Select Committee on the Natural Environment and Rural Communities Act 2006

Corrected oral evidence: The Natural Environment and Rural Communities Act 2006

Tuesday 28 November 2017
12 noon

Watch the meeting

Members present: Lord Cameron of Dillington (The Chairman); Earl of Arran; Baroness Byford; Earl of Caithness; Lord Cavendish of Furness; Lord Faulkner of Worcester; Countess of Mar; Baroness Parminter; Baroness Scott of Needham Market; Baroness Whitaker.

Evidence Session No. 20 Heard in Public Questions 168 - 176

Witnesses

I: David Baldock, Senior Fellow, Institute for European Environmental Policy; Martin Nesbit, Senior Fellow and Head of the Climate and Environmental Governance Programme, Institute for European Environmental Policy.
Examination of witnesses

David Baldock and Martin Nesbit.

Q168 The Chairman: Good morning, gentlemen, and thank you both very much for coming to see us today to give evidence. You have in front of you a list of interests that have been declared by members of the Committee. The meeting is being broadcast live on the parliamentary website. A transcript of the meeting will be taken and published on the Committee website and you will have the opportunity to make corrections to that transcript where necessary. Do you want to introduce yourselves or shall we go straight to the first question?

David Baldock: Thank you for inviting us. My name is David Baldock. I was for 18 years the director of the Institute for European Environmental Policy, which is an independent charity concerned with all aspects of the environment, although we take a lot of interest in rural affairs, including agricultural policy, as well as the environment per se. I am now a senior fellow. This is my colleague Martin Nesbit.

Martin Nesbit: I am director of the London office of the IEEP. Our executive director is now based in Brussels and the organisation is progressively becoming a Brussels-based organisation, for reasons that will be fairly obvious. I joined the IEEP about three years ago to head the environmental governance and climate programme. Before that, I was a civil servant for many years working in Defra and DECC, as well as briefly in the Foreign Office, on environmental and farming issues.

Q169 The Chairman: Thank you both very much. My first question is this. Michael Gove has indicated that he intends to consult on the creation of a new environmental body to hold government to account after the UK leaves the EU. How do you feel this body might be set up? What powers and duties should it have? Who should fund it, because he who pays the piper and all that? To whom should it report and what should its relationship be with the courts?

David Baldock: That is quite a few questions. I start by saying that we welcome that discussion. It is a moment of potential change in the institutional structures in the UK and a moment for thinking again and making sure that we can meet our ambitions. Specifically, we see the role of a new body as being at a high level, not duplicating the roles of the existing agencies, including the Environment Agency and Natural England in England, but rather being the curator of compliance and maintaining obligations that we have entered into.

I will break those functions down a bit and underline the key ones. The first function would be to receive reports on progress in implementing and taking forward environmental policy in a fairly rounded sense—meeting particular reporting requirements but going a bit further on how we deal with the challenges that arise as we go along.

The second function is resolving issues and providing advice on how they might be resolved. At the moment, for example, the European
Commission deals with potential derogations where they arise. That kind of thing could be covered instead by the new body. The body’s role would also be to publish reports, to review legislation, to pursue complaints and to oversee free and accessible mechanisms for civil society, maintaining the avenues that civil society has, both as individuals and as groups, to play a role in implementation and to have an avenue for complaints in securing environmental justice. The body would be able to turn to the courts if it felt that that was necessary. Where there are issues of compliance, its main focus would be on compliance by government agencies and government departments with our existing obligations and whether we are meeting those, which is a bit like the way the Committee on Climate Change acts in that sector. In cases where there was lack of progress and there had been a proper discussion about why compliance was going wrong or the challenges had perhaps not been met, it would have recourse if necessary to the courts to take forward the issue. Alternatively, it could propose a parliamentary process and make a recommendation to either House of Parliament, including to Committees such as yours and the Environmental Audit Committee in the Commons.

