



HOUSE OF LORDS

European Union Committee

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27th Report of Session 2006–07

# **Water Framework Directive: Making It Work**

Report with Evidence

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The telephone number for general enquiries is 020 7219 5791.

The Committee’s email address is [euclords@parliament.uk](mailto:euclords@parliament.uk)

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*Mr. Ian Pearson MP, Minister of State for Climate Change and the*  
*Environment, Department of Environment, Food and Rural Affairs*  
*Mr. Ian Macdonald, Water Quality Division, Department of Environment,*  
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*Mr. Rob Hitchen, Water Quality Division, Department of Environment,*  
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## **FOREWORD—What this Report is about**

The European Union adopted ambitious new legislation in 2000 designed to protect and restore clean water in sufficient quantity across Europe. Making it work, however, creates many challenges for all those involved, including not only public authorities but many other organisations whose duties and activities are linked to water or nearby land.

Putting the Water Framework Directive into practice also requires some of its aspirations to be quantified in the form of binding standards. The importance of making sure that these standards are set at an appropriate level led us to take evidence from the UK Government and from the Environment Agency.

Implementation seems to be proceeding relatively well throughout the United Kingdom, although it is still very early days. If its success so far is to continue, partnership is key. Local authorities, planners, government and farmers, to name but a few, must work together.

In some instances, it may prove disproportionately costly or technically impractical to achieve in the short term the ambitious targets that are demanded. That is why some flexibility is built into the Water Framework Directive, but it is crucial that this flexibility is not abused.



# Water Framework Directive

## CHAPTER 1: FACTUAL BACKGROUND

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### *The Water Framework Directive*

1. The Water Framework Directive<sup>1</sup> (WFD) represents a new, innovative and coherent approach to water protection in the EU. It establishes a framework for the protection of inland surface waters, transitional waters (partly saline waters close to river mouths), coastal waters and groundwater. All such waters should reach “good status” by 2015. Once standards have been adopted by the Member States, the main tool used to achieve them is to establish a “River Basin District” structure within which environmental objectives should be set. The integrated River Basin District approach dealing with all relevant types of water was a step forward, replacing the previous fragmented approach to water protection. Another innovation of the WFD is to add biological standards to the existing focus on chemical standards as a method of assessing water quality. The challenge of the WFD lies in setting ambitious targets for each River Basin District, ensuring at the same time that the timetable laid down in the WFD is respected.

### *Flexibility within the Water Framework Directive*

2. An important feature of the WFD is the level of flexibility built into it. Article 4 permits a maximum 12-year extension of the 2015 deadline for reasons such as technical feasibility, disproportionate cost and the impact of natural conditions. Where the extension is applied, however, a timetable for meeting the standards must be laid down. Temporary deterioration in the status of water in cases of *force majeure* is not regarded as a breach of the WFD.

### *“Daughter Directives”*

3. Under the WFD, the European Parliament and Council are required to adopt “Daughter Directives”. The first, the Groundwater Directive<sup>2</sup>, was agreed in 2006. It lays down specific measures with the aim of achieving “good groundwater chemical status”. The second, the proposed Priority Substances Directive<sup>3</sup>, is still under negotiation. Once adopted, it will lay down environmental quality standards in surface waters for certain priority substances identified in 2001<sup>4</sup>.

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<sup>1</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework of Community action in the field of water policy. OJ L237 22.12.2000 p. 1–73

<sup>2</sup> Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration. OJ L372 27.12.2006 p.19–31

<sup>3</sup> COM(2006)397, 17 July 2006. Proposal for a Directive of the European Parliament and the Council on environmental quality standards in the field of water policy and amending Directive 2000/60/EC.

<sup>4</sup> Decision 2455/2001/EC of the European Parliament and of the Council of 20 November 2001 establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC. OJ L331 15.12.2001 p.1–5

### *Our Inquiry*

4. The proposed Priority Substances Directive was published on 17 July 2006 and sent to the Committee as part of the Parliamentary scrutiny process. Under Article 16 of the WFD, the European Parliament and Council are required to adopt specific measures to deal with certain priority substances which were identified in 2001. The proposed Priority Substances Directive fixes standards and emission controls for these substances. We felt that our examination of this “Daughter Directive” needed to be set in the context of the UK’s experience thus far with the WFD and we therefore invited the Environment Agency and the Department for the Environment, Food and Rural Affairs (Defra) to appear before us.

### *Shared responsibilities: Defra, the Environment Agency and Devolution*

5. The Water Framework Directive binds the UK as a whole but as it falls within the responsibility of the Devolved Administrations, it has been transposed into domestic legislation by Defra (for England), the Welsh Assembly Government, the Scottish Executive and the Department of the Environment in Northern Ireland. Each Administration shares the implementation role with an agency—respectively: the Environment Agency (England and Wales), the Scottish Environmental Protection Agency and the Environment and Heritage Service (Northern Ireland).
6. The Agencies are required to:
  - characterise River Basin Districts (RBDs);
  - identify bodies of water used for the abstraction of drinking water;
  - prepare, review and keep up to date a register of protected areas for each RBD;
  - put in place monitoring programmes to establish an overview of water status within each RBD;
  - prepare and submit for approval by the appropriate Administration a draft River Basin Management Plan for each RBD.

These draft River Basin Management Plans should contain proposed environmental objectives for water bodies and proposed programmes of measures. The Plans must also note the process used during their development, ensure proper consultation and publicity and take account of the views of interested parties.

7. The Environment Agency is working with the other agencies to draw up standards and conditions across the UK. This work is taking place within the UK Technical Advisory Group on the Water Framework Directive (UKTAG)<sup>5</sup>. The Group includes, in addition to the three agencies, the Countryside Council for Wales, Natural England, the Joint Nature Conservation Council, Scottish Natural Heritage and the Republic of Ireland’s Department of Environment and Local Government.
8. Defra’s specific responsibility includes:
  - approving environmental objectives, programmes of measures and River Basin Management Plans;

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<sup>5</sup> <http://www.wfduk.org/>

- the power to issue guidance to the Environment Agency and other relevant bodies, to which they are bound to have regard.

*European Commission Report on Implementation*

9. In March 2007 the European Commission submitted a Report on the first stage in the implementation of the Water Framework Directive<sup>6</sup>. The Commission concluded that “reports from the Member States on their initial obligations under the Water Framework Directive show some encouraging results, although there are major shortcomings in some areas. There is still time to remedy the gaps before 2010, when the first river basin management plans have to be adopted.”<sup>7</sup>
10. The Commission noted<sup>8</sup> that in 2004 it launched a legal infringement case against the UK and ten other Member States. This has since been resolved. More specifically, the Commission focused its assessment on five key provisions. The UK was judged positively in the way it has transposed into domestic law the public participation provisions and the definition of water services provision. It was considered less successful in its implementation of Article 4 (environmental objectives) and Article 9 (recovery of costs for water services), although the Commission was not precise in its concerns with regard to these Articles.
11. The Commission’s Report included a section (based on recent data submitted by Member States) on how likely water bodies are to achieve the WFD’s objectives. By way of example, 75% of the UK’s surface water bodies, and 60% of groundwater bodies, were considered to be at risk of failing the WFD objectives<sup>9</sup>. This compared with an average across the EU of 40% and 30% respectively, although data were not complete.
12. Crucial to the Committee’s consideration of the proposed Priority Substances Directive was the Commission’s assessment of the quality of information provided by Member States on the pressures and impacts for the relevant substances. The Commission stated that the information provided was very incomplete. For example, “inventories of significant pollutants emitted and pollutant loads have often not been provided.”<sup>10</sup>
13. We make this report to the House for information.

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<sup>6</sup> COM (2007) 128 final “Communication from the Commission to the European Parliament and the Council: Towards sustainable water management in the European Union—First stage in the implementation of the Water Framework Directive 2000/60/EC”. This Communication is currently held under scrutiny by the Committee.

<sup>7</sup> COM(2007) 128 final P. 12

<sup>8</sup> SEC (2007)362 Accompanying Document to the Commission Report on Implementation (COM(2007) 128 final). P.10

<sup>9</sup> Ibid. P.28 & 29

<sup>10</sup> Ibid P.31

## CHAPTER 2: THE ISSUES

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### *Implementation*

14. There was consensus among our witnesses that the UK had met its obligations thus far in terms of implementing the Water Framework Directive. Tricia Henton, Director of Environmental Protection at the Environment Agency, stated that “to date the UK has met all its statutory requirements ... either on time or indeed ahead of time” (Q 4). Ian Pearson MP, Minister of State for Climate Change and the Environment, agreed: “Defra and the Environment Agency have actually met all the Directive’s deadlines so far and we expect to continue to be implementing them according to the schedule and what is envisaged” (Q 54).
15. We were pleased to hear from both sets of witnesses that the implementation of the WFD had been successful thus far, although we were subsequently disappointed to learn that the Commission had launched a legal infringement case against the UK in 2004 and that the Commission was not content with other aspects of the UK’s implementation of the WFD. **We trust that Defra, the Devolved Administrations and the three Agencies will make all possible efforts to implement their obligations according to the schedule and the substance of the Water Framework Directive.**
16. **We also urge the Government to take action on the matters raised by the Commission in its Report on the implementation thus far of the Water Framework Directive.**

### *Co-operation with the Devolved Administrations*

17. Both the Environment Agency and Defra made clear that there was a high level of co-operation between the Administrations with regard to implementation of the WFD. The Minister stated: “There is England/Wales, England/Scotland co-ordination, and also with Northern Ireland as well there is a good deal of co-ordination. There is obviously some international cross-over with the river basins as well between the north and south in Ireland” (Q 54).
18. By way of example, Ms Henton highlighted the fact that there is one River Basin District straddling the border between England and Scotland: the Solway/Tweed area. She said: “The Solway/Tweed River Basin District is a very interesting one, because we are dealing with two different administrations and two slightly different ways of implementing the legislation. It therefore requires all of us who are involved in it to go that extra mile to make sure that we are getting what we want out of the river basin district and that we are keeping the legal aspect of each of the administrations correct” (Q 17).
19. **We note the importance of effective co-operation between the Devolved Administrations and are pleased to hear that such co-operation appears to be taking place.**

### *Definition of “Good Status”*

20. Aileen Kirmond, Water Framework Directive Programme Manager at the Environment Agency, informed the Committee that the Agency was “working closely with both our other environment agencies and our

conservation agencies and with the other administrations to look at what good status looks like” (Q 6). The Environment Agency was also working with the European Commission and the other Member States through a process described as “inter-calibration”. Rob Hitchen, from the Water Quality Division of Defra, explained: “What Member States are trying to do through inter-calibration is a process of harmonising the ecological classification systems of each Member State” (Q 71). It was then up to Member States to decide, for example, what level of ammonia in their rivers or lakes would support an agreed diversity of fish fauna. Mr Hitchen said: “You have a common EU approach, if you like, in broad terms in defining the ecological status but then there is the flexibility for Member States to define what that means to its levels of ammonia, levels of phosphates in rivers and lakes, because it is going to vary across the EU depending on climatic and geographical factors” (Q 71).

21. The Minister emphasised that, thanks to the UKTAG, the administrations were “developing common UK environmental standards and conditions that will support the achievement of good status under the Water Framework Directive” (Q 70).
22. The evidence we have received suggests that strenuous efforts are being made to arrive at a satisfactory definition of ‘good status’. **We hope that the work involved will be completed in a timely manner in order that all concerned can make the necessary preparations.**

#### *Flexibility and Achieving “Good Status”*

23. Baroness Young, Chief Executive of the Environment Agency, emphasised: “The Framework Directive is a very flexible one ... there is a bit of a feeling that everything has to be done by 2015. Nothing could be further from the truth.” She explained that, while major progress should be made by 2015, “there will still be a lot to do” (Q 8). This, she explained, was for a number of reasons: the failure to meet the cost-effectiveness test; long lead times; technical reasons. A crucial factor would be the level of collaboration between all concerned, such as water companies, local authorities, developers and farmers (Q 14).
24. The Minister explained that the WFD allowed Member States “to set alternative objectives to extend the deadline [of 2015] by one or two cycles, which would be 2021 or 2027. One of the key justifications when deciding what those alternative objectives might be is that measures and mechanisms needed to achieve the objective would be disproportionately costly” (Q 67). Elaborating on this, he said: “You have to look at the costs required to produce marginal increases in benefits” (Q 69).
25. Ms Henton emphasised that the Environment Agency needed Defra to complete its preliminary cost-effectiveness analysis as soon as possible: “That is a very, very important part for us because without that we really cannot set the objectives ... and we need guidance from them on what is considered to be disproportionate costs” (Q 44).
26. It is clear to us that the flexibility enshrined within Article 4 of the WFD is pivotal to the success or otherwise of the WFD. **We urge the Government to clarify as soon as possible what are considered to be disproportionate costs for the purposes of Article 4. We consider too that the flexibility provision must be applied responsibly, recalling that it provides a temporary derogation rather than a long term exemption.**

### *New Testing Methods*

27. Baroness Young confirmed, in relation to the new standards introduced by the WFD, that “quite a lot of the monitoring that is already in place will serve for the purposes of the Framework Directive but some of it will not, particularly on the biological side” (Q 16). Nevertheless, Ms Henton emphasised, “we are very well prepared; certainly as prepared as any other European country” (Q 16).

### *Local Authorities*

28. The Environment Agency told us that it was aware that local authorities needed to build the requirements of the Water Framework Directive more effectively into spatial and economic planning mechanisms (Q 22). Baroness Young suggested that “the area that is probably the most difficult and least well thought through at the moment is the issue of surface water drainage and sewerage” (Q 48).
29. The Minister told us: “We would expect local authorities to have strategic discussions through the Agency’s River Basin District Panels and possibly sub-groups of those panels, which are the forums in which the River Management Plans negotiations and discussions will take place” (Q 81). He confirmed that Defra was working with the Department for Communities and Local Government, and other relevant Departments, on implementation of the WFD (Q 80).
30. Baroness Young said that the Environment Agency wished to see a requirement laying a more stringent requirement on local authorities to deliver the objectives of river basin plans, rather than the current requirement to have “due regard” to the objectives of river basin planning (Q 25). The Minister did not agree. His view was that, as the objectives of the river basin management plans had not yet been set, it was a little early to judge what the requirements on local authorities might be. “But there are clearly issues”, he said, “in terms of the planning process that we will need to take account of in the future.” (Q 78) He added: “What the appropriate balance of responsibilities is, I think, will have to be determined on a River Basin District basis” (Q 79).
31. The evidence received indicates the key role of local authorities in delivering the objectives of the Water Framework Directive. **The Government should work more closely with local authorities and ensure that local authorities have the necessary guidance in order to fulfil their role in relation to the Water Framework Directive, particularly with regard to local planning policies.**

### *Agriculture, Diffuse Pollution and Hydromorphology*

32. Agriculture also has an important role. According to Baroness Young, the agricultural departments needed to look at how they could help farmers “do the right thing by the water environment” (Q 22). She noted: “Pillar 2<sup>11</sup> and the incentive payments on Pillar 2 will be a really important issue”, although

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<sup>11</sup> The Common Agricultural Policy has two “Pillars”. The first is for direct payments paid to farmers under the new Single Payment Scheme and the second (Pillar 2) is for more general funding of rural development, including agri-environment measures.

in terms of funding, “there will be rather less available in Pillar 2 for agri-environment schemes than we had hoped” (Q 36).

