste to anyone who is not a registered waste carrier, they can receive a £400 fine, or potentially a criminal conviction, because far too few people are aware of that. Make the system better and more robust, and make people aware that they should ask about the system, and I think you could cut off the source of waste to fly-tippers at the very beginning.

Richard Graham: Next, for Libby, if I may—

The Chair: Sorry, is this an additional question?

Q178 Richard Graham: Yes, I had one question for Richard and one for Libby.

Libby, clauses 49 and 50 spell out in huge detail the opportunities for businesses to consider redesigning their products in a more environmentally friendly way. The Bill also talks about food collection, not only from households but from businesses. What encouragement do you think that gives to businesses to redesign products, and also to local councils to get stuck into anaerobic digesters?

The Chair: Before you answer that, can I bring in Abena Oppong-Asare to ask a very quick question, and then it will be the final two?

Q179 Abena Oppong-Asare: Mine will be very quick, Chair. What powers, duties and resources does the Bill need to clean up litter on highways and road verges?

Libby Peake: The resource efficiency clauses are welcome, and they are very broad. They are deliberately broad, and they can affect lots of things throughout the materials life cycle. At the moment, it is really difficult to say what sort of impact that will have on businesses, because there is no clear timeline yet for implementing any of these powers; they are enabling powers, and we do not know how they will be used.

One thing that is slightly concerning, which I hope the Government can clarify, is whether or not these sorts of powers and this sort of ambition will also apply

to energy-using products—to creating resource-efficient, durable, repairable electronics. That is one of the fastest growing waste streams. Those are the areas that you would most likely think would be useful. They have been deliberately left out of the Bill, on the grounds that those powers are coming to the UK through the withdrawal Act, but I do not think it is yet clear whether the ambition on energy-using products matches the ambition and the potential in the Bill to change how materials and products are used and made.

The Chair: Can we have a 10-second answer to Abena's question, if possible?

Richard McIlwain: Very quickly, roadside litter is an absolute disgrace. Most people agree on that. I would like Highways England to be given the powers and resources to enforce against littering. Local authorities need more resource to undertake the necessary work, because it is a very transient crime. A deposit return scheme, given that lots of cans and bottles get thrown out of cars, may damp down littering. Picking litter up is one thing; preventing it from being thrown in the first place is another.

The Chair: Thank you very much.

Examination of Witnesses

Dr Michael Warhurst, Bud Hudspith and Nishma Patel gave evidence.

3.16 pm

The Chair: We will now hear oral evidence from the CHEM Trust, the Chemical Industries Association and Unite. We have until 4 pm. I ask the three witnesses to introduce themselves briefly and state which organisation they represent.

Dr Warhurst: My name is Michael Warhurst. I am the executive director of CHEM Trust, which is an environmental charity that works on chemicals health and pollution at UK and EU levels.

Bud Hudspith: My name is Bud Hudspith. I am the national health and safety adviser for the trade union Unite.

Nishma Patel: I am Nishma Patel, policy director at the Chemical Industries Association.

Q180 Dr Whitehead: Good afternoon. My reading of schedule 19 to the Bill is that it enables the Secretary of State to change REACH—the registration, evaluation, authorisation and restriction of chemicals regulation—although there are a number of protected areas within it. However, the schedule does not appear to require consultation with the chemicals industry or wider public bodies that might have an interest, or that any consultation responses be made public. Are you, like me, concerned about that omission, or do you think that the way the Bill is structured regarding the possibility of change and consultation is adequate given the importance of the issues?

Nishma Patel: For us, it is—

The Chair: Sorry, may I stop you there? The acoustics are very bad in this room, so may I ask our witnesses to speak up a little?

Nishma Patel: Okay. For us, it is about the detail behind how the schedule will be implemented. At the moment, there is no clarity on consultation and how that will take place. We would like to know the policy behind UK REACH, how it will be implemented, and exactly how it will work—not just the protected parts, but the entire UK REACH regime. We, as industry, see a number of issues—perhaps others see them as well—on which further consultation will probably be required. For us, it is about clarity on the process behind it.

Bud Hudspith: I think there are some broad requirements in the Bill to consult, but they are very broad, and specify something like “other possible stakeholders”. We would like to see much more formal and arranged consultation. In the area I largely work in, health and safety in the workplace, we are used to being consulted. We think it is a very useful way for Governments to find out what is actually going on on the ground, so we would welcome that. I agree with you: we would like to see a slightly tighter indication of who should be consulted and when.

Dr Warhurst: The CHEM Trust position is that we agree with that. The consultation is limited, and the consultation on this measure as a whole has been limited; for example, there was no consultation on which protected articles should be in there, and there has been no rationale as to why those are protected and others are not. We are very involved in EU-level work on chemicals, and we find that process is a lot more open and consultative than the UK process.

Q181 Dr Whitehead: On the subject of protected articles, I share your view: I am somewhat mystified as to how those have landed on the Bill in this way, and about what is protected and what is not. Are there particular areas that you consider ought to be in the Bill as protected articles, in addition to the ones that we have at the moment, and are there any ways in which you think the protection element of REACH regulations—securing proper standards, inter-trading of chemicals and so on—might be better reflected in the Bill, or do you think the protected articles that there are at the moment fulfil that requirement?

Dr Warhurst: On the protected articles, REACH is a huge piece of legislation. You could decide to protect everything, but that might cause some problems. One of the things we particularly noticed is that article 33 of REACH is about consumers' right to know about the most hazardous chemicals in the product, and article 34 is an obligation on the supply chain to report problems with chemicals up the chain. Those would certainly be added to what we would view as protected.

However, it goes beyond that; as you said, it is about the level of protection for the public. The problem with chemicals regulation is that we are dealing with tens of thousands of chemicals in millions of different products. It is a very complex area, and it has been very challenging over the decades as Governments and regions have tried to control them. EU REACH is the most sophisticated system in the world, but it still has a huge amount of work to do. There are a lot of chemicals to be got through, because when one chemical gets restricted, the industry moves to a very similar one. Our worry is that some of the decisions around that require huge amounts of work and data, and are subject to legal challenge by industry. We do not see any way in which the UK can

replicate that system. In many ways, it would be more straightforward—although possibly not in terms of legal challenge—to be more focused on following what the EU does, rather than trying to create another system that to some extent may be a bit of a hollow shell, because there is not the resource to really control new chemicals.

Bud Hudspith: I pretty much agree with that. I do not think I need to add much to it.

Nishma Patel: Again, this comes back to the process and detail behind the Secretary of State being able to consult, who the consultation is with, and how it would take place. One point to consider is that anything that would be changed under UK REACH overall—any article—would have to be in line with article 1 of REACH, which is about providing the highest standard of environmental protection to consumers, as well as reducing testing where possible. It is not about the principle of “Is there a possibility for the regulations to digress, because a justification needs to be provided?” It is about how that will be consulted on, and how that information will inform policy making in the UK through various stakeholders.