In terms of its overall reporting, my view is that it should report to Parliament, not to the Environment Minister at Defra, so that it would have a genuine independence. We have interesting examples of this, such as the way in which the National Audit Office reports to the Environmental Audit Committee at the moment. That would be quite a workable relationship. I will hand over the Martin on the funding issues.

**Martin Nesbit:** I will start with a potential additional benefit of this kind of governance body, which is its usefulness in negotiations with the EU 27. One of the things that has been made clear in the EU 27’s negotiating position on the UK’s departure is that they are very opposed to the risks of environmental dumping and social dumping; in other words, the UK undercutting EU standards. Assuming that we get to some sort of agreement with the EU 27, there is likely to be a list of environmental obligations of some sort that the UK has to comply with. The UK being able to demonstrate that there is a credible monitoring and enforcement mechanism domestically within the UK might make it easier for the EU 27 to accept that there does not need to be an ECJ role in monitoring the implementation of those obligations. It could be similar, essentially, to the mechanism set up under the EEA. The body could be a natural interlocutor with the European Environment Agency, providing UK input to that body, which has members not just from the EU but from beyond it into the EEA, as well as Turkey, Switzerland and others.

On the question of funding, UK, European and global experience is littered with the corpses of environmental bodies set up in a flush of enthusiasm, and which are then progressively starved of funds as their advice to government became increasingly troublesome. In the UK, we have had the Sustainable Development Commission and the Royal Commission on Environmental Pollution, for example. The question of funding and the permanence of funding is important for the stability and credibility of an organisation like this. Some people have suggested that
fines could be used as an element of funding for this body. That is probably a bad avenue to pursue, because it creates a number of perverse incentives for the body; you risk not having sufficient confidence in the bona fides with which it brings cases forward and argues for fines. In any case, central government would be fined to fund a body that was otherwise being funded from central government funds; the Treasury would take notice of that and reduce the funding available from other sources as funds became available from fines.

There is no easy answer on funding. Clearly, permanence and predictability will be very important. My guess is that if the body is set up in a way that provides Environment Ministers from the various parts of the UK with a veto both over reductions to funding but also over the activities of the organisation, that could provide a greater degree of certainty over the future funding stream. But it is not an easy problem to resolve.

Baroness Whitaker: I appreciate your view that the arm’s-length body could negotiate in Brussels. The Government already have expert arm’s-length bodies that do that, but I do not think that any of them report to Parliament. I wondered whether the Executive might get a bit tetchy at the idea of a body negotiating the national interests that was not beholden to the Executive.

Martin Nesbit: To be clear, I was not suggesting that the body would negotiate with the EU. I was suggesting that if the EU 27 are convinced that the UK has credible monitoring and enforcement mechanisms, they might be more relaxed about what they demand from the UK Government in terms of compliance mechanisms.

Baroness Whitaker: And it could still report to Parliament.

Martin Nesbit: Yes. It would still report to Parliament. There is also potential value in this body taking part in discussions at European level on the evidence underlying policy-making; that is to say, having a role working with the European Environment Agency, which collects evidence on the state of the environment in the different parts of the EU and other countries in Europe and provides comparative information on the state of the environment and the performance of individual administrations. It is an evidence-gathering role rather than a policy-making role.

Baroness Whitaker: Understood. Thank you.

Baroness Parminter: You have been very clear about the functions of this body and the opportunities, but I am struggling with a sense of the model and scale, because you cannot answer the question about finance until there is some clarity about scale and interrelationships with others. You mentioned the Committee on Climate Change, and others have mentioned a body parallel to the Office for Budget Responsibility, for example—an office for environmental responsibility. Has work been done on a model for this body and the scale of this body?
David Baldock: I do not think there is a directly comparable body, and because of our departure from the EU we have a totally new and unprecedented situation. We are trying to create a set of functions that essentially are done elsewhere at the moment, and bring them into a domestic setting in a way that works. We have to do that in an imaginative way and not be completely confined to tried and tested models, however desirable that is—and I accept that is better.