33. According to the Minister, “agriculture is certainly one of several sectors that may, and probably will, need to take action to ensure that the Water Framework Directive objectives are met ... We believe strongly in cross-compliance<sup>12</sup> and, as you will be aware, we have various schemes through environmental stewardship to encourage good environmental practice above the basic cross-compliance requirements” (Q 77).
34. A particular problem is diffuse pollution, which can result from the filtering through of pesticides into water courses. In addition to agriculture, however, it can equally apply to other land-based activities emitting pollutants which are dispersed across an area and into water courses. Hydromorphology is concerned with the physical form and the flow of a water body. This can be affected by human intervention through structures such as dams, weirs, bridges and artificial beaches.
35. The Environment Agency expressed a desire to see Defra launch consultations on diffuse pollution and on hydromorphology (Q 44). The Minister told us: “We intend to consult shortly on a package of measures with regard to diffuse pollution, in particular pollution from phosphorous, sediment and faecal indicator organisms ... There are certainly plans to tackle diffuse pollution, but we will want to do it in partnership and in consultation with the industry” (Q 77).
36. **The agricultural industry has a key role to play in ensuring the success of the Water Framework Directive. We urge the Government to work closely with the agricultural industry to overcome potential obstacles, including diffuse pollution, to the meeting of the Water Framework Directive’s objectives.**
37. **We welcome the fact that, since both Defra and the Environment Agency gave oral evidence to us, the former has launched a public consultation on both diffuse pollution and on hydromorphology.**<sup>13</sup>

### *Public Participation*

38. The Environment Agency expressed a strong view that the general public was more interested in outcomes than in process. Participation was, however, crucial for those who must deliver as part of the implementation process. Baroness Young stated that the WFD “guides us to make sure that the people who need to be involved because they deliver are participating, and that the public need to be informed” (Q 24). The Minister stated: “I am confident that people who want to get involved with this process will have the opportunities to be involved” (Q 74).
39. Following the publication of the oral evidence, we were contacted by the Foundation for Water Research (FWR), an independent registered charity which has set up a website in order to provide information on the Water Framework Directive. The FWR disagreed with the assertions made by both Baroness Young and the Minister. It believed that the WFD “provides an

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<sup>12</sup> Receipt of the full Single Payment under the Common Agricultural Policy is conditional upon fulfilment of a number of conditions relating to the environment, animal welfare and public health.

<sup>13</sup> <http://www.defra.gov.uk/corporate/consult/nadwp-hydromorphology/index.htm>

ideal opportunity to engage the general public in water environment issues” (p 28).

40. We showed the FWR’s comments to the Environment Agency, who pointed out that the experience derived from its Pilot Scheme in the Ribble Basin “gave us practical evidence for the ideal shape of River Basin Liaison Panels”, involving “all the sectors contributing to delivery, including consumers, environmental non-governmental organisations and local authorities” (p 29). Defra also disagreed with the FWR’s view. It noted that the National Stakeholder Forum for England on the Water Framework Directive meets every 3–4 months and comprises over 40 national organisations, including the FWR. That forum had two sub-groups, on economics and on communication of the WFD to wider audiences. The work of the latter had been extremely useful in communicating “the initial results of the river basin characterisation exercise in 2004 to a wider audience (which also received coverage in national newspapers and radio)” (p 30).
41. **On the basis of the evidence provided by Defra and the Environment Agency and in view of the Report by the European Commission, we conclude that the public participation obligations prescribed in the Water Framework Directive are being met. Nevertheless, we consider it important that this aspect should be reviewed on a regular basis to ensure that all those wishing to participate are able to do so in an informed manner.**
42. **We believe also that the approach taken by Defra and the Environment Agency should be driven by the principle that the greater the public participation over and above the legal requirements, the greater the likelihood of success in implementing the Water Framework Directive.**

#### *The Marine Bill*

43. The Environment Agency believed that any new marine legislation must take account of the WFD because the WFD included within its scope estuarine and coastal waters (Q 44). The Minister confirmed that “we will take full account of the Water Framework Directive in our design for the detail, the policy that goes into the Marine Bill” (Q 84).

#### *Stakeholder Consultation*

44. Baroness Young informed the Committee that Defra would have a national stakeholder group and that the Environment Agency would have a national group to bring together some of the experience coming out of the River Basin District Liaison Panels (Q 31). An important lesson that had been learned from the Environment Agency’s Ribble Basin pilot scheme was that partnership is crucial. Baroness Young told us: “We held the ring and people got together but they started talking together and went away holding hands into the sunset and did things together, and it was great. I think the Ribble Conservation Trust really got great benefit from new people being brought in that they had not previously had a framework to talk with” (Q 43).

#### *The Daughter Directives*

45. Ms Kirmond informed the Committee that both the Groundwater Directive and the draft Priority Substances Directive were there “because Europe

could not reach agreement on them during the time of the agreement on the main body of the directive” (Q 50). They should therefore “be part of the whole regulatory framework that helps us to achieve good ecological status, both on the biological and chemical and quantitative basis” (Q 50).

46. Ms Kirmond noted that the Environment Agency had been heavily involved in the negotiation of both Directives. With regard to the Priority Substances Directive, she said, “We are working very hard and supporting Defra in that negotiation so that we will get something which helps us to be in a good position to replace the Dangerous Substances Directive<sup>14</sup>. But we are also thinking very carefully about the applicability of the directive and what it will mean in terms of regulation and whether it is a reasonable approach. So we always have that in our mind as well, the reasonability of the chemical standards that are being proposed and whether they are transposable into reality” (Q 50).
47. The Minister expressed “concerns about the safety factors that have been used to calculate EQSs (Environmental Quality Standards) where there is not the available toxicological data in some cases. We think that this is resulting in highly precautionary and stringent standards that could actually drive very costly investment to achieve objectives and might only have marginal environmental benefit ... We would favour having provisional standards and seeing lower safety factors” (Q 64).
48. Ian Macdonald, from the Water Quality Division of Defra, explained: “It is getting the balance between a properly precautionary approach and the certainty in the calculation of the correct and scientifically correct quality standard ... It may be in a few years’ time we will realise that we would have been doing enough with perhaps a less precautionary standard, and our approach would be in negotiations to see whether the Commission and other Member States would consider a provisional standard, as they have already proposed for a couple of metals” (Q 65).
49. On the possible costs of the draft Directive, the Minister stated: “The cost of end-pipe controls to achieve environmental quality standards are estimated at some one billion [pounds] for additional treatment at water industry sewerage treatment works if we were required to meet all the requirements in the Directive as they stand in the proposal at the moment” (Q 67). This assumed that the flexibility enshrined within Article 4 would not apply.
50. The Minister concluded: “One of the key things of the [Water Framework] Directive overall is that Article 4 makes it clear that members would not be required to take action which would incur disproportionate cost or which is not technically feasible within allotted timescales. I think that principle has to apply to all the Daughter Directives and this is very much a key part of our negotiating remit as we move forward with this proposal on priority substances” (Q 86).
51. **We agree that a proportional approach must be taken to the new Priority Substances Directive. In line with the Water Framework Directive, it is appropriate to apply to the Priority Substances**

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<sup>14</sup> Council Directive 67/548/EEC (as amended) of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances. OJ 196 16.8.1967 p.1-98

**Directive the flexibility enshrined within Article 4 of the Water Framework Directive.**

52. **Our assessment of the implementation of the Water Framework Directive thus far indicates that the standards laid down must be transposable into reality, taking into account the complexities of delivering this legislation. We hope that the experience gained from implementing the first stages of the Water Framework Directive will provide a constructive input into the negotiations taking place in relation to the new Daughter Directive.**
53. **We are concerned that the general level of information provided by the Member States in relation to priority substances has been weak, and consider that the speedy adoption of the Priority Substances Directive will strengthen implementation of legislation in this area.**

### **CHAPTER 3: CONCLUSIONS AND RECOMMENDATIONS**

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53. We trust that Defra, the Devolved Administrations and the three Agencies will make all possible efforts to implement their obligations according to the schedule and the substance of the Water Framework Directive. (Paragraph 15)
54. We also urge the Government to take action on the matters raised by the Commission in its Report on the implementation thus far of the Water Framework Directive. (Paragraph 16)
55. We note the importance of effective co-operation between the Devolved Administrations and are pleased to hear that such co-operation appears to be taking place. (Paragraph 17)
56. We hope that the work involved in arriving at a satisfactory definition of “good status” will be completed in a timely manner in order that all concerned can make the necessary preparations. (Paragraph 22)
57. We urge the Government to clarify as soon as possible what are considered to be disproportionate costs for the purposes of Article 4. We consider too that the flexibility provision must be applied responsibly, recalling that it provides a temporary derogation rather than a long term exemption. (Paragraph 26)
58. The Government should work more closely with local authorities and ensure that local authorities have the necessary guidance in order to fulfil their role in relation to the Water Framework Directive, particularly with regard to local planning policies. (Paragraph 31)
59. The agricultural industry has a key role to play in ensuring the success of the Water Framework Directive. We urge the Government to work closely with the agricultural industry to overcome potential obstacles, including diffuse pollution, to the meeting of the Water Framework Directive’s objectives. (Paragraph 36)
60. We welcome the fact that, since both Defra and the Environment Agency gave oral evidence to us, the former has launched a public consultation on both diffuse pollution and on hydromorphology. (Paragraph 37)
61. On the basis of the evidence provided by Defra and the Environment Agency and in view of the Report by the European Commission, we conclude that the public participation obligations prescribed in the Water Framework Directive are being met. Nevertheless, we consider it important that this aspect should be reviewed on a regular basis to ensure that all those wishing to participate are able to do so in an informed manner. (Paragraph 41)
62. We believe that the approach taken by Defra and the Environment Agency should be driven by the principle that the greater the public participation over and above the legal requirements, the greater the likelihood of success in implementing the Water Framework Directive. (Paragraph 42)
63. We agree that a proportional approach must be taken to the new Priority Substances Directive. In line with the Water Framework Directive, it is appropriate to apply to the Priority Substances Directive the flexibility enshrined within Article 4 of the Water Framework Directive. (Paragraph 51)

64. Our assessment of the implementation of the Framework Directive thus far indicates that the standards laid down must be transposable into reality, taking into account the complexities of delivering this legislation. We hope that the experience gained from implementing the first stages of the Water Framework Directive will provide a constructive input into the negotiations taking place in relation to the new Daughter Directive. (Paragraph 52)
65. We are concerned that the general level of information provided by the Member States in relation to priority substances has been weak, and consider that the speedy adoption of the Priority Substances Directive will strengthen implementation of legislation in this area. (Paragraph 53)

## **APPENDIX 1: SUB-COMMITTEE D (ENVIRONMENT AND AGRICULTURE)**

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### **Sub-Committee D**

The members of the Sub-Committee which conducted this inquiry were:-

Lord Bach  
Viscount Brookeborough  
Lord Cameron of Dillington  
Lord Greaves  
Baroness Jones of Whitchurch  
Baroness Miller of Chilthorne Domer  
Lord Moynihan  
Lord Palmer  
Lord Plumb  
Lord Sewel (Chairman)  
Viscount Ullswater

### **Declarations of Interest**

A full list of Members' interests can be found in the Register of Lords Interests:

<http://www.publications.parliament.uk/pa/ld/ldreg.htm>

## **APPENDIX 2: LIST OF WITNESSES**

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The following witnesses gave evidence. Those marked \* gave oral evidence.

- \* Department of Environment, Food and Rural Affairs
- \* Environment Agency
- Mr. David R Woods, Chairman, Foundation for Water Research

## **APPENDIX 3: RECENT REPORTS**

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### **Recent Reports from the Select Committee**

#### *Session 2006–07*

Evidence from the Minister for Europe on the Outcome of the December European Council (4th Report, Session 2006–07, HL Paper 31)

Government Responses: Session 2004–05 (6th Report, Session 2006–07, HL Paper 38)

The Commission's 2007 Legislative and Work Programme (7th Report, Session 2006–07, HL Paper 42)

Evidence from the Ambassador of the Federal Republic of Germany on the German Presidency (10th Report, Session 2006–07, HL Paper 56)

The Commission's Annual Policy Strategy for 2008 (23rd Report, Session 2006–07, HL Paper 123)

Evidence from the Ambassador of the Federal Republic of Germany on the German Presidency (24th Report, Session 2006–07, HL Paper 125)

### **Recent Reports prepared by Sub-Committee D (Environment and Agriculture)**

#### *Session 2005–2006*

The Future Financing of the Common Agricultural Policy (2nd Report Session 2005–06, HL Paper 7)

European Union Fisheries Legislation (7th Report Session 2005–06, HL Paper 24)

The United Kingdom Presidency: Defra's Priorities, (12th Report Session 2005–06, HL Paper 36)

Too much or too little? Changes to the EU Sugar Regime (18th Report Session 2005–06, HL Paper 80-I and 80-II)

Managing nuclear safety and waste: the role of the EU (37th Report Session 2005–06, HL Paper 211-I and 211-II)

The EU Strategy on Biofuels: from field to fuel (47th Report Session 2005–2006, HL Paper 267-I and 267-II)

# Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE OF THE EUROPEAN UNION  
(SUB-COMMITTEE D)

WEDNESDAY 17 JANUARY 2007

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Present	Bach, L	Palmer, L
	Brookeborough, V	Plumb, L
	Cameron of Dillington, L	Sewel, L (Chairman)
	Miller of Chilthorne Domer, B	Ullswater, V

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## Examination of Witnesses

Witnesses: The BARONESS YOUNG OF OLD SCONE, a Member of the House, Chief Executive, Ms TRICIA HENTON, Director of Environmental Protection, and Ms AILEEN KIRMOND, WFD Programme Manager, Environment Agency, examined.

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**Q1 Chairman:** First of all, thank you very much indeed for coming along and helping the Committee as it looks at what flows from the Water Framework Directive. I wonder, Baroness Young, whether you could introduce your team? I should just make clear that the light is on, saying that we are broadcasting. It means that it is going out to a potential audience of millions.

*Baroness Young of Old Scone:* Or, in actual fact, four—and one of them is my mother!

**Q2 Chairman:** There is a potential clearly for a public audience out there to listen to what you have to say. Perhaps you would like to make introductions and make an initial statement, or get straight on to the questions.

*Baroness Young of Old Scone:* May I introduce Tricia Henton, who is our Director of Environmental Protection, and Aileen Kirmond, whose title I have not a clue about because she has just changed.

*Ms Kirmond:* I was the Programme Manager for the Water Framework Directive, but I am now Acting Head of Land Quality—of three days!

*Baroness Young of Old Scone:* They do have a link, in that the Water Framework Directive is a misnamed directive; it should be the “Land Framework Directive”, because it is mostly about what happens on the land.

**Q3 Chairman:** About an hour ago, the water was taking over the land at a rapid rate!

*Baroness Young of Old Scone:* Could I make a brief initial statement, because I think that the Water Framework Directive runs the risk of being oversold. It is an incredibly useful framework for long-term thinking about both land and water management and will give an extremely useful framework for a whole variety of actors: ourselves, water companies, local authorities, farmers, government; but it is a

framework. We do not have very much new money to implement it, and much of it will be required to be delivered through our existing powers. We are therefore asking everyone to see it as a framework and not to load everything on it, because it is quite a big instrument and, if we try to overload it, it will sink under the weight of its own complexity and bureaucracy. There is a very strong flavour in the directive of being understandable by the people who need to play a role. That is one of the important things we want to do: to make it understandable by people who are not of the anorak and techie disposition. A lot of the work that we will be doing is to make things happen in the first cycle, but also, in successive cycles, to have identified in the first cycle what needs to happen thereafter.

**Q4 Chairman:** That is very reassuring. I wonder if I could kick off with a really bring-us-up-to-date question. Give us an idea on progress of implementation of the directive, what has happened so far and whether the timetable is reasonable and being stuck to.

*Ms Henton:* To date, the UK has met all its statutory requirements. We have done that either on time or indeed ahead of time sometimes. That has been due to a lot of hard work by both ourselves and Defra. We work jointly, very closely, with Defra on this, but there is still an awful lot to do and a lot of deadlines to meet. However, our view is that at the moment we are on plan to meet the deadlines. As an example of the sorts of things that we have already achieved on time, obviously the directive has been transposed; that is in 2003. The Article 3 report, which is River Basin District boundaries and the allocation of Competent Authority, was done on time, as was Article 5, which was the River Basin District characterisation reports, which was the first really big, chunky piece of work. The monitoring network

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is now in place. That had to be in by December 2006 and that is now in place. The rather lightly named Statement of Steps and Consultation Measures consultation document was also issued in December 2006. Those are some examples of how we have been moving.