Q182 Rebecca Pow: Thank you very much for coming in to talk to us. Obviously, exiting the EU provides us with opportunities for industry, such as integrating the most current scientific knowledge into the decisions we make concerning chemicals. In the Bill, we have the flexibility to amend REACH while retaining its aims and principles; I just wondered whether you could summarise what you thought the right balance was.

Nishma Patel: From an industry perspective, if we look at the trade of chemicals leaving and coming back to the UK, 50% of our trade goes to the European Union and 75% comes to the UK. To work from two pieces of legislation, which go in the same direction, communicate with each other and co-operate, makes sense from a commercial perspective, as it does from an environmental perspective.

The opportunities are there, in terms of doing something differently or making amendments. As it stands, however, we see that the need to stay close to the European chemicals regulations far outweighs the opportunities.

Bud Hudspith: I think we are coming from a similar position. We start from the basis that alignment is one of the most important things. We have interesting problems. We have members in the south of Ireland as well as in the rest of the UK. It would be pretty unacceptable to us if there were different protections, in terms of chemicals, for those two groups of people. That extends from a broader view across the whole of Europe among people at work.

I would agree with Nishma that alignment is most important. We accept that in theory there could be improvement made through the UK position, but I suppose I am a bit cynical about whether that is likely to happen. Therefore, we would be supportive of—I think an amendment was proposed—making it clear that the Minister needs to improve on what is there. Clearly, however, consultation about what we believe is an improvement and what is not is quite important, because an improvement to someone may not be seen by others as an improvement.

Q183 Rebecca Pow: So do you welcome the requirement in schedule 5 for consultation?

Bud Hudspith: Yes, we welcome that. That was the point made before. Parts of it are fairly vague and we would like it to be much clearer as to who should be involved. There should be clear consultation with the chemical industry—the people who work in the chemical industry and the people who represent them.

Dr Warhurst: The principles sound good, but the point of principles is how they are interpreted—not just the political decisions about interpretation, but these capacity issues. The problem we see is that it is very difficult for the UK to be in a position, even if it wanted to, to go ahead of the EU, which we have not seen as very likely. In parallel areas, such as chemicals and food contact materials, where the UK could have gone ahead of the EU, it has not, even though countries such as Germany, Belgium and France have.

I will give a practical example. Perfluorinated chemicals are in all our bodies. They are in our blood. They were talked about in a recent film, “Dark Waters”. They are in food packaging, ski wax and textiles. The EU is proposing to do a general restriction on these chemicals for non-essential users. This is thousands of chemicals. That will be a huge job for the 600-person ECHA and member states around the EU. There will be challenges from industry. We know that Chemours is already challenging a decision on one of the chemicals in the group.

We do not see it as credible that a UK-only agency, which will have to spend a lot of time just administering the registration system that is set up or the applications for authorisation, will really have the potential to copy that. But we would obviously like the Government to make a commitment that they will follow this and ban these chemicals.

Q184 Kerry McCarthy: I want to pursue the question about whether we would be better off in or out of REACH. Do you think there are concerns that the new regime would not provide the same level of consumer environmental protection? There is a particular issue about keeping pace with changes in the EU and whether our standards would fall below it. Do you have concerns?

Bud Hudspith: I would follow on from Michael’s point. We have concerns about the resources available to the Health and Safety Executive and the technical ability of people in the HSE to mirror what has gone in the European Chemicals Agency, its size and extent, and the amount of work that has gone on over many years to get to the position that it is in now.

It seems as though we will be in a situation where we will start again from scratch. Even if we achieve what has been achieved in ECHA, it will take us many years to get there. We are worried, especially about that intervening period. Where will we be? I do a lot of work with the HSE, and I am aware of the kind of pressures it is under. It is easy to say that the HSE will do this, or that the HSE will do other things, but unless it is given the resources and people to do that, it is words rather than action.

Q185 Kerry McCarthy: There is a balance between getting up to speed dealing with current regulations and keeping pace with innovation, which presumably will have an impact on some of the industries that you might be involved in.

Bud Hudspith: Yes. The position with the EU—ECHA—is that it has come an awful long way. We are getting to the stage where it is probably working better than it has before, and I do not want to wait another five years to get to that position in the UK. It may take more than that—I do not know whether or not it will be five years.

Q186 Kerry McCarthy: This is part and parcel of the same question—

The Chair: Sorry, Kerry, but we are a little short of time.

Kerry McCarthy: I was trying to clarify what I was asking about.

The Chair: Very briefly.

Kerry McCarthy: The UK, in “The Future Relationship with the EU” document, talks about “the separate regulatory requirements of the two markets”.

What impact would that have on the chemicals industry, if there is that level of divergence—or is it about trying to keep up?

Nishma Patel: Following on from what Bud said, REACH has been there for 10 years, and a big chunk of the work under REACH has been done in the past 10 years. The UK contribution has been second in that, in terms of registrations and in providing the data behind the chemicals. To start that process again would put us on a behind path on EU REACH and REACH in general.

The annex, in what we see of the UK position at the moment, allows for the two regulations to co-operate, to talk to each other, if that is the way the negotiations go. It might also allow a mechanism to share data, evidence, on the input put into the European Chemicals Agency database. It is not completely negative. The door is still open in terms of starting from the same evidence base and regulating chemicals; it is just how UK REACH will work—that will depend on what is negotiated in that annex on chemicals, and the extent of the co-operation.

Dr Warhurst: We would agree with many of the points that have been made. We have to remember that, at the beginning of the process, the UK will essentially have an empty database and will be asking for material to be submitted to it from industry. There are already a lot of complaints from industry about the new costs that that will generate—for the chemical companies that are used to doing it, and then for all the people who import substances registered in REACH in a different country, who will suddenly have to register as well. There is a lot of cost to get a database that, even when it is full—in two years or however long—will be much less detailed than the EU one.

It is worth saying that the UK is already not good at enforcing chemicals laws at the moment. We talk a lot about the risk-based approach in the UK regulations, but we did a survey a couple of years ago of how councils were enforcing the laws on the safety of consumers—toys with illegal levels of phthalate chemicals, for example—and we found that large numbers of councils do no testing at all, and that even the ones that do some testing do not do much. Yet, when they do testing, they find lots of failure. We know that banned chemicals are

on our high streets and in our markets, now. That really does not give us confidence that somehow there will be this amazing leap in UK capacity to implement and enforce these laws.

Q187 Marco Longhi: What are your views, please, on the safeguards in the Bill to protect against deterioration of chemical standards?

Bud Hudspith: I must admit that I was not clear what the safeguards were. Broadly speaking, we are supportive of the Bill and the things that it is trying to do. Our doubts lie with how deliverable that is and what resources and expertise the UK is able to apply. As I saw it, there did not seem to be too many safeguards. I was aware, again, of the amendment whereby at least there is some effort to institute safeguards.