There are aspects of a number of bodies, which I think are interesting. The Committee on Climate Change, for example, has around about 30 staff of a high calibre and competence to review policy in the kind of way that we are talking about. It provides separate reports for England, Scotland, Wales and Northern Ireland, and retains the confidence of the devolved authorities in doing so, and it has quite a lot of credibility. It is that sort of gravitas and analytical detachment and a body not having its own political agenda that we seek. It would not have to be an absolutely massive body, with hundreds of staff, but it would need to be adequately resourced. Other bodies, such as the National Audit Office, have some functions that we could borrow from—and, again, they have the right kind of analytical capacities and independence.

Martin Nesbit: I would add that, if one of the roles of the organisation is to take receipt of complaints or concerns from individuals, NGOs and community groups, and investigating them, that role is not really carried out by the Committee on Climate Change, and it is quite difficult to predict in advance how popular that would be and how much work would be generated. That could be quite a significant element in the need for staff of the body.

The Chairman: Just to go back to Mr Nesbit’s concept of the body giving the UK credibility with the EU 27, would that touch on the methodology and standards of production? How far into detail would you envisage the body going? Obviously, food is the example that we might mention here, but it could be other products as well.

Martin Nesbit: I would not expect it to get into the regulation of products, because UK manufacturers, producers and traders will simply have to comply with the product requirements set in EU legislation in order to export to the EU. However, the outcome of the negotiations might involve the 27 remaining members of the EU saying to the UK that they would like to see the UK continuing to implement air quality legislation, for example, and legislation on emissions from power stations and other combustion installations, or the UK continuing to apply elements of the water quality acquis, simply because they do not want the UK operating to a lower level of environmental standards and therefore imposing lower costs on their manufacturers.

At that point, assuming that the UK signs up to some of those areas of environmental commitment, either to the letter of European legislation or to targets set in European legislation, the monitoring body that we are talking about would be able to give the EU 27 some confidence that the UK had robust mechanisms to ensure that these obligations were going to
be delivered in practice. It would be a bit like the EFTA monitoring mechanism set up under the EEA, which replicates the work of the Commission in relation to the EFTA members of the EEA.

**David Baldock:** There is an interesting question about the scope. We have conceptualised it as a concern with environmental policy, because we are very dependent on such a large body of law for environmental policy, and it does not have a natural economic interest to support its implementation. However, you could argue about where the parameters of environmental policy lie and whether that encompasses food standards, for example. So there is an interesting boundaries issue.

**The Earl of Caithness:** Would you envisage that body also reporting to the Government that EU standards are dropping below UK standards, because the EU has followed us in animal welfare, and things like that?

**Martin Nesbit:** Yes, that is a very valid point. It is clearly the case that environmental legislation is not perfectly implemented in the UK, but then it is not perfectly implemented in other member states either. So to that extent there would be a kind of bilateral interest in the UK ensuring that there were credible mechanisms in the EU. My feeling would be that the Commission and the European Court of Justice provide quite robust mechanisms in the remaining parts of the EU, but I would guess that the UK would want to continue to monitor that and monitor EU 27 implementation of mutual commitments on the environment.

Q170 **The Countess of Mar:** As you know, environmental and agricultural policies are devolved matters in the UK, and parliamentarians have so far made differing suggestions about the relationship of a new environmental body to the devolved Administrations. What are your thoughts about those relationships?