**Q5 Chairman:** You are here and you are responsible for England and Wales. We are sitting as a Committee of the UK Parliament. In your answers to us, as far as you can, could you highlight if there are any particular problems, difficulties, or distinctiveness about matters relating to other parts of the United Kingdom beyond England and Wales? For instance, in the timetable, is that uniform across the United Kingdom? Is everybody doing the same thing? And there are no particular problems anywhere else—in Scotland or Northern Ireland?

*Ms Henton:* No, that is right. Obviously we work very closely, particularly with SEPA, because we have one shared boundary. So we have a River Basin District that straddles the Solway/Tweed area. Although it has been implemented slightly differently in Scotland and in Northern Ireland, all the major deadlines have been met, because of course they are UK deadlines; so it is when Defra reports to Europe.

**Q6 Baroness Miller of Chilthorne Domer:** Clearly the key to a lot of the success of the directive will be the definition of “good status”, which varies from water body to water body. I wonder if you could tell us a bit about the progress you have made in whether or not good status has been defined. It is one of the ongoing difficulties about which I have heard from other organisations, in that it is not yet defined, and some fear that perhaps there may be pressure to lower the standard of “good status”, in order to make it more easily achievable.

*Ms Kirmond:* We can perhaps pick up something there, in that it is a UK view of good status. So it is not just the Agency’s view of good status; we are working across the United Kingdom to achieve that view. Yes, it is an ongoing process and we do not have the final answer yet, because that is dependent on some of the processes that are still happening in Europe. We will not have an absolute definition of it until 2007, but that does not mean that we do not already have a very good picture of what that looks like. You are right: it is divided into different elements. There is a chemical element of good status, which you might perhaps call the traditional view of a pass/fail element. There is a quantitative status, particularly relating to groundwater in terms of good status. The innovation that the framework directive brings, however, is the ecological status, which is very much to do with what communities live in different types of water bodies. So there will be a status

position for each water body. It has three elements that sit within it, therefore. We are working closely with both our other environment agencies and our conservation agencies and with the other administrations, to look at what good status looks like. We are using our monitoring information as an agency, as well as other people’s monitoring information, to get an indicative view of what good status will look like for our water bodies. I think that the work we are doing with Europe means that our current view is likely to accord well with the European view. It is very much fitting in with the European picture. We are working towards that indicative view at the minute, but we will get the final calibration in 2007 when the final view is taken in Europe.

**Q7 Baroness Miller of Chilthorne Domer:** It is 2007 now.

*Ms Kirmond:* Yes. Towards the end of 2007. As we mentioned earlier, there is a timetabling thing and there are timetabling elements, as my colleague said, which means that only certain things will be delivered at certain times.

*Baroness Young of Old Scone:* Could I comment on that from the timetabling point of view? Ideally we would want this work to move as fast as possible, because obviously we are getting on with planning the River Basin Management Plans. There is a step, after Europe comes up with what it decides, when the UK has to set regulations. We do need that to be done pretty promptly, because the worst of all possible regulatory worlds is when regulations arrive late in the day. We are getting quite close to the critical point when we do need to get an outcome from this, and we do need to get UK regulations laid pretty soon after that.

**Q8 Chairman:** Does this mean that basically we have signed up, through the directive, to an obligation to deliver good status? We have signed up to that objective before we know what good status is?

*Baroness Young of Old Scone:* One of our pieces of appraisal of the Water Framework Directive is that it actually does talk about environmental outcomes. So many directives in the past were about process rather than outcome. That is a good tick in its box, therefore. However, yes, you are right. What is good status? That is what the European process has to look at, not least from the scientific point of view but ultimately there will need to be some political view about what good status looks like. The Framework Directive is a very flexible one, because there is a bit of a feeling that everything has to be done by 2015. Nothing could be further from the truth. The reality is that we will be able to hit some major milestones and make some major progress in the way in which

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we manage land and its interface with water by 2015, but there will still be a lot to do. To some extent the Government has not been rash in signing up to something the definition of which it does not know, because it then has successive cycles to move towards these. Of course, there is the cost-effectiveness test throughout; so that, if something clearly is not cost-effective, it will not be met, because that test will not have been fulfilled.

**Q9 Lord Plumb:** Could I ask a supplementary which may sound a bit naive? I live in an area where the water changes every so often because of the supply situation. We go from hard to soft and from soft to hard. That causes a lot of problems in homes where they feel they have to change their equipment, because dealing with hard water is very different from dealing with soft water. Is that part of the question we have, when looking at the status of water?

*Baroness Young of Old Scone:* I do not think that we would be taking account of the impact on your washing machine. We would be looking at the parameters that Aileen outlined, of chemicals, resource level, supply, quantity and ecological status. So I do not think that it would pick up some of these natural, background-level contaminants in water which may render it hard or soft and depending on where your water company is taking it from. I would suggest that you need to talk to your water company about their mixing policy, to see if you can get a more even spread of some of these background substances in the water.

**Q10 Lord Plumb:** It is very strange, but we are actually doing that this morning in my own district. It is an important issue for a lot of locals, who do not quite understand why, suddenly, they find the difference. I am really asking whether, over a period of time, this is going to change. The water authorities are obviously well aware of this and therefore the water itself may well change through processing in different ways.

*Ms Kirmond:* The Framework Directive very much deals with what we see in the environment. It is an environmental measure of hardness, of quantity, of quality; what subsequently happens to it once it is taken, treated and used in the industrial process of the water supplier. Obviously we do talk to the water companies, and we are using quite a lot of their data. They do quite a lot of monitoring in terms of their role as water suppliers, but it does not extend to the consumer end of the tap.

**Q11 Lord Palmer:** Could I quickly ask something? Again, it may be a very naïve question. How many different water companies are you actually dealing with?

*Ms Kirmond:* I think it is 27 water companies: either water company only or water and sewerage.

**Q12 Viscount Brookeborough:** You have already said at the beginning, as I understand, that by 2015 you will have achieved what you are setting out to achieve and yet, a couple of minutes ago, you said that of course it will depend on certain other factors. How confident are you that you really can achieve what is being laid down? There seemed to be a little bit of doubt there.

*Baroness Young of Old Scone:* I think that, with a following wind and good collaboration with government, we can achieve the timetable. We will have done everything we are supposed to have done for the River Basin Plans being delivered and we will have started on the measures to improve the water environment; but we will not be in a situation in terms of good status—which is judged on water bodies, not on whole catchments—where every catchment is in a position where every water body, down to the smallest that we will record, is in good condition. That is for a variety of reasons. Some of these will be about the cost-benefit test. If it is going to be a disproportionate cost to achieve something, we will be making the arguments that that is not good use of all of the players' monies. Some of them will be about the technical and feasibility. We simply will not know by then how you fix this problem and will be working on research in order to establish that. Some of them are about lead times. Some of the issues of groundwater contamination will take a very long time to manage, because at the moment they have been happening for a number of years, perhaps decades, and it will take similar periods for that to work through the system or for us to find ways of dealing with it. So all of those factors will influence what can be delivered by 2015. 2015 is just the first cycle. We have, during that process, identified other issues that need to be tackled; identified what some of the problems are; done some of the research. For the second and third cycles, therefore, we will begin to tackle some of these more difficult, deep-seated issues, with a view to building cyclically on the improvement of the previous round.

**Q13 Viscount Brookeborough:** Is good "good status" really the same as achieving environmental objectives?

*Ms Kirmond:* Its proper title is "good ecological status". That would be a measure of true success.

**Q14 Viscount Brookeborough:** Therefore, looking at your programme, what I do not quite understand is that these river basins are being divided into first, second, third; and, in your programme taken off the Web, some of what I understood to be objectives that

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you were trying to achieve by 2015 are actually by December 2021—the second River Basin Management Plans and the third River Basin Management Plans. I rather imagined that you have these river basins and you have the plans, and that actually you would achieve the plans for each river basin by 2015; yet your programme says that there seems to be a second and third tranche.

*Baroness Young of Old Scone:* Can I describe the nature of delivery of the programmes? We are kind of ringmaster in all of this, in that it is our job to make sure that River Basin Plans are produced and that we encourage, drive, cajole, bribe—any mechanism that is open to us—all of the folks who have to make a difference. There is a very wide range of folks: water companies; local authorities in their development role; developers themselves; all land managers, including farmers. There is a whole variety of different folk—Highways Agency—and all of them have a role to play. We are working with those in the River Basin Liaison Panels to make sure that they understand what needs to be done in that river basin and that they are on board with doing it. However, in some cases we will have powers through our regulatory role to insist that they do it; in others, it will be a question of incentivising, particularly with the farming community; in others, with local authorities, it will be a case of sitting alongside them as co-conspirators and trying to get them excited about the objectives of the Water Framework Directive. So in fact it will not be a plan, do, judge that it is done; it is a much more collaborative process, and therefore a lot will depend on whether the collaborators get on with the job or not. Apart from that, on the issues that I talked about before—on the basis of cost, on the basis of technical feasibility, whether we know enough and lead times—we know for a fact that some of the issues in relation to river basins will simply not be dealt with in the first round. I think that we have to be open and honest about that. There will be a second round of plans and a third round of plans before we see real progress on this, particularly with the groundwater issues.

**Q15 Viscount Brookeborough:** The river basins—who decided what they would be? They are not necessarily catchment areas, are they? They are colossal areas, as written out here, so they are not one river basin anyway. What was it? Was it geographical?

*Baroness Young of Old Scone:* They have an ecological basis—but I am sure Aileen will be the techie person to tell us what it is.

*Ms Kirmond:* It is a unitive division that is common to Europe. So, for example, the Danube is a river basin. What we have done is to divide the UK into a

collection of small and large rivers which drain to one place. It is actually a catchment-based unit measure. Ours happen to be quite small, because we have lots of smaller rivers that drain to estuaries and the sea. In Europe we have the Danube and the Rhine, and so they have some very big river basins that cross four or five country boundaries, never mind administrative boundaries. It is a division that is laid down in European guidance, and we have come up with the level which Defra reported to Europe.

**Q16 Lord Bach:** I am a kind of poacher turned gamekeeper or the other way round: I am not sure which. Whichever, I have never had all that much to do with the Water Framework Directive under my quite extensive portfolio. So could I ask a fairly basic question? The directive clearly involves a move towards both chemical and biological testing. How prepared is your agency for this new approach? I think that you have touched on it already in some of your answers, but what special preparations have you made for this new role?

*Baroness Young of Old Scone:* Perhaps I could make one point on introduction and then pass it to Tricia, because she has been managing the landing of the monitoring programme as of last December. It is simply to say that probably we are in the forefront in Europe in terms of the length of time that we have been monitoring many parameters of the water environment. So quite a lot of the monitoring that is already in place will serve for the purposes of the Framework Directive but some of it will not, particularly on the biological side. What we have been trying to do is that, rather than take the traditional regulatory approach of laying another set of monitoring requirements on top of the existing set of monitoring requirements, we have been taking a modern regulatory approach to it and saying, “What is it we actually need to monitor in order to deliver the totality of monitoring of the water environment, in the most cost-effective way?”—because it involves not only public money in monitoring terms but it also involves monitoring efforts by people like the water companies, who pass their costs on to water customers; by local authorities, who pass their costs on to ratepayers. So we have been anxious really to redesign our monitoring processes from scratch, to do a good job by the Framework Directive while building on the successes of the last 30-odd years. But Tricia has had that job to do, so I shall pass to her.

*Ms Henton:* To answer your question, I think that we are very well prepared; certainly as prepared as any other European country. The fact that we have had this longstanding and very detailed monitoring programme—some of it goes back over 50 years and some of it even longer than that—has served us very well in the UK, right across the UK. We have looked

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at what we will actually need; what we have; where we are. We have done an assessment of where we need to shift some of the resource. The kind of area we have had to move into, for example, is where, in England and Wales, we have not monitored as extensively on lakes, estuaries and marine waters as we have on fresh waters. That is an area where we have some new activity going on, therefore. We have done a trawl round as many organisations as we can find who also have water data; for example, CEFAS, the water companies—who hold a lot of useful information—and we are linking with them and trying not to duplicate anything in any way. We have come up with this programme now; we have put it to the ministers; we have actually implemented it. It is just awaiting its last sign-off from Defra and WAG. It will be an evolutionary programme. This year, at the end of the year, we will look and see if it achieves what we need; how we need to tweak it or change it a bit for next year. So it will have an annual review, to make sure that we have got everything we need out of it.

**Q17 Lord Palmer:** Could I ask a quick supplementary? In my part of the world, which is the Scottish Borders, a vast number of us have our own private water supply. Do you have a separate department which will deal with private water supplies in England and Wales?

*Baroness Young of Old Scone:* Depending on the size of your private supply and how much you abstract, we will already have a regulatory role over you anyway if you are on our side of the border.

*Ms Henton:* I think on both sides now!

*Baroness Young of Old Scone:* But you are in a complicated part of the world, because there is the river basin that spans the border. Tricia, having come from both sides of the border, will probably be able to answer that.

*Ms Henton:* We do not have a specific separate unit within our organisation, other than the fact that we would register your abstraction, if it is big enough. The Solway/Tweed River Basin District is a very interesting one, because we are dealing with two different administrations and two slightly different ways of implementing the legislation. It therefore requires all of us who are involved in it to go that extra mile to make sure that we are getting what we want out of the River Basin District and that we are keeping the legal aspects of each of the administrations correct.

*Baroness Young of Old Scone:* It is quite difficult to understand how all the existing mechanisms relate to the Water Framework Directive. So many elements of the water environment are already subject to either European or UK regulatory frameworks. For example, all of water abstraction has law already applying to it; quite a large proportion of discharges

are already subject to regimes that we operate. The good thing about the Framework Directive is that, instead of having umpteen different plans and umpteen different regimes, we can try to make some sense of the whole lot by bringing the plans together, and then making sure that the regulatory regimes that underpin them are working together, rather than against each other. That is made more complicated when you have to do that across the border, but we will just have to cope.

**Q18 Chairman:** I think that you have mentioned a couple of times “slightly different ways of implementing”, when you have been talking about England and Scotland. Can you give us a flavour of how slightly is “slightly” and what are the difficulties, if any?

*Ms Henton:* I am going to ask my colleague to answer that one in detail, because I have to say that my detailed knowledge of what happens in Scotland is getting a bit rusty now. I try to think England and Wales!

*Ms Kirmond:* It comes back to the fact that we have a one-Member-State view of the directive, but obviously, as my colleague has said, some of the administrations have a longer history of regulation than others. For example, until quite recently Northern Ireland and Scotland did not have as comprehensive an abstraction licensing system as we do. There are therefore subtle differences in the way that the Framework Directive has been brought into implementation in the different administrations. One example is that Scotland have brought in the Controlled Activities Regulations, which they are using to control both discharges and abstractions. On the face of the regulations they may look slightly different but their intent is the same. That is one of the big issues, where we work through the policy administrations that are joint administrations, to make sure that the spirit and the law of the directive are observed. Where possible, however, if there is some degree of subsidiarity, it allows for individual regulatory regimes; but it still achieves the same thing. For example, abstraction licensing is one way, controlling discharges is another; but the intent and the outcome are the same.

**Q19 Chairman:** I may be slightly getting the words wrong here, but in a particular river basin—let us do the Solway/Tweed, which must be an enormous area in relative terms, and where you have the complication of Scotland and England—is the regime within that basin uniform? Or does it differ if you are in Scotland or in England?

*Ms Kirmond:* If we look at the Solway/Tweed as one river basin, which it is, it is up to the two halves of it to ensure that they jointly meet good status, or aim to

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achieve good status. They may use slightly different regulatory mechanisms on either side of the border, but the plan is unified in terms of its objectives for that river basin.

*Baroness Young of Old Scone:* If you have land that spans the border, for example, I am afraid that you will have to put up with the fact that you will be licensed in Scotland one way and licensed in England in another way, even though those two licences will be part of an overarching River Basin Management Plan.

**Q20 Chairman:** That will make you really popular, will it not!

*Baroness Young of Old Scone:* We already have that, as you know, My Lord Chairman, in terms of fisheries, if I may say so!