Clearly, large parts of the REACH regulations are being transferred into the UK position. An example is that the stuff on data sheets, which is currently held within the EU REACH regulations, is going to be transferred into the UK REACH regulations, and that is fine. There are lots of things that we are happy with in respect of the change. I suppose that, on a broader level, we would like to see huge improvements to the speed at which things are done and the way things are regulated, but whether that is going to happen is, I think, questionable.

Dr Warhurst: We would back that position. The problem is that the Bill is so much about a process, and the process itself has no targets and timelines. It does not say, “You will assess this many chemicals each year. You will check this many chemicals.” This is a problem at EU level. There has been pressure, and now it has set its own targets and is doing much more.

The danger is that you end up with this sort of hollow system here. It exists in theory, but if the system does not say, “Actually, this chemical is not adequately controlled so we are going to restrict it,” it could essentially just sit doing very little, dealing with all the things that it needs to exist, and you end up with something that is hollow.

We are already in a situation where you can have a chemical such as bisphenol A in till receipts; you ban that; and then the industry moves to bisphenol S. This is demonstrated with tonnage data. That is what has happened in the EU, and the EU has not yet restricted bisphenol S; it is just going to define it as a reproductive toxin, hopefully in the next few months. These things are happening. Movement is happening. The market is moving from one chemical to another. Will the regulator move? We have no evidence. There is no obligation in the Bill for the regulator to actually do new restrictions or new authorisations.

The Chair: I think that this might be the last question to these witnesses.

Q188 Richard Graham: There has been quite a lot of discussion about the value of creating a UK REACH, but in a sense the principles behind those decisions have already been established, so the key thing now is really all about implementation. I welcome the fact, Mr Hudspith, that you are broadly supportive of schedule 19, which is really all about—

Bud Hudspith: We are broadly supportive of the whole Bill. We have lots of interest in other aspects of the Bill as well.

Richard Graham: Good. But you are supportive of it, I think you said.

Bud Hudspith: Broadly.

Q189 Richard Graham: So what is there in schedule 19 that causes you concern, other than the greatest fear being fear itself? You have made a huge contribution to REACH. It has not always been popular with UK businesses. There have been plenty of complaints over the last decade. REACH has not done anything and everything perfectly, as we all know, so surely you have confidence that, with the range of businesses that we have in this sector, we can create a regulatory body that can do a good job—or do you think that we are now so incompetent that we cannot?

Bud Hudspith: In principle, REACH has been more popular with people such as Unite and various trade unions than it has with many parts of the UK chemical business. What is interesting is that, in spite of all the complaints in the past about REACH, once REACH was under threat it was clear that industry was much more supportive of its continuance. We support very much what people such as the Chemical Industries Association are saying and what the chemical business is saying. Obviously, we have members who work in the chemical industry and we want a strong, thriving chemical industry, because we want it to employ people whatever.

On a secondary level, we are also concerned about some of the things that Michael was raising about the hazards of various chemicals. Although REACH is predominantly environmental, that has a knock-on effect for workplace requirements. If you have a chemical that is on the list or is banned—those things need to happen—it affects our members.

Q190 Richard Graham: I get that, but I am interested in why you think that will be more dangerous under UK regulations than the existing REACH ones.

Bud Hudspith: Predominantly because of the resources and the expertise.

Q191 Richard Graham: But the resources, in terms of the councils that Dr Warhurst was just describing, have not been there as it is. Why will it suddenly deteriorate?

Bud Hudspith: Do we accept a position where things are massively bad and say, “We’ll carry on with things being bad”? That is nonsense.

Q192 Richard Graham: No, but you could take the view that this is an opportunity to increase and do things better.

Bud Hudspith: I think I have already said that, in theory, that is the case, but we are very doubtful about whether that will actually happen.

Q193 Richard Graham: Dr Warhurst, what is your position? You have said that you are worried that there are chemicals on the high street that are not great, because we do not have people from the council wandering around having a look at them and so on. What is your solution to that?

Dr Warhurst: There are two different issues. There is the enforcement of the laws, which is about what the councils are doing and the fact that there is no real

national co-ordination of that. That has been entirely the UK Government’s decision, inasmuch as it has been an active decision. That is different from the broader regulatory system. The councils example shows that the UK has not been very effective in this area so far.

On the broader regulatory system, you can put a lot of people in an agency, but they will start with an empty database, and we are dealing with more than 20,000 chemicals in many applications. It is also wrong to assume that there is no opportunity for close collaboration with REACH. The UK currently talks about some sort of memorandum of understanding. Our view would be that it needs to go further up from the countries that it is mentioning at the moment that do not have access.

Q194 Richard Graham: That is a lobbying opportunity, effectively, for you in the chemicals sector, with the negotiators and so on. At this stage, in terms of what is in schedule 19, is there anything that gives you concern?

Dr Warhurst: Yes, a lot of it gives us concern, because we are not convinced that it will provide the protection of public health. The consultation is very limited. The idea that you can replicate REACH—

Q195 Richard Graham: How many UK officials are there in REACH at the moment?

Dr Warhurst: I do not have the figures. I know that ECHA is about 600 at the moment. It was said, a year ago, that the EA and HSE would have something like £13 million a year in full operation. You are dealing with 23,000 chemicals and however many registrations.

Q196 Richard Graham: Nishma Patel, in your view—it is the easiest thing, and I understand it, for everyone to say, “We’re very worried it won’t turn out quite as well as the Government hope it will,” and, “What’s in the Environment Bill looks fine, but how’s it actually going to work?”. What is the opportunity, rather than just the concern?

Nishma Patel: In terms of UK REACH in particular?

Richard Graham: Yes, in terms of UK REACH, the Environment Bill and the measures in it.

Nishma Patel: We think the measures in the Environment Bill are adequate and appropriate, primarily because we have article 1 in REACH, which protects the regulation itself. In terms of opportunities, the biggest opportunity for UK REACH is essentially to try to look at what the national issues are, in terms of environmental protection, and to look to address them. That could potentially be in the UK chemicals strategy that is being developed and is under consideration.

The Chair: I think this will be the last question.

Q197 Alex Sobel: It is interesting that this is the first panel where we have had representatives from the ownership and the workforce of the industry. The chemicals industry is huge in this country, with a turnover of £32 billion and more than 100,000 workers. It also has a lot of workers who are highly skilled and on good wages and terms and conditions, as I am sure Bud would agree. Does the Bill go far enough, first, to protect jobs and workers in the industry and, secondly, in terms of the business and the potential additional costs to business that could affect the industry?

Nishma Patel: For us, the Bill and some of the amendments that we have seen so far are doing what is intended around environmental protection. The only other thing that I would ask to be considered is the other justified reasons, for which, as we have seen under EU REACH and under UK REACH so far, regulations have had to be amended. For example, the European Commission put forward regulations around data sharing and cost sharing to ensure that there is a level playing field on the cost of data between different businesses and how that has all been shared.

Some of the changes that may come forward under a UK REACH may not just be environment-related. UK REACH has itself been amended twice to help its implementation and workability, so there are other reasons for that regulation to be changed, particularly because we have not yet implemented. Fair enough, it is a transposition of an existing regulation, but we are already doing it slightly differently to EU REACH.