**Martin Nesbit:** There are a number of options for how you set up this body. It could be set up either on an England-only basis, or on a more broad-based structure. I think that it would be more effective as a broad-based organisation covering all four parts of the UK, but it can be effective in doing that only if it has the whole-hearted support of the relevant Administrations in the different parts of the UK—where there are Administrations, which is not currently the case in Northern Ireland. It clearly requires a lot of discussion with devolved Administrations to establish that body. I guess that one approach would be to set it up in a way that it could have participation from the devolved Administrations but does not have to have participation from them. One of the roles that it could ultimately play is in avoiding environmental dumping between different parts of the UK, or avoiding challenges to the single market in the UK from the implementation of environmental or agricultural legislation in the different parts of the UK. That starts to get slightly more controversial, because it means that to some extent you are putting it above the political interests in the different Administrations, which might be a step too far. But it would be a useful role if you could secure the whole-hearted enthusiasm for that from different parties.
David Baldock: I would just add that there are examples of bodies that maintain the support of the four countries, such as the Committee on Climate Change and the JNCC, so it is possible. But we would not underestimate the importance of managing to secure that confidence and support. If that was not possible, one might look at having separate bodies in different parts of the UK, which would obviously be a different model.

Lord Cavendish of Furness: I have three related questions from the policy perspective. What opportunities and threats do you think Brexit brings not only for the environment but for agriculture and rural communities? Do you see a threat to upland communities heavily reliant on agricultural subsidy? How might we seek to sustain those communities following the end of the CAP?

David Baldock: How long do you have? On your first question about threats and opportunities, we produced a report a couple of years ago, prior to the referendum, in which we set out some of our thoughts on potential threats and opportunities.

On the opportunities, there is the chance for a reinvigoration of British thought, engagement and enthusiasm for environmental and agricultural policy, using our considerable resources, expertise and interests in those topics to get it right. There has been a certain amount of passivity and a reactive tendency, because so much has been taken forward at a European level. Over time, that could result in some fresh thinking and new ideas—and, of course, we can tailor our policy better to the different parts of the UK and different issues within the UK.

On the threat side, the difficulty is that most UK environmental policy has grown up in the European context, so we have become quite dependent on the expertise that lies behind that, and the EC pressure to comply with measures, not only here but in other member states, to make sure that things get done. It is not a self-sustaining machine all the time.

There is a danger, given the considerable worries about the economy, that we might select a more deregulatory approach which could be amplified as a result of trade agreements with countries that would like to export to us. We can think of many countries that would like a trade agreement with the UK, including America and Australia; they want to export livestock products. However, in some cases they have lower standards in terms of livestock and other products, so a new raft of potential threats arises from that direction.

Turning briefly to agriculture and rural communities, we have recently done a study considering scenarios for agricultural land use and the environment in the UK, which was paid for by the countryside agencies of the four countries. The scenarios had different outcomes, but one thing to emerge is that there were quite a few scenarios in which beef and sheep farmers in particular would be exposed to substantial pressures on income and reductions in their markets. Those pressures would be relatively rapid and farmers would find it potentially difficult to buffer
changes in their situations. We do see that as a pressure point under quite a few scenarios; not all, because in some we could see that prices might actually increase. Of course there is also a major concern about what the policy will be. For all its failings, the CAP has provided a substantial resource that, when used properly, has produced some positive outcomes in rural areas as well as some perverse ones. There is no certainty about how the Treasury will react in that situation.

I turn finally to the question about sustaining communities after the end of the CAP. We would see a need for measures to be applied in particular to the more extensive livestock systems. We need indigenous policies that are aimed at supporting high nature value farming. We might want to put more money into rural development in the uplands on things like rural abattoirs, marts and training support. These are areas that are under-invested in at the moment, along with a bit of support for local communities. We could have agri-environment schemes that have been adapted to upland situations quite well. We would not see a freeze on all upland land use as desirable. There is room for a more balanced set of different land uses, with not all of them based on agriculture. Some will be based around recreation and tourism, carbon sequestration and nature conservation.

**Lord Cavendish of Furness:** Is your thinking informed by the fact that our farmers have not really had an open market since long before the CAP? Really that has been the case since the Great War of 1914-18. We have had an artificial marketplace since then, so you could start with a fairly clean slate.