**Q21 Viscount Brookeborough:** Who are these people on the ground that are doing it? Who are these groups of people, the actual people, who are having to interface with each other?

*Baroness Young of Old Scone:* The structure that we have adopted, in line with European guidance and Defra guidance, is River Basin District Liaison Panels, who really bring together, round that river basin, what we are calling “co-deliverers”. We did not want those panels which are advisory to the Agency—and the agency advises the Secretary of State—to be the kind of “usual suspects” consultees. What we need, above all, is to harness the ability to act over the people who can make a difference round a river basin. So there will be people like water companies, a selection of the local authorities—I am running short of people already.

*Ms Kirmond:* NGOs.

**Q22 Viscount Brookeborough:** But do they have an address that you go to if you have a problem?

*Baroness Young of Old Scone:* No, because the executive action—this is where the Framework Directive, as I was saying, is quite collaborative rather than directive—is taken by whichever body sitting on the panel has that executive action under their belt. If it is something that needs to happen that water companies need to do, the water companies will do that and they will be regulated in that by us as regulators and by the economic regulator. If it is the local authorities who have to do it, we are still searching for ways in which some of the requirements of the Framework Directive can be more effectively built into the planning mechanisms of local authorities, both spatial planning and economic planning. If it is farmers who have to do it, it will be a combination of mechanisms where the agriculture departments—Defra, and in Scotland and in Wales—will have to look at how they can persuade

farmers, with a bit of regulation, a bit of incentive, a bit of advice, a bit of cross-compliance, a bit of all the mechanisms that are there to help farmers do the right thing by the water environment. So it is a very complicated process; but if anybody has any bother with it, we are the ring-holder and so the first port of call will be us. If it is an issue that requires the River Basin District Liaison Panel to think about, because it is a big enough issue of principle and policy, we will ask them what they think about it and they are our sounding board. However, we also want those panels to be a kind of cheerleader for the Water Framework Directive process as well; we want them to be selling it back into their own industries, back to their own stakeholders.

**Q23 Viscount Brookeborough:** It sounds to be a recipe for long-windedness and passing the buck by the time you finally do that.

*Baroness Young of Old Scone:* I must confess, when I was first told that I was going to have the responsibility for the implementation of the Water Framework Directive, it felt as if the fourth horseman of the Apocalypse had just arrived! It is good; it is a great directive; but it will not be easy to get everybody enthused and delivering, because of course people have competing priorities. It will be a complex directive to deliver, but it gives us the benefit of taking things that we are already trying to do with all these groups and giving some logic and longer-term strategy to it, and some picture where people can move towards the vision of good ecological status round that catchment. So it is a simplifying mechanism, even though it does not sound like one.

*Chairman:* Let us move on to public participation.

**Q24 Baroness Miller of Chilthorne Domer:** Your answers to that last question touched a bit on some of the public participation. However, would you see the Liaison Panels—and you talked about them feeding back into their circle—as the prime way that you will get public participation? You have talked a bit about spatial planning, and so on, but in local development framework discussions, or parish plans and things of that level, I do not think the words “Water Framework Directive” have really crossed anyone’s lips much yet. How will you ramp that process up and get the public involved in it? Or do you see that as very much the responsibility of local authorities? If so, how are you talking to them, to move them up, I would suggest, several gears?

*Baroness Young of Old Scone:* I would like to put a nail through the heart of this public participation thing right from the start, because there is a lot of loose talk about it. Sixty million people in this country will not regard the Water Framework Directive as the thing that they want to talk about over the breakfast table,

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and so we are not even going to try to do that. In fact, the directive has been misquoted endlessly on this. The directive actually guides us to make sure that the people who need to be involved because they can deliver are participating, and that the public need to be informed. From our market research, the public want us to know that they think water quality and water availability are important, and that biodiversity protection is important. They want to know that there is a mechanism out there that will do that, and that is pretty well all they want to know. What we will give them is a bit more, because we will be reporting on river basin status on a regular basis. So there will be a mechanism for getting very simple messages about how much progress we are making. We know from past experience that the public are quite interested, for example, in our information on bathing beaches and river water quality. There are therefore ways in which, at a top line, we can engage with the public. In terms of local authorities, I think that their major role is to be the doers: to take up the challenges that lie with the things that they have to do in order to deliver the Water Framework Directive, and to use their normal mechanisms of public engagement to explain what they are doing in that—as they explain what they are doing in any other field. However, we do also have a very large number of other consultative groups; we have our regional committees; we have all of the mechanisms that we use and which all of the co-deliverers use to engage with the public. For example, the water companies do a good job in talking about some issues of the water environment to the public, and we need to use their channels as well. So there will be a large number of ways, but we have to do it on the back of things that we are doing already. To spend a lot of public money trying to get the intricacies of the Water Framework Directive over to the man in the street, when he has already told us that he does not want to know that, seems to me to be not what we are about. I want action. I do not want discussion. I want doing; I want outcome; I want river basins to get better. I would rather spend more money on getting river basins better than making sure that all 60 million people in Britain know their water catchment and know exactly what we are doing in it—to be frank.

*Chairman:* Rather a Stalinist principle there!

**Q25 Baroness Miller of Chilthorne Domer:** Can I ask you one last thing on that? When local authorities—who, as you said, will be key on this—are looking at something like this historic built environment, I think that at least all elected members and all officers involved would understand what the aim is and where they are going with that. Do you not have quite a big gap to close with those decision-makers? The decisions they make on development control issues,

on highways, and so on, will be key. Actually, you have to get your message through to them pretty quickly.

*Baroness Young of Old Scone:* What we would like and what we do not yet have is a requirement, through the government guidance on river basin planning, which lays a more stringent requirement on local authorities to deliver the objectives of river basin plans. At the moment, the guidance from Defra lays a requirement upon us to do so, but only requires local authorities to—and I cannot remember what the word is . . .

*Ms Kirmond:* “Due regard.”

*Baroness Young of Old Scone:* . . . to “have due regard to” and “due regard” is—well, due regard. We would have been happier had it been slightly tougher. I do think that we will need to work quite hard—and we are working quite hard—to get river basin planning requirements into, first of all, all of the strategic level plans and strategies for which local authorities are responsible: the spatial planning strategies; regional economic strategies; housing strategies; transport strategies. Through our regional networks, we are already engaging with those processes. These messages will be going out to local authorities. Then we need to work down through the system. Whether we actually need to get to parish council I think is probably beyond us. Local authorities will have to decide whether that is vital. In some places it will be. Some of these incredibly sensitive chalk streams that are very much affected by what happens on a very local basis—that will be an important thing. However, I suspect that is already the case, because there will be issues locally that people are angst-ridden about already: water quality in local streams; groups of fishermen anxious about what is happening to fishing stocks; farmers and some of the things that they will be talking about. So there are a lot of mechanisms that will bring it much more up the public agenda. To be frank, however, if in 2015 we do a survey of the British public and there is even a minor proportion of them who can utter the words “Water Framework Directive”, I shall put a bullet through my head! It will have been the wrong thing to tell them. We want to tell them about outcomes, not about the processes.

**Q26 Lord Plumb:** Your views on doing rather than reacting are very welcome, particularly to an old farmer who is involved in many of these issues. I am pleased that you recognise that there is a problem. Water is here today and it is gone tomorrow. We might have a drought midsummer; today we are flooded; and all these things have to be dealt with. Your remark about liaising with other bodies is very important. You are there at the centre and therefore you can better advise those with whom you are working if that is the direction people should go, and

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therefore that is welcome. You have spoken of many of those different organisations. There is the UK Technical Advisory Group which is, or should be, a doing body. To what extent are you working with them? Would you like to elaborate on some of the things that you have already said?

*Baroness Young of Old Scone:* The UK Technical Advisory Group is a bunch of folk who definitely have the anoraks, so I shall turn to Aileen.

*Ms Kirmond:* I will put my anorak on, because I chair the Technical Advisory Group. I think perhaps there may be a bit of a misconception about what the Technical Advisory Group is there for. It is very much what it says: it is a technical advisory group to the UK administrations and it is a technical support group to the UK administrations. It is made up of a collaboration of UK environment agencies and the conservation agencies. It has people like ourselves; it has EHS from Northern Ireland and Scottish National Heritage on it. So it is a mixture of the UK's technical experts in their field. The point of it is to ensure that we have a consistent UK technical approach for implementation of the Framework Directive. The places where it has had a role to play, therefore, is whether we have expertise to put into what communities would expect to see—in certain chalk streams, for example. We may have an expert in, most likely, the agency; but, if it is a habitat that is likely to be unique to Scotland, we would use the Scottish expert there. It is very much a collection of experts who advise the UK administrations, so that they can make their decisions in terms of their European decisions and their UK decisions. It is a consistency group. It helps with promoting consistency of standards; consistency of technical input to the common implementation work in Europe, and things like that. They are there to represent their expertise; they are not there to represent their individual organisations. They advise the administrations on the best way for the UK to proceed, as a Member State and as a member of the European Community.

**Q27 Lord Plumb:** So would they come to you? Or would you be chasing them?

*Ms Kirmond:* In terms of me being Chair?

**Q28 Lord Plumb:** Yes.

*Ms Kirmond:* Part of my job is to manage their work programme, and the work programme is agreed with the administrations. So it is there to serve what the administrations need in terms of the implementation of the directive. It is an agreed programme, both within the agencies—both conservation and the environment agencies—but it is agreed ultimately by the administrations and we are there to serve them.

**Q29 Lord Plumb:** You say that you are involved—and I say “you” because you did say that you were Chair—in Europe. So you will be arguing the wider issues than just water directives, in terms of development and technology in the water industry?

*Ms Kirmond:* It is very much confined to the needs of the Framework Directive. So where there is a need for a common view to be taken on a chemical standard, for example, that is the sort of forum that we would send our experts to. It is specific to the implementation of the Water Framework Directive; it does not have a wider remit than that. Its role will finish when the Framework Directive is successfully completed. It is a task and finish to do with that particular directive.

**Q30 Chairman:** This is several decades away.

*Ms Kirmond:* I hope UKTAG does not go on for several decades, because it is very much a first-cycle activity. It is about trying to put in place processes and combined knowledge that we did not have when we started out on this road. Once we have done the process for the first time, we should not need it any more, because we have uncovered things, put them in place, and we should not need to do it again.

**Q31 Baroness Miller of Chilthorne Domer:** With a group, for example, like the NFU, who I do not think are on UKTAG but might have a national view bigger than just a river basin, where do they feed into the process at an early stage?

*Ms Kirmond:* As I say, the UKTAG is a technical advisory group to the Governments on their implementation of the directive. It does not advise on policy matters; it advises on technical matters only.

*Baroness Young of Old Scone:* But there will be national panels. Defra will have a national stakeholder group in order to hear what the stakeholder views on a national level are. We are also going to have a national group to bring together some of the experience coming out of our River Basin District Liaison Panels.

**Q32 Baroness Miller of Chilthorne Domer:** When you say you are going to, when is that?

*Baroness Young of Old Scone:* We have not set it up yet. I think that the River Basin Panels have met three times, and so they are still kind of finding their feet. We are still building the systems, basically.

*Ms Henton:* The NFU has a seat on probably all of the Liaison Panels. Certainly they will have been invited, because they are an absolutely key stakeholder. In terms of the structure, the people who sit on the liaison panels, there is a certain core group of people, like the NFU and like the NGO representation—who have agreed to divvy it up between them—the regional development agencies,

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et cetera. Then, for specific areas—for example, in the mining areas in the River Basin District in the North East and in one of the ones in Wales—the Coal Authority sits on that, because mining and mine water is a very specific issue for that area and we need them to deliver things for us.

**Q33 Viscount Ullswater:** That leads quite well to the next question, because it is one about scope. Are there any bodies of water in England and Wales not included in the Agency's strategy for implementation of the directive? If so, which are they? And what is the Agency's rationale for excluding them? Have you perhaps been able to identify any where you may be looking for less stringent environmental objectives because of human activity, disproportionate cost, or unfeasibility?

*Baroness Young of Old Scone:* This is an incredibly technical and difficult area, so I will try to make it as simple as possible to the best of my understanding, but Aileen may leap in and say something completely different when I have finished. The directive, in Annex II, defines what water bodies we should include, but the reality is that, as far as rivers are concerned, it is almost impossible, except for a very small number of rivers, to manage a catchment without having an impact on all of the rivers within it. So, even though they do not appear on our maps—because the maps do not go down to sufficient scale—we are basically assuming that all rivers, to all intents and purposes, are part of the work on the directive. As far as water bodies are concerned, we have 6,535 surface water bodies and 356 groundwater bodies. For the non-river bits—the lakes, the ponds, the pools—we are guided by the directive to go down to lakes greater than 50 hectares. That is quite big, and so there is now a discussion about what we do about lakes that go from 50 hectares down to five hectares. The discussion there is really what is the best way of approaching these, particularly where they have important, either international or national, biodiversity designations. I do not think that there is any doubt that we will be including all of the bodies that have international nature conservation designations, either Special Areas for Conservation or Special Protection Areas; because we already have mechanisms to protect those bodies and it would seem crazy not to have them as part of this uniting framework that the Framework Directive is. The question is really those bodies that are Sites of Special Scientific Interest as opposed to internationally protected, where we have a national designation. There is work going on in which we have been involved, and which Defra is now considering, about the cost-effectiveness and the importance for the overall objectives of the Framework Directive of those smaller bodies, and whether there needs to be

some form of objective set for them and process put in place for them that may in fact not be at the same level as the bigger water bodies that are included within the directive. That is work that is currently underway. There was a report by consultants looking at that. The moot point, however, appeared to be with regard to water bodies which are important for the Biodiversity Action Plan but are not currently a designated site under nature conservation regulations in this country; so they are not an SSSI (a Site of Special Scientific Interest) but they are important for the delivery of the Biodiversity Action Plan habitat improvement process—I told you that it was going to be complicated!—and that is as yet unresolved. Aileen may want to comment on that. It seems to me that we have not to lose sight of the fact that there are other processes in place that will bear on these important nature conservation bodies. There is a shed-load of regulation that surrounds Special Protection Areas and SACs—very justifiably, because they are the jewels in the crown—and there is now much enhanced protection under the CRoW Act for the SSSIs. The Biodiversity Action Plan has not been an instrument that has been progressed as fast as I would like, because it is dependent on a very large number of people, often operating in a voluntary capacity rather than a statutory capacity. It remains to be seen what Defra will or will not decide on the inclusion of BAP habitat-important bodies in the framework directive, and in what way. How is that?

*Ms Kirmond:* It is all that needs to be said!

**Q34 Viscount Ullswater:** Perhaps I can then go on to my second question, which again I think that you have touched on. It is not immediately clear from the directive how wetlands—and I am not sure whether that is a body of water or not (ponds and marshes) are to be included. Do they fit into the strategy on implementation? Perhaps I could elaborate slightly. In terms of what the directive says—to deliver some form of ecological status—when you have some form of acid bog, will you leave it as an acid bog? Or will you try to change its chemical status? Eventually the water percolates through, some thousands of years later—for instance, I heard on BBC radio that it takes 10,000 years for water to percolate through the Mendips and come up in rather smelly form in the baths in Bath—these are long timescales, are they not?

*Baroness Young of Old Scone:* Yes. That is one of the problems of the Framework Directive. It will take an awfully long time to work out whether this damned thing is working or not! Some of the progress will be very immediate, particularly where we have areas that are drier than they should be and need to be wetted and, locally, where there are issues like that

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and it is, sort of, “Instant wildlife: just add water”. With some of these groundwater issues, however, they are very, very long-term processes. I would hate, in a few thousand years, for the burghers of Bath not to be able to drink the ghastly stuff that comes out there! Wetlands are not water bodies under the Framework Directive, so they do not have their own objectives; but there is European guidance on wetlands. There are three things that we take into account. One is—are these wetlands important because they interact with groundwaters that are part of the directive? We obviously need to assess that. That means we have to collaborate with the experts in the conservation bodies like Natural England and the Countryside Council for Wales. Are there wetlands that are important for the Water Framework Directive objectives of surface water bodies? For example, there can be pressures on wetlands that produce an impact upstream or downstream for water bodies that we will be looking at as part of the Framework Directive. We are therefore looking at what those relationships are. Some wetlands are just protected under their own rights under pre-existing regulation and, if they have a protected designation, we need to take them into account in river basin planning. So the answer to your acid bog is: if it is a big acid bog that currently has a protected designation, we will be watching its acidity like a hawk. If it is a tiny, tiny acid bog, we will probably be watching its acidity like a hawk, because we have far too few acid bogs anyway; so under the Biodiversity Action Plan we would want to see some progress—but that is as yet an unresolved issue with Defra. If it was screwing up—I am sorry, a technical term!—our ability to achieve the objectives for either groundwater or surface water under the directive, we would be watching it like a hawk. If it was a very, very small acid bog—well, I think probably we would want to take account of acid bogs, no matter what size they were really.