The Chair: We do not have any further questions, so I thank the three witnesses. It has been a really useful session, and we are very grateful for the expertise that you brought to our deliberations. Thank you very much.

Examination of Witnesses

Lloyd Austin, Alison McNab and John Bynorth gave evidence.

3.47 pm

The Chair: I welcome the three witnesses. Thank you for taking the time and trouble to come and act as witnesses before the Committee. I hope that starting slightly earlier has not inconvenienced you too much. The session has to conclude by 5 pm, although it does not have to go on until then if there are insufficient questions. We will open the questioning with Dr Alan Whitehead.

Q198 Dr Whitehead: Good afternoon, ladies and gentlemen. The Bill contains many sections that run on from a central theme and have what looks like pretty comprehensive legislation for the Scottish Government, the Welsh Government and the Northern Ireland Administration. I appreciate that you may have to act as a proxy for everybody rather than just for Scotland.

One of my concerns, about which I do not know enough, is the extent to which we are putting things in the Environment Bill and expecting everything to happen in the same way in all the different Governments and Administrations within the UK, which all clearly have quite different practices. Are you confident that the Bill, certainly as far as Scotland is concerned, will enable us to have UK-wide environmental protection standards that are good for everybody, bearing in mind that species, waste and various other things do not worry too much about borders and are of particular concern to the whole of this part of the world? Are you happy that the Bill does that job, or are there things that could go into it to better reflect the particular circumstances in different parts of the UK, particularly for the Scottish Government?

The Chair: Before anybody answers, I neglected to ask people to introduce themselves, so would you perhaps make up for my deficiency by introducing yourselves as you go along?

Lloyd Austin: We are all looking at each other to see who goes first. My name is Lloyd Austin. I am an honorary fellow of Scottish Environment LINK and convener of Scottish Environment LINK's governance group.

My answer to the question is that it depends. Different parts of the Bill work in different ways. It is clear that environment has been devolved for the whole time. Lots of environmental regulations and, as you say, practices differ between the Administrations already, and they will continue to do so. On the other hand, there is also a need, as you rightly say, for proper co-ordination, co-operation and joint working, so we would encourage all those things. In a way, it is not for us to comment on whether the devolution settlement or any other constitutional arrangement is right or wrong; we simply try to encourage the Administrations, in whatever arrangement there is, to try to achieve the best environmental outcome.

There are different ways of doing that for different things in the Bill. On the EU environmental principles, we have a question mark about how they are applied in Scotland and Wales in relation to reserved matters; that seems to be a gap in the Bill. We understand that the Scottish Government are bringing forward their own legislation in relation to the EU environmental principles, which will apply, obviously, to devolved matters. That is positive and welcome, but we would encourage the Administrations to work together to try to agree some form of statement about how those principles, which are the same at the moment because they are in the Lisbon treaty and therefore apply to all Administrations, will operate coherently across the piece and how they will replicate, in a sense, the way they work at the moment. We believe there are discussions between the Administrations about that at the moment, but it would be useful to stakeholders for such a thing to be consulted on before the different bits of legislation get finished off.

John Bynorth: I am John Bynorth, policy communications officer at Environmental Protection Scotland. Certainly, devolution is one of the main challenges facing the UK legislation that is coming in. It is important to ensure that standards are common between the different countries. There is no point having one set of standards in England and not having the same standards in Scotland. Ministers and civil servants in London, Edinburgh, Cardiff and Northern Ireland should talk to each other to ensure consistency, so we do not end up with two different types of air quality policy, for example, which could be quite damaging, and just in general, as Lloyd said, in respect of environmental standards.

The SNP Government launched their environmental strategy for Scotland last month. They have made it very clear that they will retain or even try to exceed the EU standards that we have just left behind by leaving Brussels. They have been a lot clearer on that. We do not see so much of that in the UK Environment Bill. Those are important distinctions. On the clampdown on domestic burning—the sale of solid wood fuels and wet wood—you cannot have two different policies in England and Scotland, for example, because somebody would just sell something across the border that was illegal in England. We need to have a look at things like that and to ensure that people are talking to each other and that the links we have are maintained.

Alison McNab: I am Alison McNab. I am a policy executive with the Law Society of Scotland. We are the professional body for solicitors in Scotland and have an interest not only in representing our own members but in acting in the public interest.

Your question raises an interesting point. It is important, of course, to bear in mind that deviation is a natural consequence of devolution. Equally, I agree with the comments by both Lloyd and John that there is merit in consistency and coherence in the approach. We know that, in attempting to avoid regulatory tourism, there are aspects where Scotland may be said to be slightly ahead. In Scotland, we have seen regulations on the introduction of a deposit and return scheme.

In terms of the Bill, Lloyd made a point about the environmental principles, and how reserved functions of UK Ministers in Scotland will be dealt with. We anticipate Scottish legislation in the coming weeks. That may give some clarity around that. There may be opportunities where the consistency of the work of the Office for Environmental Protection can be strengthened. There are provisions in clause 24 of the Bill about a requirement for the OEP to consult, and an exemption from the restriction on disclosing information in clause 40. There is potential scope for strengthening those provisions.

In relation to everything else in the Bill and common frameworks around environmental matters more generally, the extent to which consistency is sought is somewhat of a political matter for the Joint Ministerial Committee to give consideration to. At the moment, it appears clear that there is a desire to achieve consistency on at least a number of environmental matters.

Q199 Rebecca Pow: Thank you for coming. We have had extensive consultation already with all the devolved Administrations, which you welcome. Each of the areas is choosing to opt in or out of different parts of the Bill. The Scottish Government have opted in to some areas. How do you think being part of the Bill would benefit citizens of Scotland?

John Bynorth: Obviously, there are different laws in Scotland, particularly regarding regulation. They should definitely work more closely together, liaising between the Office for Environmental Protection and the body that has just been announced by the Cabinet Secretary for Environment in Scotland, Roseanna Cunningham, which will be set up as a similar sort of regulatory and enforcement body. It will be good to have the two talking to each other, so they can learn from each other's experiences. We should not have two distinct bodies that do not pick up the phone and talk to each other between Edinburgh and Bristol, or wherever the OEP will be based. We can see closer co-operation between the two, just to ensure that the whole of the UK is covered.

Things such as air pollution do not respect boundaries—it is a bit like the coronavirus, except it does not even respect inequality: it affects the poorest and those with underlying health conditions more than anyone else. Anything that is learned or being put into place by the UK Government should be taken up by the Scottish Government and vice versa, because they are doing a lot of work to improve air quality through air quality management areas. There are 38 in Scotland; they are introducing four low emission zones for the main cities in Scotland, to reduce the amount of transport pollution.

I see a lot of opportunities there. Politics should not come into it; whether there is an SNP Government, or a Conservative Government here, should be disregarded, because air pollution and the environment affect people's health. We are talking about it more from an air quality perspective. There are other views as well.