**David Baldock:** You could, although ironically the EU less favoured areas measure was negotiated by the UK and France. It was one of the UK’s contributions to the CAP. We have always had a soft spot for supporting the hills. It is an area where we have not had a terribly free market for quite a long time.

**Martin Nesbit:** Perhaps I may add one point on the impact of potential future trade agreements. In a sense this is the big unknowable in terms of what happens on environmental and food standards. One can expect a lot of pressure to come from potential trade partners for the UK to accept, to some extent, lower standards in some areas. I think one of the governance questions that is potentially of interest to the Committee and Parliament is: what would be the role of policymakers in the devolved Administrations and Defra in ensuring that environment and agriculture policy interests were reflected in the UK’s negotiating position on trade agreements? Clearly trade is a reserved matter, but some of the commitments that are potentially to be made in trade agreements would have significant implications for policy-making in environmental areas, which are devolved.

**Baroness Byford:** We have been talking about how payments are currently being made. The remit of this Committee is to look at Natural England and rural communities. Do you think that our current arrangements are about right? We know we have to agree to and comply
with regulations, but some have suggested that fewer people are now going in for environmental schemes because they have become too stringent and complicated. Do you share that thought?

**Martin Nesbit:** There is a fair amount of flexibility for the Administrations to design agri-environment schemes within the broad guidelines laid down by the legislation at European level and interpreted by the Commission. One challenge has always been concerns about the risk of disallowance, and therefore arguably a tendency to put more focus on farm businesses abiding by the absolute letter of what they have agreed to and ensuring that the schemes themselves are designed in ways that can be verified. To an extent that makes them structurally less flexible than they might be under a more flexibly designed domestic system. However, there is already a fair degree of flexibility in the legislation and some of the complexity for farm businesses comes from the need to ensure that we are actually generating public goods for payments. It is actually much easier to spend money through a direct payment mechanism on a per hectare basis than it is to spend money in order to secure specific outputs for the environment. There is almost inevitably a degree of complexity in agri-environment payments as compared with income support payments.

**David Baldock:** There is some concern about the low take-up of the scheme. Bearing in mind that we have not done any detailed work on this, my understanding is that there is the sort of complexity that Martin has been talking about, along with issues around the IT system. Farmers who I have spoken to feel that the barriers to entry have been accidentally raised rather than lowered during the current regime for the sort of reasons we have outlined. I think I am right in saying that we have a problem at the moment.

**The Earl of Arran:** Once we have left the European Union, do you think that the CAP will change across the rest of Europe?

**David Baldock:** Tomorrow we will see a communication from the Commission, in fact a proposal from DG Agri. Yes, I think that it will change. The kind of thing that they are talking about at the moment, which may or may not be adopted, is to pass considerable responsibility back to member states and to reduce the gap between Pillar 1 and Pillar 2, which would be a pretty large change if it came about.

**Martin Nesbit:** I would just add, having been the UK’s negotiator on the EU Special Committee on Agriculture, that there were a number of things I thought everyone else would get significantly wrong if we had not been banging the drum in certain directions. One of those is coupled payments. I would expect to see significantly greater pressure from the remaining member states to have more capacity to make coupled payments, particularly in the livestock sectors. That has the potential to distort markets not only between the continuing member states of the continuing EU but also for UK exporters to those member states.

Q172 **Baroness Whitaker:** You have partly answered my question in your
response to Lady Byford, but I will go into a bit more detail. To what extent does Natural England rely on the obligations contained in EU law in fulfilling its nature conservation objectives?

**David Baldock:** The general objective for Natural England is pretty broadly framed to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. That is an admirable aim but it is very broad. What has happened in practice is that EU nature conservation objectives, in particular those expressed in law rather than the aspirational ones, have resulted in giving Natural England a pretty strong framework for prioritising, organising and monitoring nature conservation activities. That framework in law, particularly the nature directives but others as well, has been pretty important in laying down how Natural England should set about meeting its general objectives. One can see a difference in how protection is applied to purely domestic SSSIs versus those which are protected under EU law. The latter are more stringently protected in various ways, along with the prioritisation of those sites. There are multiple impacts on both Natural England’s priorities and its operations.