**Q35 Chairman:** So that I can understand this, what will the Water Framework Directive bring additionally to the Flow Country?

*Baroness Young of Old Scone:* One of the issues in Scotland—and Tricia will help me on that—must be that it is a different texture of risk. The first thing we had to do around river catchments was to assess what the risks to the water bodies were in those catchments, and we did the characterisation maps. If you are feeling seriously sad one sunny day, do go on to the website or ask us, and we will send you the characterisation maps for any water body that you have an interest in. They are fascinating. They show us the picture for nitrate, pesticides, water quantity issues, biodiversity issues. They are great maps, showing what the pattern of threat around each river

basin is. The pattern of threat in Scotland is a heck of a lot less than the pattern of threat in England, because there are fewer people, there is less development, less intensive industry. However, there are areas where there are threats to the Flow Country, some of which in the past were things like inappropriate forestry, inappropriate upland drainage—I cannot think of any other threats to the Flow Country—though nobody has suggested building houses on the area yet. The pattern of threat is much less and so the Framework Directive probably brings less to those wild areas of Scotland, but will bring a lot to the Central Belt and to some of the areas where farming or land management is having an inappropriate effect.

*Ms Henton:* I think that is fair, yes.

**Q36 Lord Plumb:** May I ask a supplementary on the implementation of the directive? Since farmers are encouraged to become more environmentally friendly, on Pillar 2—thanks to Willy Bach, of course, and all the development that has taken place—farmers are responding to this in a way that I would not have believed, frankly. I have never seen so many ponds cleaned out, waterways cleared, and so on, in various parts of the country—because there is a carrot there to help them. I am just wondering, in the implementation of the directive, how this fits into your programme. You obviously have a very close liaison with Defra and the work that is going on there, and the implementation of Pillar 2 in particular.

*Baroness Young of Old Scone:* Pillar 2 and the incentive payments on Pillar 2 will be a really important issue. Our worry, and I am sure Lord Bach shares it, is the fact that under the current negotiations there will be rather less available in Pillar 2 for agri-environment schemes than we had hoped, and certainly not enough to fully fund both the new Entry Level Scheme and the higher tier scheme, all of which will be aimed at encouraging farmers and incentivising them to do the right thing by a whole range of environmental issues, of which the Framework Directive will be one. We are seeing the way in which we can work with farmers as a kind of basket of instruments on which we can work with them. Advice is clearly quite a powerful one and it is interesting to watch. We did a pilot in the Ribble catchment, and the good thing about it is that it brought people together to talk about what needed to happen. To be honest, they are running away from us at the moment. They are doing it themselves. We are not having to do anything. They are getting together and sorting themselves out. We do need more money in Pillar 2. We very much hope that the Secretary of State’s hand will be firm in the negotiations in Europe, and that Mrs Fischer Boel will not also

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diminish the power of some other things that are around which we think are useful. I know that cross-compliance, whereby anyone who is in receipt of farming payments has to achieve minimum environmental standards, is not popular with farmers but it is popular with us, because it does mean that we then have a relationship with every single farmer who has public money payments. That relationship allows us to talk to them about what are the particular issues round their patch. We want to keep it simple for farmers because, for many of them, all of the different bits of legislation and regulation are quite confusing. To be frank, the River Basin Framework Catchment Plans give the opportunity to identify what are the important things in each round of planning. If the important thing round a particular catchment or a part of a catchment is nitrate, therefore, let us talk to farmers about nitrate. If it is sedimentation, let us talk to them about sedimentation. If it is about the way in which they are managing their maize, let us talk to them about maize management. That is m-a-i-z-e, not m-a-z-e! Farm diversification has not yet got as far as creating m-a-z-e-s all over the place!

**Q37 Viscount Ullswater:** I do know that there are maize mazes.

*Baroness Young of Old Scone:* Perhaps that is something we could talk to the NFU about!

**Q38 Lord Bach:** There is one in Leicestershire too.

*Baroness Young of Old Scone:* Working with farmers will be very rewarding but it will also be very difficult, and we shall have to have a very close relationship with Natural England because we do not all want to be walking up the farm drive at the same time—but we do all want to be saying the same thing to farmers.

**Q39 Lord Plumb:** Mrs Fischer Boel is speaking in a week or two's time at the NFU Annual Meeting and I will see that there is a proper question tabled.

*Baroness Young of Old Scone:* At the Oxford Farming Conference, the biggest round of applause that Mrs Fischer Boel got and the biggest booing and hissing I got was when we started talking about cross-compliance. I felt like one of those pantomime acts, where every time I went on stage everybody started hissing!

*Chairman:* Many of us have experienced that!

**Q40 Lord Palmer:** I reckon that two of my three questions you have fully answered, but you may want to add something. Some of us are a little worried about the timetable for this implementation. Do you feel that you will be able to stick it? And, perhaps more important, do you have a sufficient budget to do so? As a matter of interest, have you had to take on any extra staff to help you implement this?

*Baroness Young of Old Scone:* The timetable is very tight. We are aware of the fact that the timetable is very tight, and we have tried to build into it quite a long period for the Secretary of State to ponder on the River Basin Plans, because they are going to be potentially quite controversial. I think that he/she/it needs to be given plenty of elbow room to talk to stakeholders once the plans are available in draft form. However, that means we all have to keep up to the timetables. That is why getting the regulations, once the quality indicators are available, is important to keeping that timetable going. It is very tight, therefore. Europe began by saying that we were going to have to deliver all the objectives of the Framework Directive by 2015. We have told them right from the start that we did not see that that was possible anywhere across Europe, quite frankly. So I think that they are a little less gung-ho about it now. We need to deliver the processes that will produce plans and actions that we have outlined in the first set of plans by 2015, but we then have the successive Round Two and Round Three, where we can build on those. In terms of cash, what we have been trying to do—because Defra is broke, we are broke, and the Government will not necessarily hand out money in the Spending Review—is to divert some of the work that we are already involved in in issues that were pretty well Water Framework Directive issues. In terms of all our water management issues, quality and quantity, which are important for the directive, we have made sure that we have taken a step back and used the directive as the framework for deciding what are the important things to do and how we make sure they are done in the most efficient way. However, we have had to put additional funding into the Framework Directive and we have received some money from Defra for that. Somewhere—and I cannot remember where—we have a bid in under the Comprehensive Spending Review. We are not really expecting that we will get any, but the sorts of figures we are talking about would be in the range of £6 million for next year and £11 million for the year after that. They are big money but they are not huge money, bearing in mind the scale of the task because we are corralling the resources that we have already and also, to be frank, many of the bits of delivery will have to be done by other folk.

**Q41 Chairman:** Does that effectively mean putting the cost on to other folk?

*Baroness Young of Old Scone:* It may not be cost; it may just be the different way of doing things. If you think about, for example, looking at local authority development options, we want to see the housing development that is coming on to be done in the right place, so that it does not impact on flood risk management, which is part of the Framework

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Directive. We are not going to be putting houses where there is either not sufficient water for them to have a decent water supply, or indeed where there is not sufficient water to flush away their sewage. We do not want to see houses built that are not water-efficient as far as possible. So there are things about the way in which planning applications are given, the location of stuff, and the nature of the development that goes ahead. We want to see sustainable urban drainage systems built into developments, so that we do not see surface water run-off that contaminates water bodies. There is therefore a whole range of processes that individual co-deliverers need to think through when they are doing the stuff that is their day job. It is not necessarily additional cost, therefore; it is about how they do their normal duties. There will be some additional cost, however, and I think the farming thing and the size of the agri-environment budget will be pretty material to this.

**Q42 Lord Palmer:** Have you had to take on extra staff?

*Baroness Young of Old Scone:* Yes, we have, but I do not have a clue how many.

*Ms Kirmond:* We have, for example, a voluntary programme and, as my colleague said, we have reviewed it very heavily and, where possible, we have re-deployed people to start doing things differently. Overall we have taken on something like two extra people on to the programme. There are some areas where we are using other people's data. So, for example, CEFAS has to look at marine, so rather than us doing it ourselves we are collaborating with other people to build together a comprehensive picture, rather than employ lots and lots more people to do things that may already be happening elsewhere.

*Baroness Young of Old Scone:* Just to give you an example of some of the stuff, the monitoring programme costs 60 million, but then we were spending quite a lot of that already on water body monitoring, so that is not a fresh cost on top; about two-thirds of what we are doing in the Framework Directive is from the existing funding.

**Q43 Lord Cameron of Dillington:** You have already mentioned the Ribble Basin pilot, and apart from the encouraging news—at least I think it is encouraging—that the local panel is going faster than you, are there any lessons which you have learnt from this pilot that are going to impact upon your implementation or approach?

*Baroness Young of Old Scone:* Yes, I think I had two lessons from it really. One was that, given half a chance, everybody will over-complicate this damn thing and we will not get delivery from it: we will just have tons of processes and no outcome if we are not

careful. So we learnt not to over-complicate it. I think what we heard from stakeholders was that they did want to be involved but they did not want this to be an add-on to additional stakeholder groups and processes; they wanted to be involved but they did not want new mechanisms and they did not want to turn up to new meetings—it needs to be built into the day job as some of the things that they do. They were very clear with us about the balance between engaging in discussion and doing—they wanted more doing as well. I think what it also showed us was this new partnerships thing—we held the ring and people got together but they started talking together and went away holding hands into the sunset and did things together, and it was great. I think the Ribble Conservation Trust really got great benefit from new people being brought in that they had not previously had a framework to talk with, and they now have collaborative work going ahead, and obviously we want to play a role in it, but it is not being led by us by any means, which is good.

*Chairman:* Baroness Miller, with the question that you will absolutely love!

**Q44 Baroness Miller of Chilthorne Domer:** You have mentioned the fact that it would be useful if the Government advised planning policy guidance, but I think you are also on record as saying that there are other powers that you do not currently have but that it would be very useful to have. Could you outline some of the actions that could be taken by government, either legislative or others, that would be helpful to you in order to implement the framework?

*Ms Henton:* I think most of the actions that we would like government to take, rather than legislative, is things that need to be done. We are working very closely with Defra, we have a joint plan with Defra and the Welsh Assembly Government, and we are working on the timetable. That is really the key thing, getting this joint plan flowing through both the Environment Agency and government to time and not getting delayed in any way. In order for that to happen there are various things that we particularly require Defra to deliver. In particular they are the Competent Authority still for the economic requirements of the Water Framework Directive; they are carrying out the preliminary cost effective analysis. That is a very, very important part for us because without that we really cannot set the objectives. So we need that piece of work to finish, we need guidance from them, and we need guidance from them on what is considered to be disproportionate costs. So there are various things we need delivered. We also need feedback. Obviously we are talking to them very closely all the time, but we do not want to get to a position where they do not like,

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for any reason, what we have proposed so that major revisions are needed. So that is again part of the dialogue with Defra and the Welsh Assembly Government. We need some consultations to be put out, for example on diffuse pollution control and on hydromorphology. They need to go out to time table because once the consultation has been finished there may be recommendations that come out of that and there may be the need for new powers to be put in place—that is a possibility, we do not know. Another very important aspect we need from them is for them to be working across government and picking up on issues. For example, we have touched on spatial planning on land use and obviously DCLG has the lead role in that, and it is very, very important that Defra works across government so that other government departments are aware of and can incorporate in their own guidance the requirements of the Water Framework Directive. We are working with the new environmental standards and that is ongoing work, and we need a result from that, and something that is only beginning to come into the frame now as we progress towards the first cycle is that it is going to be very important to keep a corporate memory within Defra of why did we get to where we are, why have we taken certain decisions—and I use “we” collectively. As we move forward into the Second Cycle and the third cycle that is going to be very important; so we need a corporate memory within Defra.

*Baroness Young of Old Scone:* Can I add one other thing—and we have not thought our way through it yet—that as the Marine Bill comes through, if it does come through, we need the new marine legislation to take account of the Framework Directive issues because, of course, the Framework Directive involves estuarine and coastal waters as well.

**Q45 *Baroness Miller of Chilthorne Domer:*** Yes, there are 46 questions that come to my mind on that!

*Baroness Young of Old Scone:* We have 47!

**Q46 *Baroness Miller of Chilthorne Domer:*** If I might ask this, my Lord Chairman? What is your relationship with the RDAs?

*Baroness Young of Old Scone:* Through our regional offices we work very closely with the RDAs to try to get environmental outcomes into regional economic strategies and other mechanisms that the RDAs use, and also into the things that they fund. It varies from RDA to RDA. Because they are development agencies the environment is never going to be their primary objective, but they do have a requirement to take account of sustainability issues, and so we will be trying to get Water Framework Directive objectives and processes into the regional economic strategies

and the various other economic instruments at regional level.

**Q47 *Baroness Miller of Chilthorne Domer:*** They do seem to hold the key to quite a lot of what happens in the region as far as the Water Framework Directives goes.

*Baroness Young of Old Scone:* It is difficult to know. If I was asked to bet who was the most important player in the Framework Directive, I do not quite know what I would say because it depends on the water body. The good thing about a Regional Development Agency is the limited number—you can nail them. The biggest, most difficult group to deal with—not because they are difficult but because they are manifold—are the farmers and the land managers, because with a lot of them you have to find ways to talking to groups of people and getting them to collaborate as well as getting the formal processes of an RDA, where you can eyeball them fairly close up.

**Q48 *Viscount Ullswater:*** Can I ask a supplementary on that? Are you satisfied that local authorities are taking sufficient notice of your advice on development, particularly on flood plains or maybe that huge requirement in the South East where the availability of water is perhaps at its minimum? Do you think that they really do listen to you now? Are you seeing it in the decisions that they are taking that they are listening more to you than they listened five years ago, when perhaps they did not listen?

*Baroness Young of Old Scone:* I think it varies, depending on the issue and also the local authority. We are getting quite good collaboration now on flood risk management but there are a tiny, tiny number of local authorities that still give planning permissions against our advice—but it is a very tiny number now. On water quantity we are working to try to get a statutory right for water companies to be able comment on planning applications and for water quantity to be taken account of in the planning authorities’ decisions, because at the moment until recently that had not been adequately done. I think now, because of the drought issues in the southeast, there is much more focus on that and there is much more readiness to get that to happen. The area that is probably the most difficult and least well thought through at the moment is the issue of surface water drainage and sewerage. Generally speaking, what happens at the moment is that somebody builds a whacking great development and only discovers after they have built it that it is perched on a tiny Victorian sewer that cracked 50 years ago anyway. So we are looking through some of the discussions that are happening with government on issues like the use of land for development—the Barker Reports, both

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Barker 1 and Barker 2—and to try and get a debate going that says that green infrastructure planning over a 25-year period, planning for water supply, planning for sewerage and drainage is as important as planning for water resource, and therefore there need to be mechanisms not only in planning 25-years ahead for these issues that can take the Water Framework Directive objectives into account, but also the ways in which they can be funded because at the moment funding for this sort of environmental infrastructure is really hit and miss. The water companies provide it through charges to water payers if it is water supply or main sewerage, but nobody does it for surface water drainage and drainage within developments. At the moment it is all very haphazard and done on the back of development, and in some cases it is not done adequately at all. I got it in the neck from the Deputy Prime Minister over Corby, which wants to increase its size—it must have pretty well doubled in size—and it basically does not have a sewerage system to do it. The first developer who is going to build the school and a few houses does not want to build the whole sewerage system and pay for it, so who does? The local authority does not have the money; it is not their job to pay for sewerage systems. If the developer is not going to do it, there has to be some strategic process of funding, either on land values or on planning conditions or in some fashion or another. But that is the least well-provisioned relationship between a Water Framework Directive issue and a local authority at the moment.