Rebecca Pow: Potentially, water would be the same.

Lloyd Austin: First of all, I agree with John about the need for the OEP and the Scottish body, whatever it is called, to have stronger powers and duties to co-operate and liaise. If a citizen of Scotland wishes to raise an issue and they go to the wrong body, it is very important that that body is able to pass on their complaint or concern. That relates to my earlier point about reserved matters. It is obvious that the citizens of Scotland will look to the UK Government and the Bill to address any reserved matters that fall within the definition of environmental law under the Bill.

It is not for us to say whether a matter should or should not be reserved. We would like what is reserved to be more transparent. There are quite a lot of discussions about which areas of environmental law are reserved. That is not very clear to citizens at this stage. The OEP will be responsible for reserved matters under the Bill as drafted, but as I indicated there is a lack of clarity about the application of the principles to them. The Committee might want to look at that, to see whether that gap could be filled.

As was commented on earlier, devolution leads to differences. There were differences between Scotland and the rest of the UK before devolution, when we had the Scottish Office and administrative devolution, and that has continued. From an environmental point of view, we would like those differences to lead to a race to the top rather than a race to the bottom. The more that each of the Administrations can lead the way and encourage others to follow suit, the better.

For instance, you indicated, Minister, that the Scottish Government have opted in to some and not other parts of the Bill. I think that is fine. It is very welcome that they are moving faster on a deposit return scheme. On the other hand, it looks as though there is agreement on extended producer responsibility, and all Administrations will move together. I hope that the race to the top will encourage all Administrations to move faster. The fact that the Scottish Government have moved faster and further on a deposit return scheme will encourage the other three, and vice versa. In relation to England, the Bill does some very positive things regarding biodiversity and the recovery of nature, and the setting of targets. I would argue that the Scottish Government could learn from that and then go beyond it.

Q200 Rebecca Pow: I am sure we will learn some lessons from watching your deposit return scheme. That will prove useful.

Alison McNab: I echo the comments made by Lloyd in relation to the OEP. I suppose the key thing is that the benefit to consumers may come in clarity on who is dealing with what, where they seek assistance, where they take complaints, and so on. It is important that the law is clear and that people are able to guide their conduct based on a clear understanding. That will be important to achieve in the context of the Bill and all that comes from its enabling provisions in particular.

Q201 Rebecca Pow: Will you welcome as much alignment as possible through your version of the OEP? We have made it clear who comes under that and where people go to report. Would you like to see a similar body?

Alison McNab: What is important is that whatever is set up can work well alongside the OEP. Perhaps there is scope for strengthening provisions in the Bill for the OEP to work alongside bodies in the devolved Administrations to ensure good working relationships, consistency, the sharing of information, and so on.

Q202 Deidre Brock: Good afternoon, and thank you for coming down. The Bill leaves a number of things out of its scope, including tax and spend and allocation of resources by the Treasury, and MOD activities, among others. Do you think that is a sensible way to go about things? Perhaps I should not say sensible. What are your thoughts on those exemptions?

Lloyd Austin: From the point of view of environmental NGOs, we agree. Greener UK colleagues made this clear earlier in the week, and we support those comments. The definition of environmental law is perhaps too narrow. We are interested in policies and measures that have an impact on the environment, because we are interested in environmental outcomes and achieving good environmental objectives. That is the key thing. If any policy or piece of legislation has an effect, whether good or bad—many things are good, and many may not be so good—it should come under the remit or gamut of somebody considering the impact on the environment. Therefore, the definition should be as broad as possible.

In reality, we accept that there will be exceptions. Those exceptions should be based not on the kind of broadbrush things indicated, but on a degree of justification for why—reasons of national security or whatever—the environmental issue has to be overwritten. Nobody thinks the environment will always trump everything but, on the other hand, where the environment is trumped, there should be a good reason, and that reason should be transparent to citizens.

John Bynorth: The question of exemptions may be for the military. I understand that they currently apply the principles of environmental law, but why should they be exempt? They use a huge amount of machinery and there are air quality issues there. It seems that the Secretaries of State will have the final decision on which targets are implemented, so there are concerns about that. It is a bit arbitrary and unjustified that the military, for example, should not be subject to the same conditions as everyone else.

Alison McNab: Without touching on the specific exemptions, it strikes me that there may be scope for greater specification within the Bill about what the exemptions are to be. If memory serves me correctly, when the Bill was consulted on at draft stage in late 2018 and early 2019, there was an additional exemption around anything else that the Secretary of State considered should be exempt. We have come some way from that view. There may also be greater scope for scrutiny within the Bill on the exemptions, which the Committee may wish to consider strengthening. Essentially, there are opportunities for more specification and more scrutiny.

Q203 Caroline Ansell: While recognising that devolution can mean deviation, and that that can have some positive effects, some of those opportunities can also turn into

risk because the environment is transboundary and business is transboundary too. What do you see as the risks if the Scottish body took a fundamentally different approach to that of the Office for Environmental Protection?

Alison McNab: I referred to environmental regulatory tourism earlier on—call it whatever you wish. There will always be issues around people trying to beat the system, and that is a risk if there are varying standards. However, on the flip side, there are opportunities to drive improved performance or improved outcomes. There may be commercial interests that need to be taken into account, so it may not be viable to do a different thing in one jurisdiction from another.

Q204 Caroline Ansell: Do you think that is a problem of clarity? It is incredibly important for people to understand exactly what the protections, standards and targets are, in order to be compliant.

Alison McNab: Absolutely. I referred earlier to clarity's being key for both individuals and businesses in determining how they conduct their business.

Q205 Caroline Ansell: Could that difference be confusing, if there were different standards and different targets?

Alison McNab: There is the potential for it to be. I suppose what is important is that there are clear routes for people to be directed to—not only legislation, but guidance and other information on how to take things forward. It is important to bear in mind that there may be opportunities to support businesses in how they work cross-boundary, and opportunities in the context of the Bill to think about the functions. One that springs to mind, for example, is the function of the OEP to advise Ministers. Of course, it may be advising on matters that relate to English or reserved matters, but that may have a cross-boundary effect, and it is important that that is considered.

Q206 Caroline Ansell: On that risk, what do you see as the most important areas for both Administrations to work most closely on together?

Alison McNab: Do you mean in terms of specific topics?

Caroline Ansell: No, areas within the Bill.

Alison McNab: The OEP is probably key. The environmental principles raise an interesting issue: at the moment, the Bill provides for them to apply in England and it is not clear how reserved functions of the UK Ministers that apply in Scotland will be covered. We do not yet know the detail of the Scottish legislation, but is there potential for a gap there? I suspect yes, but we do not know the detail of that yet.

REACH is an area that the Committee has already heard about this afternoon, and there are powers within schedule 19 for the devolved Administrations to make some regulations on that in terms of the enforcement. Given the wider scope of REACH in the reserved issues, that is perhaps something that would merit collaboration.