**Baroness Whitaker:** Would you say that EU obligations have helped Natural England to resource its biodiversity work? Obviously funding cuts have been a pressure, or do you think that they have proved to be a bit of a corset, so that the organisation has not been able to be as innovative as it might have been?

**David Baldock:** That is a good question but in some ways quite difficult to answer. Something that I felt happened when the Countryside Agency was effectively folded into Natural England was that landscape priorities, which generally speaking are not supported by EU targets or legislation, did not receive as much attention. That was not because anyone wished to neglect them or felt intellectually that they were inherently less important, but just because they were not underpinned by EU targets and requirements. They tended not to be at the forefront of Natural England’s mind. The Countryside Agency was an admirably versatile and quite innovative organisation which would look at ways of piloting schemes. It relied mostly on national money so it was not, if you like, constrained by the rules of European money. I think that we have lost a certain agility and focus in that area. On the other hand, if one looks at the severe and continuing decline in biodiversity in the UK and indeed in other parts of Europe, the need for some fairly stringent measures and a serious effort to try to manage biodiversity better is clear. If Natural England had not had that European propulsion behind it, it would not have gone as far as it has in certain respects. Moreover, some of the cuts that have been imposed on the organisation, not through its own fault, might have gone further without those European obligations behind it.

**Baroness Parminter:** Following on from there, we have heard that in recent years Natural England has cut back on its data collection capacity in respect of the obligations imposed on it by European directives. Martin has talked about how the public will get environmental justice in the
future. What is the scale of that issue? If there is no knowledge base, it is not going to be possible anyway. How can we ensure that the knowledge base on biodiversity is not diminished further so that the capacity to pursue environmental justice can be achieved?

**Martin Nesbit:** That is clearly an important question. One of the impacts of any constraint or reduction in expenditure for a body is that it will tend to focus on its legal obligations rather than the nice-to-have elements of its remit. The extent to which the provision of credible evidence and data behind the responsibilities of Natural England or other bodies is written into its legislative remit is therefore important. However, I do not have any detailed suggestions to make on how that would be achieved, but it is clear that without the evidence it is difficult to develop policy in a credible way. Similarly, it is difficult for individual members of the public and public interest groups to challenge the ways in which policy is developed and implemented.

**David Baldock:** We would be inclined to argue that, should there be a new body of the kind that we talked about at the beginning of this session, it should have a remit to try to ensure that there is adequate monitoring, reporting and transparency. Indeed, it would be desirable to see more transparency and engagement than we have at the moment, particularly if there is to be more locally based participation in land management, which a lot of people see as being an important opportunity. As long as the reporting and transparency can ensure that everyone is fully informed so that no one goes off in diverse and undesirable directions, a new body could help to oversee that. There would be, if you like, an incentive at that level as well as one at a lower level. As has been said, we have seen evidence that Natural England, which to be frank is under very considerable financial pressure, has had to cut back on certain things, and has cut back on some of that monitoring.

**Baroness Byford:** Can I just ask a follow-up question? Evidence that we have heard suggests that some of the data coming in has been collected, if I may be forgiven for putting it like this, in a slightly informal way. There is no solid evidence of the sort of data that Lady Parminter suggested. If it is not there, how can it be drawn together?