**Q49 Lord Cameron of Dillington:** Could I ask a question about inter-European liaison? Thinking about this, it occurred to me that we probably have a slight advantage because for decades our water management has been done on a river catchment basis, which is not the case on most of the Continent. I wondered whether during liaison knowledge and skills have been passing and perhaps which way they have been going?

*Ms Kirmond:* I think we are proud to say that a lot of views and regulatory experience is being seen in the approaches in the European guidance that is coming through. We have been very heavily involved in Europe, both through individual technical expertise and through a group like UKTAG, where we are working to a common European understanding of the challenges. So I can say very positively that we have been very heavily involved in Europe. We have looked at working hard on what is called the Common Implementation Strategy, because when a Framework Directive was promoted obviously, you are quite right, we came from lots of very different starting points and the thrust has been very much to reach a common goal in terms of objectives, a

common goal in terms of good ecological status, in terms of what we are trying to achieve, and therefore we have worked hard to bring in our approaches, which has helped us in terms of minimising the disruption to ourselves and the people we work with, because it means that the transition from what we have to what we are going to have has been kept to a minimum where we have been able to manage it. And I think Europe has been very grateful for our help, and we have also worked through our Administrations and through Defra and our Water Director in terms of getting those views at a European level.

**Q50 Lord Cameron of Dillington:** Can I now turn to the Daughter Directives, the Groundwater Directive and the Environmental Quality Standards in Water Directive? Two questions. One: to what extent have you been involved in the process? And are you happy with the direction of travel that the development of these two Daughter Directives is going? My second question probably applies to the whole issue and is: does the emphasis on quality, particularly in these Daughter Directives, in any way clash with the problems of water quantity and supply that we have in certain parts of our country?

*Ms Kirmond:* If one looks at why we have two Daughter Directives in the first place, they are there because Europe could not reach agreement on them during the time of the agreement on the main body of the directive, so they are there because Europe could not reach decisions on some of the chemical substances in some of the groundwater issues, so they are very much subsidiary to the main, and therefore they should not clash, they should be part of the whole regulatory framework that helps us to achieve good ecological status, both on the biological and chemical and quantitative basis. So they are very much complementary to each other. We have been very heavily involved in the negotiations of both these Directives. In the Agency we are lucky enough to have some of the top ten technical experts in these areas working with us and they have supported the negotiations very heavily in Europe. For the Groundwater “Daughter” Directive we now have—coming back to some of the other questions—a directive very similar to the UK approach because it is based on environmental standards and it is looking at the outcomes rather than the process; and we are currently working with Europe on the detail of what that looks like, so that actually came under legislation in December. With the priority substances, the environmental quality that you refer to, we are working very hard and supporting Defra in that negotiation so that we will get something which helps us to be in a good position to replace the Dangerous Substances Directive. But we are also

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thinking very carefully about the applicability of the directive and what it will mean in terms of regulation and whether it is a reasonable approach. So we always have that in our mind as well, the reasonability of the chemical standards that are being proposed and whether they are transposable into reality.

**Q51 Lord Cameron of Dillington:** Is there generally a clash between the quality of water and the quantity? For instance, I remember once talking to old water authorities about what goes on in some of the hotter parts of the world, where during the rainy season they pump water down into aqueducts. I was told this was a complete no-no because it might pollute some of the aqueducts and so on. It seems to me that we have a water shortage problem and at some point some compromises might have to be made.

*Ms Kirmond:* I think it comes back to the point we were discussing earlier, that in protection of good ecological status we look at the interaction of both the groundwater and the surface water. So under our future planning process we would have to look very carefully at an activity in groundwater that will compromise the successful achievement of good ecological status in our surface waters. So if we were, for example, either going to put something in that would manifest itself in surface waters, or we would pump it very hard which might cause the chemical quality to deteriorate, then that will appear in terms of good ecological status, in terms of our groundwater body. So it is very much an integrated view. We have always had to reach compromises in the past and, as my colleagues have said, we are going to have to reach some level of compromise in the future because this is about the environment, society, the economy—it is an integrating directive. But I think the important thing that we have now are the tools to be able to look at it in an integrated way and,

if we are going to have to do something where we are hard pressed, then we are doing it in an open and transparent way. We are saying, “If this is what we need to do, then this is the impact. Is it acceptable? Can we deal with it? Can we mitigate it? Is it affordable? What are the long-term outcomes?” So it enables us to put all those things on the table and say, “Is this the right thing to do?” rather than do it in little packages and then not be joined up with each other.

*Baroness Young of Old Scone:* Could I make one point about water supply? I personally do not believe that we have a water supply problem in this country if we get our act together. If we get proper water efficiency measures that allow us to be more confident about where we do need to develop more water resource and we get ahead with the planning of that and make a positive interaction with the public so that they are willing to fund these things through their water bills, I do not see that we need run short of water. But at the moment the framework within which that happens, the price round by which what needs to happen to protect the water supply is paid for by customers, is severely flawed and, in my opinion, irretrievably broken. And I would like to see it substantially reviewed, because at the moment we are not hacking that in terms of getting ahead of climate change.

**Q52 Chairman:** Thank you very much indeed. I think we have come to the end of our questions but it is always advisable in these circumstances to say: is there anything that you think we ought to know that we have not asked?

*Baroness Young of Old Scone:* I think we have told you quite a lot!

**Chairman:** I think you have! Thank you very much indeed, all three of you; it has been an absolute delight, particularly the emphasis on delivery rather than an over-complicated process.

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WEDNESDAY 24 JANUARY 2007

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Present	Cameron of Dillington, L Greaves, L Jones of Whitchurch, B Miller of Chilthorne Domer, B Moynihan, L	Palmer, L Plumb, L Sewel, L (Chairman) Ullswater, V
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#### Examination of Witnesses

Witnesses: IAN PEARSON, a Member of the House of Commons, Minister of State for Climate Change and the Environment, MR IAN MACDONALD, Water Quality Division, MR ROB HITCHEN, Water Quality Division, Defra, examined.

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**Q53 Chairman:** Thank you very much, Minister, for coming along and welcome. It is always a pleasure to have Ministers here to talk to us and help us with our inquiries. Thank you very much for finding the time. My usual welcome contains the dreaded words that you will be aware of course that this is broadcast and also webcast.

*Ian Pearson:* Thank you very much. I am delighted to be here this morning to answer your questions. Just for the record I would like to say that I have with me today Ian Macdonald who is the policy lead on toxic substances in water for Defra, and also Rob Hitchen, who is the policy lead on the implementation of the Water Framework Directive. I hope, if I cannot answer your questions, then at least they will be able to do so.

**Q54 Chairman:** Can I kick off, Minister, and ask you if you can update us on the progress that is being made in implementing the Directive throughout the United Kingdom? Are you in a position to say anything about progress in the River Management Plans as well, covering the UK as a whole?

*Ian Pearson:* The first thing I would want to say is that I think the Water Framework Directive implementation timetable is a challenging one. Defra and the Environment Agency have actually met all the Directive's deadlines so far and we expect to continue to be implementing them according to the schedule and what is envisaged. We have met the deadlines to transpose the Directive into UK law, which was by December 2003, to send information about our administrative arrangements for implementation to the European Commission by March 2004; we have also met the deadline to analyse each River Basin District, its characteristics, the environmental impact of human activity and economic analysis of water use. We sent this to the Commission by the deadline of March 2005. The Environment Agency have also published a timetable and work programme for the production of the River Basin Management Plan for each River Basin District in December last year. We are meeting all those key milestones and as we move forward there

are some challenging issues that will need to be dealt with. But I am confident that we are on track at the moment and will continue to be for the future. When it comes to the River Management Plans, we have a good level of co-ordination through various bodies. There is a UK-wide policy group, what is called a UKTAG (UK Technical Advisory Group on the WFD), and there is an Economic Steering Group as well. There is England/Wales, England/Scotland co-ordination, and also with Northern Ireland as well there is a good deal of co-ordination. There is obviously some international cross-over with the river basins as well between the north and south in Ireland, and again the Department of the Environment, Heritage and Local Government in the Republic of Ireland is actually a member of the UK Technical Advisory Group. We are pretty joined up in this area.

**Q55 Chairman:** Are there any particular problems that stem from where the river basins cross boundaries? I am thinking of the Solway/Tweed basin, which is pretty vast. Are there any particular difficulties because there are bits in England and bits in Scotland?

*Ian Pearson:* It does require more co-ordination obviously but the Environment Agency and SEPA have published a joint River Basin Management framework setting out how they work together in the Solway/Tweed River Basin District. They have established a cross-border Area Advisory Group for river basin planning in the Solway and the Tweed areas so that level of joint working is happening at the moment.

*Chairman:* That is promising. Lord Palmer?

**Q56 Lord Palmer:** In this country we seem to have a very good reputation for meeting our deadlines, particularly where EU Directives are concerned. Do you have any evidence of how our European colleagues are getting on with the implementing of Directives in their respective countries?

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*Ian Pearson:* Yes, I do. One of the features of the Water Framework Directive is that there is a Common Implementation Strategy process, and I think that has been very useful. My understanding is that it was established by the Commission and Member States in 2001 to enable an informal exchange of best practice and information between Member States. This process is overseen by EU Water Directors, which meets every six months and is chaired by the Water Director from each Presidency. There is a formal mechanism of consultation and dialogue here. The sense that I get from this is that there is a strong desire to have common implementation standards, so there are regular discussions between Member States about what appropriate standards there should be. Rob actually attends some of these meetings.

**Q57 Lord Palmer:** Do you yourself not attend?

*Ian Pearson:* No. This is all at official level.

*Mr Hitchen:* I attend something called the Strategic Co-ordination Group. There are various working groups in the Common Implementation Strategy. For example, there is a working group on groundwater, there is a working group on defining Good Status at EU level. Talking to my colleagues in other Member States I am very aware of what is happening. This process allows for a lot of informal dialogue with colleagues and various workshops are organised, some of which have been hosted in the UK. Compared to the implementation of some other Directives, with this one we can have a reasonably good idea of how it is going in other member states.

*Ian Pearson:* One of the things that has happened in this process is that there has been a production of guidance documents, which have been very helpful in the characterisation process, in particular when you are looking to characterise River Basin Districts. While the guidance documents are non-legally binding, they are a way of ensuring common standards across Europe in terms of interpretation, which we think is important. There is clearly the right of Member States to do what is appropriate for their local circumstances and what is relevant for one River Basin District may not be as relevant for another.

**Q58 Lord Plumb:** What about the new Member States, particularly the ones that are joining imminently? There are bound to be some difficulties there, are there not?

*Ian Pearson:* Certainly with the very newest Member States, across a range of areas they have a number of challenges in terms of meeting EU standards. As far as what we used to call the ten accession countries, again they are in a situation where they have now had some experience of the Water Framework Directive. They were looking at EU legislation prior to

accession. Rob, I do not know whether you have any feeling on the ground from some of the meetings that take place, but with the guidance documents the network of support is there at the moment for those Member States.

*Mr Hitchen:* We have been involved in workshops with Poland, for example, and it is very interesting to learn that they have very robust technical expertise in monitoring for example and strong academic institutions with expertise in water management. They are also very keen to learn from the UK. Another example is that colleagues from the Czech Republic came over to spend some time with the Environment Agency, and also under the CIS (the Common Implementation Strategy) there was a guidance document produced on linking cohesion funding with the WFD specifically to help the newer Member States and in particular to help target some of the EU funding to help reach WFD objectives.

*Ian Pearson:* They will have to work with some of the established Member States as well on River Basin Districts because they clearly cross international boundaries.

**Q59 Chairman:** How do you tackle something like the Danube? It must be a nightmare to try to set up something as big as that.

*Ian Pearson:* I must admit that I struggle to tackle the Solway/Tweed, the Severn and other rivers. I do not have any specialist knowledge of the Danube. But you are right; it has to be a huge issue. I am sure officials will know more than I do about that.

*Mr Hitchen:* The Danube is the largest River Basin District in the EU and if you think the Solway/Tweed might have some difficulties, the Danube has more: there are multiple languages, multiple starting points. There are some existing mechanisms, like the Danube Commission, and the Commission are involved quite closely with that. From what I understand from contacts, the Danube is progressing very well actually.

**Q60 Lord Moynihan:** Could I come onto the Daughter Directives and ask the Minister, given the uncertainties in the full implementation of the Water Framework Directive itself—some of which we have heard about and fully appreciate—are you confident that the recently adopted Groundwater Directive is fully in line with your objectives regarding the Water Framework Directive? That may have been reflected in some of the working party work that Mr Hitchen has just referred to, but I would be grateful if you could give us confidence that that is the case.

*Ian Pearson:* Yes I am confident. I say that because the Groundwater Directive allows Member States to adopt a risk-based approach to groundwater protection and we think that is very much the right approach. It ensures groundwater bodies' chemical

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status will properly reflect whether the environmental immunity role of the groundwater is at risk rather than whether prescriptive or inappropriate EU-wide standards are exceeded. It requires Member States' action on pollution trends to be proportionate in its safeguards, but we think a workable approach to pollution prevention and control. Ian might want to say a little bit more about the detail of it.

*Mr Macdonald:* The essence of what we regard as the success of the new Groundwater Directive is its risk-based approach. That happens, for example, in the way in which standards are applied to bodies of groundwater. They will not function as pass/fail indicators but as triggers for investigation to see what the real condition of the groundwater body might be and what action should be taken in the programmes and measures required under the Water Framework Directive.

**Q61 *Baroness Miller of Chilthorne Domer:*** You have talked about the qualitative measures. The Water Framework Directive also looks at quantitative measures and obviously for groundwater that might pose particular issues. Do the same comments apply, do you think?

*Ian Pearson:* There certainly are serious issues for groundwater. My understanding of this is that groundwater can take a very long time to clear if you were to try to take remediation action. It is not quite as simple and straightforward to deal with as an issue.

*Mr Macdonald:* The new Groundwater Directive does not deal with any quantitative issues; that is reserved to the main Framework Directive.

**Q62 *Baroness Miller of Chilthorne Domer:*** So there is no implication for the Groundwater Directive from quantitative issues.

*Mr Macdonald:* I would perhaps just add that if a groundwater body is very badly damaged then of course that has a quantitative impact.

**Q63 *Baroness Miller of Chilthorne Domer:*** Can I press you a little bit further on the implementation of it. What is happening about addressing some of those quantitative issues as far as the Water Framework Directive goes?

*Mr Hitchen:* UKTAG (the UK Technical Advisory Group) are developing some groundwater related standards in support of good groundwater status. One aspect of that is quantitative status. They are working up those proposals at the moment and they are looking to make those public in the spring for a stakeholder review. Some of those mechanisms will come to light fairly soon. Also, the Agency is working closely to link the Water Framework Directive with catchment abstraction management strategies (CAMS) as well to make sure that there is join up.

Under the Directive there is a requirement in terms of groundwater status, that groundwater dependent eco systems must be protected in order to meet good groundwater status and an aspect of that is quantitative status.

**Q64 *Lord Moynihan:*** Whilst still on the Daughter Directives—possibly moving to Mr Macdonald's specific area of expertise—we understand that the Priority Hazardous Substances referred to in the proposed Environment Quality Standards Directive are those agreed in the November 2001 Priority Substances Decision. Do you have any particular concerns about the application of the EQS Directive to any of them?