John Bynorth: Certainly, there is no point in having two sets of rules, two sets of penalties and two sets of punishments for each part of the country. In a multinational world, there are UK-wide operators such as haulage, oil refineries and petroleum companies. We have a problem

at the moment in Scotland with Mossmorran in Fife, an ExxonMobil-owned company, which is having problems with flaring that are affecting local communities. The Scottish Environment Protection Agency is trying to deal with it, but it keeps happening again and it is causing terrible problems for people living in the area, with noise and other issues. You need to have consistency in dealing with that between the different parts of the country.

The other issue is that if penalties in Scotland were different from those in England, companies might up sticks and move their business completely to England, which would affect the economy. Consistency is vital. The same applies with emissions: we have clean air zones down here, but low emission zones in Scotland. The types of restrictions on bringing petrol and diesel vehicles into cities, and on haulage companies, need to be very similar—I think that is happening—so that our economy is not damaged, but the rules and penalties are made clear to people and are UK-wide.

Maybe there should be a joint memorandum of understanding between the new protection body that we will get in Scotland and the OEP, once they are up and running. That could be a key part of what they do, with the civil servants from each body talking to each other and ensuring that they set out what our principles are, what we have in common and where the differences are, so that people, and businesses in particular, are clear on that.

Lloyd Austin: To follow on from the last thing John said, some kind of agreement about how the new bodies work together would be very useful. In terms of the Bill, that could be an amendment included within the clause dealing with the OEP's having to set its strategy. It already sets out various aspects of what should be in that strategy, and a simple line indicating that, as part of determining its strategy, it must set out how it plans to work with similar bodies in Scotland and Wales would be very useful.

Regarding your generic question about risks, the biggest risk is the race to the bottom, as I described it before. We must try to prevent that and to encourage the race to the top.

Regarding specific issues, the scale of the risk depends on the mobility of the risk. John mentioned the issue of businesses moving waste and Alison mentioned regulatory tourism. Those are risks, and waste tourism is another. If the two Administrations are too different in terms of their waste management policies, it is very easy for businesses to stick the waste on a lorry and take it over the border, and that sort of thing. It therefore depends on mobility.

From an environmental perspective, one of the key things is specific environments that cross borders. We have a very good system of cross-border river basin management plans, which is reflected in the water part of the Bill for, in our case, the Tweed-Solway area. That is a shared environment, where the Scottish Environment Protection Agency and the Environment Agency have to work together, and the plan is jointly signed off by Scottish Ministers and the Secretary of State. There is a similar model for the cross-border areas between England and Wales, and between Northern Ireland and the Republic of Ireland. Those types of cross-border arrangements should be continued for those cross-border types of environment; that is a good mechanism.

Having mentioned Northern Ireland, when we talk about these devolution issues within the UK, it is important that we remember that we also have a border between the UK and the Republic of Ireland and the EU on the island of Ireland. The issues that you are asking us about—regarding the difference between Scotland and Wales—apply equally between Northern Ireland and the Republic of Ireland. That is a challenge that needs to be addressed.

Equally, in relation to our marine environment, all of our marine environments have borders with other nation states—some with EU nation states and, to the north, with Norway and the Faroes. In managing our marine environment, we must work through mechanisms such as OSPAR to ensure that we have good co-ordination with Governments outside the UK, in exactly the same way that we need good co-ordination between Governments within the UK. The environmental issues—I always come back to focusing on the environmental outcomes—are in principle much the same, irrespective of whether the borders are national borders or sub-national borders, if you see what I mean.

Q207 Jessica Morden: It is getting quite complicated, isn't it? I know that you cannot speak for Northern Ireland or for Wales but, as far as you can answer this, are you aware that there has been strong collaboration so far between interested bodies and the Government on the Bill? If you are, do you think that has been working well so far? How effectively do you think co-operation on nature recovery networks might be?

Lloyd Austin: We cannot really answer in terms of co-operation between the Governments; we are not the Governments. We speak to all four Governments, and sometimes we hear signs of good co-operation and sometimes we hear signs of challenges—shall I put it that way?—whereby different Governments give us different indications of the nature of the discussion.

One thing that I am certainly aware of is that through our Greener UK and Environment Links UK network, there is good co-operation between the NGOs across all four countries. I am speaking as the co-chair of the Greener UK devolution group as well; that is how I am familiar with some of the work going on in Wales and Northern Ireland, as well as Scotland. There are examples of good co-operation; equally, there are challenges.

In relation to nature recovery, one of the key challenges is that the Bill requires the Secretary of State to set a target on biodiversity, and it is unclear whether that is for England or the UK. If it is for the latter, what will be the role of the devolved Administrations in delivering that target? Will they agree the UK target, and what proportion of it would be for England and would be delivered by the English nature recovery network? There is scope for greater thinking and clarity on how the Administrations might agree some kind of high-level objective, to which each of their individual targets and recovery processes would contribute.

Perhaps as a precedent, I would point you to a document that all four Governments agreed prior to passing separate marine legislation back in 2005 or 2006. The four Governments all signed a document on the high-level objectives for the marine environment. Subsequently, the Marine and Coastal Access Act 2009 was passed by this Parliament, the Marine (Scotland) Act 2010 was passed by the Scottish Parliament and the

Marine Act (Northern Ireland) 2013 was passed by the Northern Ireland Assembly. However, each piece of legislation contributed to the agreed high-level objectives document.

It would be beneficial to environmental outcomes if the four Governments could sign up to similarly generic, high-level environmental objectives. It would not involve one Government telling another what to do; the document would be mutually agreed in the same way as the one on marine legislation. The Secretary of State's targets would indicate what the English contribution to those high-level objectives would be, and Scottish Ministers would have their own process for the Scottish contribution—likewise for Wales and Northern Ireland.

John Bynorth: Anecdotally, I hear that the Scottish Government and civil servants talk quite regularly to DEFRA and other UK organisations—it would be stupid not to.

On air quality, we have two different strategies. The UK Government have the clean air strategy and Scotland has the “Cleaner Air for Scotland” strategy, which is currently subject to a review and will be refreshed and republished later this year. Within that, you have different sources of air pollution. The Scottish Government will be talking to DEFRA and there are continuous conversations, particularly about indoor air quality. Whether you are in Scotland or England, that does not change. Having different types of properties might affect indoor air quality, but it is fundamentally a national issue.

There is concern at the moment about the rise in ammonia from agriculture, particularly in Scotland. That is an issue where they will learn from what is happening down south with DEFRA. It is not just DEFRA; even though we have now left the EU, we should not shut the door. We have to keep the door open to the EU. There is a lot of really good work going on in the Netherlands and other parts of Europe that we can learn from. We need to keep the door open, although we have now gone and cannot do anything about that. Just keep the door open and learn from it.

There is close working, but it could always be better. Hopefully, the Environment Bill will improve that, as will Scotland's environment strategy. We need to keep those conversations going.

Alison McNab: I do not have much to add to the comments that have been made already. There are perhaps two things that strike me, one of which relates to the Joint Nature Conservation Committee—perhaps there is a role there. It demonstrates quite good collaboration across the UK.