**David Baldock:** One of the UK’s great assets is our communities of naturalists and people who observe nature. I think that one has to accept that there are limits to how much money one is prepared to pay, but an organisation that is capable of bringing together work that is sometimes done informally as well as on a statutory basis would be helpful. It is also worth noting that a lot of European policy draws heavily on evidence coming from the UK and elsewhere. We have some of the best evidence of anywhere of how the natural environment works and on how interactions develop. The kind of work being done here, of which monitoring is a fundamental building block, will continue to be influential. However, it needs a body that can provide quality control and organise the data in a sufficiently rigorous way.
Q174 **The Earl of Arran:** We have heard that the biodiversity duty in the NERC Act lacks any bite or effect. Do you think that a duty on public authorities to report on how they have implemented the biodiversity duty could ensure the continuation and even possibly the widening of the reporting obligations that are currently to be found in other EU countries?

**Martin Nesbit:** I will start by confessing that, although I was a director in Defra for several years, I was never particularly conscious that my department was under the duty imposed on it by Section 40. I suspect that perhaps one or two of the dozen or so people around the table at senior management meetings might have been aware of Section 40, but it was not something where people would say, “I had better think about our obligations under Section 40 of the NERC Act before making this decision”. That is Defra. To some extent, of course, part of Defra’s reason for being is precisely to deliver the biodiversity policy, but I would be surprised if officials at the head of HMRC, which obviously has a big impact on invasive alien species and border protection, or officials in most government ministries are aware of Section 40. I would also be surprised if most of the chief executives of local authorities are aware of it. It is a weakly phrased requirement, and therefore potentially ignorable, and therefore probably ignored by most of the bodies to which it applies.

A more rigorous duty to report on the biodiversity impacts of what an organisation is doing would be more valuable. Clearly we need to be careful about the number of reporting obligations on general interest topics that are imposed on bodies across public administration. There are already requirements on issues such as gender equality, disability and climate change, so you need to be mindful of that. One option would be to try to focus a reporting obligation on biodiversity on those organisations – particularly planning authorities - and central government agencies that are interested in it, by requiring the Secretary of State to set out a list of the bodies to which the duty would apply and to update that list on a regular basis. The Secretary of State’s decisions would then themselves be justiciable as regards who the duty applies to, but you would avoid a situation where you are asking, for example, the Department for Work and Pensions to report regularly to Parliament on its biodiversity impacts, which would be nil.

**David Baldock:** Our colleagues who work specifically on biodiversity feel that such an obligation would work better if it had clear and reliable measures of biodiversity through appropriate metrics and referred to certain species and habitats, in particular those listed under Section 41 of the NERC Act. Their feeling is that an obligation would be more helpful if it were tied into something rather more concrete. However, neither of us works on this issue on a daily basis.

Q175 **The Earl of Caithness:** Can I focus on how government agencies implement their responsibilities? I think that Mr Nesbit will be able to shed some light on this. We have Natural England with its broad sweep of responsibilities. We have the Environment Agency and we have some very good and some very bad NGOs along with certain other environmental delivery bodies. Is the structure right or is this a good...
opportunity to have a rethink and then reorganise these responsibilities in a better way to implement the policy?

**Martin Nesbit:** Shall I start on this, and then David can correct me if I am wrong? Both Natural England and the Environment Agency have reasonably clear remits and a reasonably clear understanding of the division of responsibilities between them. In my experience, they are pretty good at talking to each other in areas where they have common interests or there is an element of overlap in their activities. That said, if the Secretary of State says that he wants to set up a new monitoring and governance body, almost of necessity that body would either take on some of the responsibilities of Natural England and the Environment Agency, or if not it would almost certainly take on some of their staff, because the expertise would be found largely in those two bodies. That in itself would probably trigger a need to think again about the structure of the two organisations. I am reluctant to say that because my experience is that restructuring within government for the delivery of efficiency savings almost invariably generates significant disbenefits in the early years of the new organisation and fails to deliver the efficiency benefits that were meant to be the positive in the restructuring. However, I think that in the current circumstances there is an inevitability about thinking again on Natural England and the Environment Agency.

**The Earl of Caithness:** Would you advise the Secretary of State that he ought to be thinking of a model such as that of the former HM Inspectorate of Pollution?