*Ian Pearson:* Maybe I can say something in broad terms and then Ian, who leads negotiations in Brussels for us, will provide some more detail. You are right to say that the 33 priority substances were those agreed in 2001 and are prioritised on a risk-based procedure, taking into account monitored and modelled exposure data and properties of persistence by accumulation and toxicity. There is a sort of robust methodology here but we are concerned that that methodology which is used for setting the EQSs is based on a risk assessment procedure; it is not designed to determine legally binding quality standards. We have concerns about the safety factors that have been used to calculate EQSs where there are not the available toxicological data in some cases. We think that this is resulting in highly precautionary and stringent standards that could actually drive very costly investment to achieve objectives and might only have marginal environmental benefit. We actually think that the alternative approach of actually collecting more data would avoid the uncertainty that is actually inherent in this approach. That is why we would favour having provisional standards and seeing lower safety factors. That is part of our negotiating remit for the coming few months.

**Q65 *Lord Moynihan:*** Can you give us an example of where you see the balance between excessive investment—or costly investment, to use your phrase—against the marginal benefit applying?

*Ian Pearson:* In some cases there are not the actual data to determine whether there is any benefit or what the scale of the benefit might be on that. We are dealing with areas of uncertainty.

*Mr Macdonald:* It is getting the balance between a properly precautionary approach and the certainty in the calculation of the correct and scientifically correct quality standard. To come to your point, I think there are ten substances which we have singled out—only ten out of the 33—where the safety factors greater than ten have been deployed in order to cope

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with the lack of confidence in the data.<sup>1</sup> That list is: benzene, dichloromethane, endosulfan, fluoranthene, hexachlorocyclohexane, naphthalene, octylphenols, pentachlorobenzene and trichlorobenzenes. The safety factors there are in some cases up to 500, so when you have arrived at a suitable value at which you think the aquatic environment would not be damaged and then divide it by that large number, you come up with a quite small value as a result which may sometimes be justified. But until you have enough data you cannot be certain that it is. In the Water Framework Directive, as the Minister has said, this could drive investment, for example, in the water industry, in order to get down to very, very small values. It may be in a few years' time we will realise that we would have been doing enough with perhaps a less precautionary standard, and our approach would be in negotiations to see whether the Commission and other Member States would consider a provisional standard, as they have already proposed for a couple of metals. They have already adopted that approach when they were convinced themselves they were uncertain.

**Q66 Lord Moyrihan:** That could be quite a lengthy process. My final question, Minister, is to ask you what progress you see on the EQS Directive under the German Presidency. What is the current nature of the debate in the Council and in the European Parliament?

*Ian Pearson:* The German Presidency have said that it is their intention to try to seek political agreement at the June Council. The European Parliament is actually debating this issue this week, the First Reading of the debate is this week. There are obviously still issues that a number of Member States, including the UK, have with regards to the Directive. Whether it will be possible to reach political agreement by June we will have to see. We have some red lines in the negotiations ourselves, particularly in terms of making sure that Article 4 of the Water Framework Directive applies to this Directive. We need to see that being clearly demonstrated.

**Q67 Viscount Ullswater:** In our initial deliberations on the Environmental Quality Standards Directive, we were unsure as to what the particular costs and benefits of the Directive might be. The Environment Agency emphasised the importance of taking a realistic approach to implementation. I think you mentioned a risk-based approach. Can you outline what analysis Defra has undertaken or is undertaking? I do not know whether Mr Macdonald would want to expand on the sort of answers he was giving to my colleague just a minute ago. In

particular, perhaps if I could ask you, if the Directive allows some flexibility in terms of extending deadlines—I think you said to begin with that the timetable was a challenging one—and you run up against this concept of disproportionate costs or technical feasibility, and if it is the case that this happens and you were not able to fulfil the deadlines by 2015 will Defra lay down a clear timetable for achieving those standards by 2027 as stipulated in the Directive?

*Ian Pearson:* Firstly let me say something about the draft Regulatory Impact Assessment that was attached to the Explanatory Memorandum and the estimates of costs and benefits of the proposals that are in it. You will see from looking at it that there are a number of different options in the proposal. In part the RIA looks at the worst case scenario of Article 4, which is the issue of proportionality not applying, and that produces some pretty high numbers in terms of controls that might be required. The cost of end-pipe controls to achieve environmental quality standards are estimated at some one billion for additional treatment at water industry sewerage treatment works if we were required to meet all the requirements in the Directive as they stand in the proposal at the moment, although we confidently believe we are likely to be successful in ensuring that Article 4 does not apply. When you look at it, therefore, I think the Environment Agency is absolutely right in saying that we need to take a sensible approach to the likely costs and benefits of implementing this proposal. It is very difficult, I think, to determine what those costs are definitely likely to be at the moment in the absence of any sort of agreement and in the absence of some of the detailed work that might be done on what is the right and proportionate approach to take here. In terms of your point about 2027, I just want to say that it clearly is an objective of the Water Framework Directive to aim to achieve Good Status in WFD water bodies by 2015 and we are committed as a Government to achieving that. But the Directive does allow us to set alternative, less stringent objectives providing certain conditions are met. That gives you the opportunity to set alternative objectives to extend the deadline by one or two cycles, which would be 2021 or 2027. One of the key justifications when deciding what those alternatives objectives might be is that measures and mechanisms needed to achieve the objective would be disproportionately costly. There are other conditions as well but that is one of the clear ones. Certainly when it comes to groundwater, as well actually achieving Good Status in all areas, I think it would be impossible given groundwater conditions in some areas at the moment. What we will need to do as part of the process is firstly be clear on what we mean by Good Status. There is still work going on to define exactly

<sup>1</sup> *Note by Witness:* Witness subsequently corrected 'ten' substances to 'nine' substances.

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what Good Status is. Good chemical status will be determined as a result of this Directive, but it is up to individual Member States to define what Good Status is for their particular River Basin Districts. Then we need to look at the evidence of the water bodies in that River Basin District in terms of where it is at the moment to identify what the gap is and then set proportionate objectives to actually achieve that Good Status. That is the sort of process that needs to be gone through. You can envisage that in some River Basin Districts, once you have the definition of Good Status agreed, you might find it difficult—if not impossible or impractical or disproportionately costly—to achieve objectives by 2015, and therefore as part of that planning process you might decide not to set objectives for 2015 but then you would want to set objectives for 2021 or 2027.

**Q68 Viscount Ullswater:** I am rather encouraged by that reply because it seems to be that not only do you have the flexibility of being able to argue on the quality status but also on the timetable involved with cost in mind. Is that a correct statement?

*Ian Pearson:* That is right, yes. Unlike some other EU Directives the Water Framework Directive does build in the issue of disproportionate cost and that is important. When you look at the Bathing Water Directive, for instance, there is no flexibility. I think one of the significant benefits of the Water Framework Directive is that it does allow a proportionate approach to be taken to these issues.

**Q69 Chairman:** How do you know when something is disproportionately costly?

*Ian Pearson:* It is ultimately a matter of judgment, and I think you get to making that decision by a thorough analysis of the costs and benefits of the proposal. You have to look at the costs required to produce marginal increases in benefits. There is, I think, quite a well established process for actually doing that.

**Q70 Baroness Miller of Chilthorne Domer:** This goes a bit to the heart of the way that the Government and the Environment Agency choose to implement the Directive, does it not? You could make it very much easier for yourselves by downgrading the status and saying you will go for a less Good Status, but I have understood from the water industry—and I think Pamela Taylor is on record as saying—that, if the Water Framework Directive was implemented pretty stringently, although there would be costs, they would be borne by the polluters and that actually the benefits environmentally would be massive. One of the things that was striking was that there was one voice from the water industry, the environmental NGOs and so on, and I am worried that by

downgrading the effort on status actually the benefits at the end of tap which the water industry identified would be passed on to the consumer because of the fact that the clean-up of water would be much less than is needed now. Huge amounts are spent by the industry in stripping out all sorts of substances which should not be there. Do you think there is merit in actually looking at a more stringent approach given the fact that there is this consensus from quite unlikely allies like the water industry and the environmental NGOs?

*Ian Pearson:* Let me make it clear that there is absolutely no intention to downgrade standards here. What we are doing through the UK Technical Advisory Group is developing common UK environmental standards and conditions that will support the achievements of good status under the Water Framework Directive. These standards have been developed in two tranches. Defra has received the final recommendations from UKTAG on the first tranche and UKTAG will produce a further report on the second of the two tranches in the Spring. We will consult on both these tranches of standards so that everybody will have an opportunity to comment. In terms of drinking water quality, we have some of the highest quality drinking water to be found anywhere in the world. I do not believe the issue of Good Status really affects the already high levels of drinking water quality we have at the moment, but having river basins in good ecological status is, I think, very important for environmental reasons.

*Mr Macdonald:* On the point about whether we would relax standards, where these quality standards for the priority list substances are concerned there will not be any flexibility. There will be numbers and we will have to comply in order to demonstrate Good Status or good chemical status. Also, where the water industry's costs are concerned it is true that cleaner resource would reduce treatment costs but I am afraid the water industry also has clean-up costs of its own. So in order to produce the cleaner resource it will have to spend a certain amount to discharge cleaner water. It is very slightly circular in that sense. There may be a balance to be struck there.

*Chairman:* Could we explore the issue of Good Status further? Lord Plumb?

**Q71 Lord Plumb:** You have just given us a definition of Good Status; the question is when is this going to be achieved? When will you sort of draw a line and say that this is now an agreed status between all members of the European Union? To what extent will economic development play a part in all of this, which obviously is quite important? You referred earlier to the huge areas of basins and you made the point yourself that a lot of these are going to cross borders, and therefore you have to have a European status which is acceptable. We are talking

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presumably, when you are talking about Good Status, about both quantitative in a sense and qualitative assessment of what you term as good. Again you can move on to the different levels of purification. I opened a sewage works not so very long ago and they were trying to prove to me that the end product was purer than the water that came out of the tap. Having failed to prove this to me, when we went into lunch they gave me a huge glass to prove it. As I took a large gulp from this glass, I realised it was neat gin. Nevertheless, it set an example that purification is a very major part of this and all sorts of things can be done with liquids that are flowing into these large basins. We do not rule out desalination because there is a lot of water around in the seas of the world which are travelling in the direction of the rivers which are going into the basins themselves. It is a very wide area so, as the Chairman says, let us have a little more definition of Good Status.

*Ian Pearson:* We are keen as a Government to ensure that through the work of UKTAG we do have common UK environmental standards. As I explained, this is being done in two tranches and will be consulted on. The range of stakeholders who have an interest in these matters will have opportunities to comment. It is also right, as well, that there is at least a consistent approach across Europe to these standards. That is why there is an inter-calibration process that is taking place. Rob, you might want to say something more about how that works. The intention is that we have a level playing field and a common view of the sort of modalities of what Good Status is all about.

*Mr Hitchen:* If you take good ecological status, the Directive (in the annex) talks about so-called normative definition, so it defines what good ecological status is in terms of ecology. So, if you take fish fauna, the kind of fish fauna you would expect to see in Good Status water bodies. It also defines it for high status and for moderate status. In a sense that is already in the Directive. What Member States are trying to do through inter-calibration is a process of harmonising the ecological classification systems of each Member State, and that process is due to complete, as far as it is possible in the first cycle, by the end of this year. In that sense there is that sort of level playing field, the level of understanding of what good ecological status is. Then Member States have to try to interpret the outputs of inter-calibration in their own classification scheme. If you take fish fauna, for example, we need to decide in the UK what level of ammonia in our rivers and lakes can support that fish fauna and that level is what UKTAG are developing at the moment, what they are consulting on—the first tranche of standards and the second tranche of standards in support of good ecological status. You have a common EU approach, if you

like, in broad terms in defining the ecological status, but then there is the flexibility for Member States to define what that means to its levels of ammonia, levels of phosphates in rivers and lakes, because it is going to vary across the EU depending on climatic and geographical factors.

*Ian Pearson:* Presumably it will vary from river to river in the UK depending on the characteristics of that river.

**Q72 Lord Plumb:** Nitrogen?

*Mr Hitchen:* Nitrogen is an ecological limiting factor in coastal waters, so UKTAG are considering some nitrate standards in coastal water. The UKTAG standards are type-specific, so a chalk stream will have a different level of phosphate required to support ecology.

**Q73 Lord Greaves:** I want to pick up the interaction between all this and the wider world, as it were. First of all, general public involvement and the requirement in Article 14 to involve the public. When Baroness Young of Old Scone gave evidence to the Committee last week (I was not there but I managed to read the transcript), she suggested that public involvement—the involvement of people on the street corner or in the pub or whatever—in areas like this is a chimera and what really matters to them are outcomes and not feeding in their views into the process of how it is going to work or even the operation of the system. Is that your view? Do you think that the proposals of the Environment Agency meet with the requirements on this? Can I also ask you about the implementation of it as far as the interaction with what I would call the democratic system and the planning system? The District Liaison Panels (the word “district” is not the word I would use for these areas) are going to cover the river basin in the North West for example, which more or less is the North-West region with a bit of juggling to account for where the water actually goes. How will these regional panels work? Which other groups, organisations or bodies will be part of them? and how will they interact with the planning system and with local authorities?

*Ian Pearson:* There are a number of questions there. First of all let me agree with Baroness Young, that people are interested in outcomes and they do want to see our rivers and streams and lakes in Good Status. I think it is important—as has already been made quite clear—this is a very technical area in some respects and I think that needs to be reflected in the nature of the consultation. The Environment Agency has a strong track record when it comes to consultation and involving stakeholders. We believe it will ensure that the delivery of the public participation requirements of the Water Framework Directive will be met. As I think you will be aware,

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the Agency established a Liaison Panel for each River Basin District in the middle of last year and this includes representatives from three main areas: organisations representing sections of the public who will be affected by the implementation of the Water Framework Directive; those responsible for actually delivering the measures; and also the Regulators as well. I know from my time as Environment Minister that certainly the make-up of the panels was subject to quite a lot of debate and a fair amount of lobbying as well. My understanding is that the panels are currently working successfully, although there is a lot of work to be done and it is still early days.

**Q74 Lord Greaves:** What are they doing?

*Ian Pearson:* The panels are doing the work in preparation for the production of the River Basin Management Plans, looking at the work on the characterisation of the River Basin Districts. There will be a full programme of work for them for the future. The Environment Agency, as Baroness Young will have told you, is also working with stakeholders in other ways, such as through Defra's National Water Framework Directive Stakeholder Forum, and there have been written consultations on River Basin Management Plans and key documents leading up to their production, and also through a variety of forums at a local level. I am confident that people who want to get involved with this process will have the opportunities to be involved. As I said, when it comes to consultation of what Good Status is, there are opportunities there for people to get involved and to express a view.

**Q75 Lord Greaves:** What is the timescale for the River Management Plans, and when they are produced, how will they then interact with the planning system? Will it be at the regional level through the regional spatial strategies or will they be documents to be taken into account at the level of detailed planning applications, for example? Or would it simply be through what then appears in the regional spatial strategies?

*Ian Pearson:* Given the scale of the River Management Plans it is, as I understand it, basically through the regional spatial strategies at that high level. In terms of the timetable, Rob is policy lead on implementation and may want to say something on that.

*Mr Hitchen:* In terms of the timescale, the largest role for the River Basin District Liaison Panels is to advise the Agency in the preparation of significant water management issues, reports which the Directive requires to be consulted on by the end of 2007 for six months. I think the Agency are proposing to do it earlier than that. As the Minister rightly pointed out, the draft of the River Management Plans will be consulted on at the end of

2008, again for six months as stipulated in the Directive. The regional liaison panels will have a very important role in taking those forward. They do have a very important role at the regional level and in terms of the River Management Plans public bodies are required to have regard to the River Management Plans and the requirements within it, but also both Defra and the Agency are seeking to influence other public bodies to participate in the plans.

**Q76 Lord Greaves:** So they will be at a strategic level really, the River Management Plans.

*Mr Hitchen:* They are intended as a strategic document. I do not know whether you have seen it, but Defra and WAG produced a guidance document last year on river basin planning and within that is set out the kind of strategic approach that should be set out within the plans.