Looking a bit more widely, Lloyd touched on marine issues as an example. The joint fisheries statement set up in the Fisheries Bill has the four agencies—the Secretary of State and the devolved Administrations—coming together to talk about how they will achieve the objectives. That perhaps presents quite a good model for thinking further about other things in the environmental field.

Q208 Rebecca Pow: I found this really interesting, actually. My general observation is that you are very keen on close co-operation, which is clearly something that this Government are very keen on, because there are no boundaries in the environment—in the air, as you have clearly explained, and water and all of those things. Would I be right in surmising that you would like as close co-operation as possible?

Lloyd Austin: You would be right, as long as it is co-operation. It is not for us to say where the boundaries of devolution or other constitutional arrangements should be.

Rebecca Pow: No, I understand that.

Lloyd Austin: The marine examples that I quoted and the fisheries examples that Alison quoted are areas where things are mutually agreed, and as I tried to say earlier, that applies beyond the UK as well as within it.

As John indicated, we should not forget our European partners, both those within the EU and those such as Norway, the Faroes and Iceland to our north that are not in the EU, but interestingly are all in the European Environment Agency. In terms of data collation, data reporting and environmental science, we would very much like to see some continued association with that agency, which goes well beyond the EU members. Norway, Iceland, Switzerland, Turkey, Belarus and lots of countries like that are partners in the EEA, engaging in simple sharing and publication of environmental data. It seems very short-sighted to pull out of the EEA when it has nothing to do with EU membership, so that is another form of co-operation that we would promote.

John Bynorth: Being in the EEA would be very good from an information and data sharing point of view, and for maintaining consistency of standards, so I definitely agree with that and support it. I go to a lot of conferences south of the border, just to find out what is going on down there regarding air quality and other environmental issues. Everyone is talking about similar things: transport emissions in urban areas, domestic burning—how we deal with wood-burning stoves and the problems they are causing with air quality—agriculture and industrial emissions. Those are all common issues, and there are nuances about the way you deal with them, but we can all learn from each other.

The Scottish Government might not be doing things right all the time, and the UK Government might not be doing things right. We should come together regularly to discuss these things and find out how we can improve and work together. We are still part of the UK, and it is very important that we do that.

Alison McNab: Strong collaboration between the UK Government and the devolved Administrations is essential. You have highlighted the transboundary effects of the environment, which are well recognised. Back in 2017, the Cabinet Office published a list of areas where EU law intersects with devolved powers. The revised list, which is from April of last year, highlights 21 remaining areas in which it is hoped that legislative common frameworks will be achieved. Seven of those 21 relate to environmental matters, so it is going to be crucial for there to be good collaboration between the UK Government and the devolved Administrations to achieve the desired aims regarding those matters.

Q209 Marco Longhi: Given what you know about the OEP's governance framework and the concerns you have highlighted about divergence and risks—race to the bottom and that type of thing—I am trying to gauge what importance you would place on there being a structure in the devolved Administrations equivalent to the OEP here in England.

Lloyd Austin: From my point of view, I would say it is very important that the governance gap, as we called it soon after the referendum result, applies everywhere in the UK, and it should be filled everywhere in the UK, whether that is for devolved or reserved matters. We very much welcome the recent announcement by the Scottish Government that they will be establishing some form of body. We are yet to see the detail; we understand that detail will be published later this month. We are less clear on the proposal for Wales. Of course, this Bill addresses Northern Ireland in schedule 2. Wales is the area that still has the biggest question mark, but we would want the Scottish body to be as good as or better than the OEP.

John Bynorth: I would totally back that up. The Scottish Government's environment strategy, which has only just been published, says that there will be robust governance to implement and enforce laws for their equivalent body. We do not know the detail of that—who will be leading it, and what sort of people will be on it and how they will be appointed, but it has got to be totally independent. You cannot have a body for the rest of the UK that has a different standard; they have to have the same standard and the same quality of people involved, and the same toughness to really crack down on people and organisations that breach the law. Our job as an independent and impartial organisation is to ensure that they are held to account on that, so once it is published and we know more details, we will be able to push on that.

I certainly think that having a strong figurehead for the two organisations is important—the OEP and whatever it will be called in Scotland. Personally, I think John Gummer, Lord Deben, does a brilliant job at the Committee on Climate Change. He has vast experience as a former Environment Minister, right at the top level of the UK Government. You need figures like that, who are also independent of politicians, so they can actually make decisions. Those sort of people inspire others to come on board. You need a strong staff who will stand up to organisations that flout the law—they have got to be very strong. It is up to us to ensure that whatever the Scottish Government produce is to that sort of standard. Hopefully, organisations similar to us down here will do the same with the OEP.

Alison McNab: I agree with the comments that have been made. It is clear that there is going to be a governance gap once we reach the end of the transition period, and it is important that there are provisions put in place to mitigate that. Whether that is done by way of a single body, as in the OEP, or by different bodies taking different roles, is a matter up for grabs. The Scottish Government have announced their intention to have a single body, which we presume will be similar to the OEP. I think what will be crucial is the way that those bodies work in terms of how they set their strategy. The OEP requirement to consult on the strategy is a good thing and will enable stakeholders to contribute to devising how that body is going to operate. I hope there will be similar opportunities for the body that is created in Scotland in terms of what direction it is going to take and how it will undertake its functions.

Q210 Deidre Brock: With a view to trying to learn from the possible mistakes of others, there is a provision in the Bill that would prevent public bodies from making complaints to the OEP. We could find ourselves with

the possibility that one public body could be aware of another committing a breach of the law without having the option of raising that complaint with the OEP, or perhaps one council being aware of another council breaching the law and not being able to take action with the OEP about it. Should we be looking at amending that in the Bill?

Alison McNab: I would have to go away and give further consideration to that. On the one hand, there are laudable reasons for having that provision, but, equally, we recognise that there is a potential for something like a race to the bottom, where bodies are perhaps not subject to the same degree of scrutiny that they might be.

Q211 Deidre Brock: Sure. I like the idea of the race to the top that you mentioned, Mr Austin. I noticed in your briefing, John, the air quality issues and the more stringent standards that we have in place in Scotland, for example. Hopefully, folk will learn from that.

I want to ask you, Ms McNab, about clause 19. In your Law Society of Scotland briefing paper, you raised a couple of concerns that I am keen to hear a little more on.

Alison McNab: Absolutely. The clause you refer to relates to statements about Bills containing environmental provisions. It provides some degree of scrutiny. However, it might be somewhat limited in its scope. There is no recourse provided in the Bill if, for example, Parliament or external stakeholders felt that a matter had not been given proper consideration. Also, there is a question around how that is tested. How is the statement tested and how is it subject to scrutiny?

Lloyd Austin: On your first point, like Alison I need to think about it a bit more, but I see that there is some degree of logic in one public body not being able to complain about another. Public bodies should have existing mechanisms to raise concerns with central Government.