**Martin Nesbit:** Probably not, because I would say that HMIP was much more focused on large-scale industrial point-source emissions and less focused on some of the areas of responsibility of Natural England and the Environment Agency. The range of environmental legislation and policies has probably moved on a little since HMIP was folded into the Environment Agency.

**David Baldock:** There is bit of tension here. As Martin said, this is a good moment to reflect on what the different institutions do, as this is a watershed. We will have less external restraint than before. There will be new relationships between England, Scotland, Wales and Northern Ireland; considerable devolution will take place, which will change the world that we know. So it is sensible on that side. On the other side, with so many other things changing, including devolution, and with the uncertainty for farmers and people involved in nature conservation arising from how the Government will follow the withdrawal Act exactly, if you choose to change another thing that you do not need to change at the same time, you amplify that uncertainty. So if there were to be a new body of the sort that the Secretary of State is talking about, maybe it would make sense to make sure that there was a clear understanding of how the different institutions fitted together and a clear understanding of how the devolution settlement would work, including in marine areas, for example, and to think through how we get the institutional architecture for the UK right; but perhaps not to accelerate that process too rapidly. There are arguments other ways, but there are interconnections and
trade-offs between which bits of the architecture you change and how rapidly.

**Lord Cavendish of Furness:** I would like to ask about something that has emerged from this session. From the papers that I have read, it seems that the Commission has been responsible for holding the British Government to account on environmental matters. This will now change and people ask what will take its place. Although I am a great age, I cannot remember what the arrangement was before we joined the EC for holding the Government to account.

**David Baldock:** What happened was that the Government were not held to account in the same way, to put it at its most basic. We did some pioneering things. Often the Government would have the powers to pursue a certain line of attack, such as reducing air pollution, but if they took a long time to do so and chose not to spend much money on it until the moment seemed right to some incoming Government, then it did not happen. There has been a certain pace and discipline about procedures since we joined the EU that was not there before.

**The Chairman:** To go back to Lord Caithness’s question, Dieter Helm indicated to us that he felt that the whole flood defence side of the Environment Agency did not fit very well with the HMIP duties and that that ought to go back to Natural England. Have you thought about that?

**David Baldock:** I personally do not have a view on that, because we have not really looked at it and we try to be a bit evidence-based. Martin may be wiser.

**Martin Nesbit:** I doubt it. The honest answer to whether I have thought about that is no. I could start thinking about it on the hoof, but it probably would not—

Q176 **The Chairman:** You had better not think about it on the hoof. My final question is the same as to the last witnesses. If you had one wish for us to put into our report, what would it be?

**David Baldock:** A helpful recommendation, from our perspective, would probably be if you felt that there was a role for a new governance institution to support and oversee the implementation of policy and to give the UK some momentum and sense of forward direction in this area.

**The Chairman:** Mr Nesbit, would you support that? You are allowed a second one, if you wish.

**Martin Nesbit:** I am tempted to say that my recommendation would be, "Don’t leave the European Union", but that would probably not be very helpful to the Committee. I would say instead that the long-term nature of environmental policy and commitments and the follow-through necessary to ensure that they are delivered have been helped to some extent by the relative lack of swiftness with which the European Union changes course on things. Once you leave the European Union, the UK system is not wholly dissimilar to that of Jacobin France moderated by a
House of Peers; so the chances of rapid change in policy increase significantly. That could either be rapid change in the right direction or rapid change in, from an environmental perspective, the wrong direction. In either case, the mere fact of chopping and changing policy and legislation makes it difficult both for businesses and for the delivery of environmental objectives. We need to bear in mind that fragility of the UK system outside the constraints of the European Union, and think about what sort of structures would make it easier to hold the Government to account on the delivery of promises that they make on environmental subjects.

**The Chairman:** With a degree of stability. Thank you both very much for coming to see us today. It was a very good evidence session.