From the point of view of NGOs and our members, ordinary citizens, the really important thing to make sure exists—this applies to the OEP and the Scottish or Welsh bodies—is a mechanism that enables ordinary citizens to raise concerns with the OEP. That is in there to some degree. There are ways in which that could be strengthened, but it is vital that that exists in the other bodies in Scotland, Northern Ireland and Wales, with, as I said earlier, an ability for the OEP and the Scottish and Welsh bodies to pass one citizen's complaint to another if that is necessary. If the citizen has inadvertently complained to the wrong body, it should be able to pass it on, and in some cases bodies maybe should be able to work together in a joint investigation. Some issues that citizens might be concerned about may be caused by both a reserved and a devolved matter, or may be caused by, as we discussed earlier, the Scottish and UK Governments not working together very well. The two bodies working together to encourage better co-operation might be one form of remedy that they would have available to them. We represent ordinary members of the public who are members of our organisation, and it is those citizens' right to complain. Most public bodies can normally find a citizen if they want to.

John Bynorth: There is an increased awareness of the environment. A poll last week showed increased awareness of climate change impacts, and the poll was taken even before the recent flooding in south Wales, Shropshire

and the midlands. People are increasingly taking an interest in these things. Communities in Newcastle, for example, and even in Edinburgh, have low-cost monitoring centres to check air pollution in the towns and streets where they live, so there is huge awareness of that and climate change as well. People will want an outlet where they can complain if they think something is wrong. The office will need to be aware of that and will need to respond to that. It is a changing environment: people's attitudes are changing all the time.

Deidre Brock: Good points. Thank you.

Q212 Saqib Bhatti (Meriden) (Con): I welcome your comments on closer collaboration. Are there any parts of the Bill that you like and think should be adopted in Scotland?

John Bynorth: Obviously, if the Office for Environmental Protection had teeth, clout and the ability to fine people in the rest of the UK, I would want to see that in Scotland, too. In other respects, certainly the Governments work together. There are differences, as I say, but if they could work together, that would be one of the best things.

Lloyd Austin: From my point of view, the varying extent of different parts of the Bill is appropriate, because it tends to reflect the arrangements that have been agreed between the Scottish Government and the UK Government. For instance, the deposit return scheme does not apply to Scotland, and that is because they have already got their provisions in place. Those other areas, such as extended producer responsibilities, are included and, as the Minister said earlier, they have opted in. I think the different extent is a consequence of developments to date; it reflects those developments.

The biggest gap is the issue of reserved areas, or the application of EU environmental principles to decisions by UK Ministers relating to reserved matters in Scotland and Wales. Those are excluded from the Bill, and it is a gap. It may be—as stakeholders, we do not know—that the Governments have agreed to legislate for that in some other way, through Scottish legislation or subsequent Welsh legislation. However, because we have not seen that, we do not know, and there has been no statement to that effect. As far as observers are aware, that gap still remains. It may be filled by an amendment to the Bill, or by Scottish legislation with the agreement of UK Ministers or whatever—we do not know—but we want to keep highlighting that it is a gap that does need to be filled.

Alison McNab: The Scottish Government have joined where they have felt that they can, or where they have felt that to be appropriate. Certainly Roseanna Cunningham, the Cabinet Secretary for Environment, Climate Change and Land Reform, made the statement before the relevant Committee in the Scottish Parliament back in October that an agreement had been reached in relation to the extended producer responsibility. There may be other areas where harmonisation can be achieved.

As Lloyd says, there is potential for a gap in the environmental principles. There is also some uncertainty around reserved matters and the OEP, and what those matters are; there may be some matters involved that appear in schedule 5 to the Scotland Act 1998. Product labelling and product standards spring to mind; there are certain exceptions there. There may be some issues that still need to be considered. REACH is another

example where there is quite a complicated mix of reserved and devolved issues. What is important is having clarity on those things. Where collaboration can be achieved, that is good, but you need to ensure that no gaps are left.

The Chair: I think this may well be the final question.
Robbie Moore.

Q213 Robbie Moore (Keighley) (Con): Carrying on with the theme of collaboration, do you think that the benefits of the Bill outweigh the risks associated with having separate bodies? In my view, there are potential risks that follow from having separate legislation and bodies.

Lloyd Austin: If I could borrow a term that my colleague Ruth Chambers used earlier in the week, I think that boat has probably sailed. Two years ago, I remember, we had discussions with Governments north and south of the border, and east and west of Offa's Dyke. We encouraged a discussion about which is the best route—separate bodies or one single body that would somehow be collectively owned by all the Governments, if you see what I mean. The challenge would be creating that sort of body that had the means to respect the devolution settlement, so that in relation to devolved matters it was accountable to the Scottish Parliament, and in relation to reserved matters it was accountable to this Parliament.

Creating a single body that is somehow accountable to different legislatures is a challenge, although I do not think it would have been impossible, because there are means of creating joint committees, and that sort of thing; but I think, given the way in which the devolution settlement is arranged, that kind of thing had to be mutually agreed. With the way in which the various Governments have proceeded, for their own different reasons, that was not possible. Therefore we are now in a situation where we have one body for England, reserved matters and Northern Ireland, because of circumstances over the years in Northern Ireland, and other bodies for Wales and Scotland. In a sense it is not for us to question the reasons why we arrived at this position. We are in this position, and the best way of addressing it is to ensure that the bodies work together in the way that we have described. I think you could answer that question with, "I wouldn't start from here"—but we are here.

John Bynorth: There is not much we can do about it, I think. The Environment Agency and the Scottish Environment Protection Agency work together. There are common areas—noise policy, for example—and the bodies feed off the World Health Organisation, and things like that, in policy areas. With devolution, you do have to have an organisation that is accountable to MSPs in Scotland, but there is no reason why the new Office for Environmental Protection cannot work very closely with whatever is going to be set up in Scotland. You would have to have that accountability, under the devolution settlement, to the Scottish Parliament, however. I do not know whether there is much more we can do or say about that, but that is the situation. I think you are going to end up with two bodies, really.

Alison McNab: I agree with the comments made. As I referred to earlier, I suppose the extent to which consistency is achieved is really a political decision. The reality is

that it appears that we will have the OEP and a separate Scottish, and potentially a separate Welsh, body as well. What is important is looking at how that can work together now—the practicalities of that, and how the risks can be overcome. Probably the greatest way to do that is to ensure that there are strong provisions in each of the relevant pieces of legislation for the bodies to work together. That may be a requirement to work together, strengthened from what at the moment is a requirement to consult on relevant matters.

The Chair: Thank you to our witnesses. It was really important for the Committee that we got a Scottish perspective on this. I think we got that very thoroughly, and we are very grateful for it.

Ordered, That further consideration be now adjourned.
—(*Leo Docherty.*)

4.49 pm

Adjourned till Tuesday 17 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

EB10 Greener UK and Wildlife and Countryside
Link

EB11 Game & Wildlife Conservation Trust (GWCT)

EB12 CHEM Trust