**Q77 Lord Cameron of Dillington:** In some catchments the agriculture industry is going to be pretty important to the effective implementation of this Directive. Last year the Environment Agency were talking about the importance of cross-compliance in this. I guess from that I have two questions. Cross-compliance is all about having proper infrastructures in place and the proper management procedures for handling waste. In other words, it is all about point source pollution. I was just wondering whether Defra foresaw a problem with more diffuse pollution, in other words river catchments where actually there are too many livestock around. In my area in the South West, the Tor and the Torridge used to be a prime example of where there were too many cattle and, whatever you did with the slurry at whatever time of year, it was actually beginning to have an effect on the quality of the river. I was just wondering whether that was a problem and how you think you may be able to deal with that. We are dealing with quite a long timescale here. My second question is what happens when maybe cross-compliance ceases to have any legal relevance, because the Single Farm Payment has evaporated?

*Ian Pearson:* Agriculture is certainly one of several sectors that may, and probably will, need to take action to ensure that the Water Framework Directive objectives are met. The Government's view on the reform of the Common Agriculture Policy is a matter of public record, and you will have read about our vision for CAP reform. We do want to see radical reform of the Common Agriculture Policy in the future. I think it is fair to say that it will remain for some time. We believe strongly in cross-compliance and, as you will be aware, we have various schemes through environmental stewardship to encourage good environmental practice above the basic cross-compliance requirements. I think that those are

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important and I have no doubt we will want to see them continue as a matter of policy. When it comes to diffuse pollution, we accept that there is a problem here and we intend to consult shortly on a package of measures with regard to diffuse pollution, in particular pollution from phosphorous, sediment and faecal indicator organisms. We are currently analysing a range of possible policy mechanisms to achieve that. There are certainly plans to tackle diffuse pollution, but we will want to do it in partnership and in consultation with the industry.

**Q78 Baroness Miller of Chilthorne Domer:** I would like to go back to something Lord Greaves touched on with local authorities and then go on to the cross-government approach. As far as local authorities go, Baroness Young said last week that there was—as I think you just mentioned—a requirement in the Directive to have due regard to the Water Framework Directive. But what she would like is a far more stringent requirement on local authorities to deliver the objectives of River Basin Plans, in other words that would be a very different approach. First of all, do you think that that is reasonable, and would you be asking the Department for Communities and Local Government, to actually put that requirement into local development frameworks? Secondly, to pull out Lord Greaves' point, do you actually think that the local authorities at that much more local level—I hesitate to use the word “district” because it is in this context that it is being used for the big area—or unitary authority level or even county level really do have sufficient forums at the moment to discuss some of these issues which will impinge on them enormously if they are going to be required to deliver the objectives of the plans?

*Ian Pearson:* Defra works very closely with Communities and Local Government on a wide range of environmental issues. I agree with Baroness Young that local authorities will have to have regard to River Basin District Management Plans. We have not yet set the objectives for these, so in terms of finding what the requirements might be on local authorities I think it is a little bit early to judge. But there are clearly issues in terms of the planning process that we will need to take account of in the future.

**Q79 Baroness Miller of Chilthorne Domer:** I think Baroness Young actually wants them to have more than due regard to it; she wants the Government to impose on them a requirement to deliver the objectives. If you agree with her and that actually happens, what say will the local authorities have had in that process?

*Ian Pearson:* That is Baroness Young's view. I just think it is premature to actually decide what further action might be required when we have not even set

the objectives yet. It is something that we want to consider. There are obviously also other stakeholders who will have an interest and be actively involved not just in the planning process but will have to take action when it comes to implementation. What the appropriate balance of responsibilities is, I think will have to be determined on a River Basin District basis.

**Q80 Baroness Miller of Chilthorne Domer:** Is it fairly frustrating that Defra has to deliver this and yet actually in many ways the power to deliver it is in the hands of the Department of Transport and Department of Communities and Local Government because actually the way that local development frameworks are implemented and the way that drainage is designed by highways agencies is going to have a huge bearing on this. And yet you cannot write their guidance for them. How are you going to address these issues across departments? Are they represented, for example, on the implementation group?

*Ian Pearson:* I know it is fashionable to talk about government being in silos and departments not talking to each other. But that is actually very far from being the case. Defra has policy leads on a number of areas where implementation will involve working closely with a number of other government departments. In climate change, for example, we work very closely with DTI, DFT, CLG and others, and it is exactly the same when it comes to the Water Framework Directive. At an official level there is an Inter-Departmental Steering Group that assisted with the transposition of the Directive and that has now been replaced by the WFD Whitehall Group, which mirrors the Ministerial Energy and Environment Committee at official level. I sit on EE as well and this includes a range of government departments. We take issues to do with the Water Framework Directive, and indeed climate change and other matters, directly to EE and Ministers from different government departments all have the opportunity to have a policy input. As I say, this is mirrored at an official level as well so there is a lot of joined-up working here that I think sometimes people on the street do not appreciate. The average person in the street does not understand the sophistication of the policy formulation process in government; quite rightly they are more concerned with outcomes. Sometimes I think we could better explain that we do consider these things seriously. Ministers across a range of government departments have an input into the policy process and we come to a mature judgment about what is the right thing to do.

**Q81 Lord Greaves:** I have to say I do not think it is just people in the street who do not understand the sophistication of government departments, I think

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we do not either and perhaps we ought to do more. So far as local authorities are concerned, is it just the planning system that it will feed through, the regional spatial strategy's local plans and so on? or is there going to be a wider role for local authorities at either county or district level across everything they do and how will this actually work if it is?

*Ian Pearson:* I know, Lord Greaves, that you are a great expert in local government matters and my understanding of how this works is that local authorities already have an obligation to consider impacts on water in their planning activities. The new planning policy statement that we issued, for instance, is just one part of that and there is already liaison between local authorities and the Environment Agency on a range of issues relating to the water system. Baroness Young will have a view on this but certainly we would expect that the River Basin Planning systems will change the way in which the Environment Agency and local authority liaison will happen. We would expect local authorities to have strategic discussions through the Agency's River Basin District Liaison Panels and possibly sub-groups of those panels, which are the forums in which the River Management Plans negotiations and discussions will take place. I think there will be a lot of dialogue between local authorities and the Environment Agency and getting the right sort of structures in place will be important. Work is taking place on that at the moment.

*Mr Hitchen:* The Environment Agency and RTPI (Royal Town Planning Institute) together with the Local Government Association have developed some informal guidance to local authorities about how they need to take into account the Water Framework Directive and that is available on the Environment Agency website. There is some thinking, some informal steer if you like, about what kind of things local authorities should take into account.

**Q82 Lord Greaves:** Are the existing regional assemblies going to have a role in this?

*Ian Pearson:* The regional assemblies will have a view on the regional spatial strategy and that will have reference to River Basin District Management Plans.

**Q83 Baroness Jones of Whitchurch:** Given the expertise and the investment that is going into implementing the Water Framework Directive, have you got any plans to take that forward into the impact that freshwater then has on seawater as it flows into the sea and actually ensure that all that good work does not just end in the river basin but actually is applied out beyond to the seawater and marine life and so on? I suppose the next bit of that question is, therefore, if there is going to be a new Marine Bill, will that take account of some of this

good work that is taking place? Otherwise a lot of the good work will be lost.

*Ian Pearson:* Yes we have. The Defra Marine Bill team is very well aware of the requirements of the Water Framework Directive and they understand that its implementation needs to be carefully considered when developing the Marine Bill, particularly because the River Basin Management Plans should include transitional and coastal waters. It is important that we are joined-up about this and there have already been discussions with the Environment Agency and other stakeholders which have a role in implementing the Water Framework Directive to ensure that there are linkages and synergies with the Marine Bill. These discussions will continue and as you will be aware we still very much want to produce the Marine Bill and set up a marine management organisation, but we need to make sure that there is a consistent and joined-up approach here and we will do just that.

**Q84 Baroness Jones of Whitchurch:** So the principles from the Directive will be applied in any future bill. That is basically what you are saying?

*Ian Pearson:* Yes, we will take full account of the Water Framework Directive in our design for the detail, the policy that goes into the Marine Bill.

**Q85 Baroness Jones of Whitchurch:** When are we likely to see the bill?

*Ian Pearson:* We have said that we want to have a Marine Bill and, as you know, it was not in the Gracious Speech. However, we are taking work forward on it and there are a number of technical issues and discussions that we have been having, particularly with the Devolved Administrations on this matter. Certainly there is an intention to produce a draft bill and we will undertake to keep the Committee fully informed.

**Q86 Chairman:** Thank you very much indeed for coming and talking to us, Minister, and your two colleagues as well. You have painted a complex picture for us to reflect on more than anything else, and clearly there is an enormous amount of work still to do. I was just wondering,—between you, me and the gatepost, did we actually realise what we were letting ourselves in for when we signed up to the Directive in the first place?

*Ian Pearson:* I think the Water Framework Directive overall is an important and significant way in which we can produce the water and environment quality improvements that we would all want to see. It is flexible, unlike some other directives, and it will enable that overarching framework to be applied to management of the water system. As is always the case with these things, some of the consequences that follow from it and some of the legislation needs to be

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looked at very closely and we need to make sure that we get the detail right. One of the key things of the Directive overall is that Article 4 makes it clear that members would not be required to take action which would incur disproportionate cost or which is not technically feasible within allotted timescales. I think

that principle has to apply to all the Daughter Directives and this very much a key part of our negotiating remit as we move forward with this proposal on priority substances.

**Chairman:** Thank you very much indeed and good luck.

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# Written Evidence

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## Letter from David R Woods, Chairman of the Foundation for Water Research to Lord Sewel

I hope you do not mind me writing to you directly, but my attention has been drawn to evidence given to the Select Committee (Sub Committee D) on the subject of public participation and the Water Framework Directive by Baroness Young and Ian Pearson (17 and 24 January 2007) respectively.

I attach a critique of their statements on the Directive requirements for public participation since I fear that, at least in England and Wales, these will not be met by the current arrangements put in place by Defra and the Environment Agency.

The Scots are much more enlightened on this matter as are those in the Irish Republic.

At the Foundation for Water Research, an independent registered charity, we have invested heavily in providing information to the general public through our Water Framework Directive Information Centre ([www.euwfd.com](http://www.euwfd.com)) You may find the subject matter enlightening.

I believe that action is needed now if the UK is to avoid the embarrassment of failing to comply with the public participation aspects of this Directive.

## CRITIQUE BY THE FOUNDATION FOR WATER RESEARCH

### STATEMENTS BY BARONESS YOUNG AND IAN PEARSON

A key statement, made by Baroness Young on 17 January 2007 in relation to public participation in the implementation of the EU Water framework Directive was as follows:

*“I would like to put a nail through the heart of this public participation thing right from the start, because there is a lot of loose talk about it.”*

Well there certainly is a lot of talk about it, the official WFD Common Implementation Strategy Document (No.8) runs to over 200 pages, but she will have to ask her EA representative on the drafting group as to whether, or not, its just loose talk.

The Baroness goes on to say that:

*“The Directive actually guides us to make sure that the people who need to be involved because they can deliver are participating, and that the public are informed.”*

Then she states that:

*“To spend a lot of money trying to get the intricacies of the Water Framework Directive over to the man in the street, when he has already told us he does not want to know, seems to me not what we are about. I want action. I do not want discussion.”*

*“I would rather spend more money on getting river basins better than making sure that all 60 million people in Britain know their water catchments and know what is going on in it—to be frank.”*

The statement by Ian Pearson on 24 January 2007 was in response to a question by Lord Graves concerning whether the arrangements for wider participation in the implementation of the Directive would meet its requirements in this matter.

Ian Pearson stated that:

*“We believe it (the EA) will ensure that the delivery of the public participation requirements of the Water Framework Directive will be met.”*

Despite their claims, the statements of both Baroness Young and Ian Pearson appear to fall far short of the requirements of the Directive itself and the WFD CIS Document 8 that Member States are to follow in setting up public participation.

## EU WATER FRAMEWORK DIRECTIVE

Consider first the Directive Preambles that are intended to put into context Article 14.

Preamble 14 states that:

*The success of this Directive depends on close cooperation and coherent action at Community, Member State and local level as well as information, consultation and involvement of the public; including users.*

Preamble 46 states that:

*To ensure the participation of the general public including users of water in the establishment and updating of river basin management plans, it is necessary to provide proper information of planned measures and to report on progress with their implementation with a view to the involvement of the general public before final decisions on the necessary measures are adopted.*

These Preambles clearly set the context in which Article 14 was intended to be viewed.

Article 14 states that:

1. *Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member states shall ensure that, for each river basin district, they publish and make available for comment to the public, including users:*

- (a) a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;*
- (b) an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;*
- (c) draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers.*

*On request access shall be given to background documents and information used of the development of the draft river basin management plan.*

2. *Member States shall allow at least six months to comment in writing on these documents in order allow active involvement and consultation.*

3. *Paragraphs 1 and 2 shall apply equally to updated river basin management plans.*

## WATER FRAMEWORK DIRECTIVE GUIDANCE DOCUMENT NO 8 PUBLIC PARTICIPATION IN RELATION TO THE WATER FRAMEWORK DIRECTIVE

CIS Guidance Document No 8 clearly states that the key public participation provision of the Directive is prescribed as:

- Active Involvement in all aspects of the implementation of the Directive, especially, but not limited to, the planning process;
- Consultation in three steps of the planning process; and
- Access to background information.

The document further states that the Directive requires more than just consultation, in addition, the active involvement of the public (including specific stakeholders) in the implementation of the Directive has to be encouraged and access has to be given to background information.

## COMMENTS ON THE STATEMENTS BY BARONESS YOUNG AND IAN PEARSON

It would appear that the majority of the loose talk about public participation and the Water Framework Directive emanates from the Baroness herself.

- Contrary to her assertions the Directive does require public participation in the development of river basin management plans and public consultation before the plans are finalised. It is insufficient to just announce what the plans are and then to give periodic updates on progress — this approach is commonly known as “mushroom-management.”
- It is interesting to note that Preamble 14 tags on “users” as a sub-set of the public, whereas the EA Consultation Panels at river basin level exclusively comprise users (stakeholders). The term “stakeholder” implies some financial interest in the river basin. The real “stakeholders” are, of

course, the general public who through water charges, taxation and higher commodity prices, will finance the river basin management plans. Of course it is important to consult with those bodies that can smooth the development and implementation of the river basin plans, but to disregard the general public in the way the Baroness suggests is both insulting and potentially dangerous.

- We are unaware of any research on public attitudes to the social economic and environmental impact of the Water Framework Directive and are unable to comment directly concerning the Baroness's references to public preferences regarding the level of information and involvement. However, we are well aware of public opinion concerning increases in utility prices. Perhaps the EA could make available its research findings concerning likely public reaction to the costed river basin management plans and their impact on their pockets.
- The Baroness's attitude to public education on environmental matters is revealing. The Water Framework Directive is the most important piece of European legislation on the water environment to date and will set the pattern for water management for decades to come. It provides an ideal opportunity to engage the general public in water environment issues—an opportunity the EA clearly intends to miss.
- Ian Pearson indicates that the public participation requirements of the Directive will be met by the consultation arrangements put in place by the Defra/EA. These arrangements comprise a National Panel and a Panel for each river basin district involving stakeholders who represent only a small subset of the general public. Furthermore, these stakeholders have vested interests in specific outcomes for the plans. The river basins themselves are huge in terms of area and population and consultation at this level denies the opportunity to discuss the river basin needs on a sub-catchment basis with those who live within them.
- Neither the Baroness nor Ian Pearson mention the prescriptive nature of the Directive that makes quite clear what must be done to provide appropriate river basin management. Despite this prescriptive nature, communication with the public is essential. With a higher proportion of the population enjoying graduate or equivalent status it is insulting to suggest that the Directive is too technically complicated.
- Finally, it is indeed fortunate that EA jurisdiction does not, as the Baroness implies, extend to north of the border. SEPA and the Scottish Executive have taken a much more enlightened approach to public participation and consultation, bringing its consultation mechanism down to local, sub-catchment level.

## CONCLUSION

It is asserted that the mechanisms for public participation by the EA in England and Wales fall short of the requirements of Water Framework Directive and the official CIS Guidance Document.

Proper mechanisms should urgently be put in place to avoid embarrassing failure to comply with this requirement.

## FOOTNOTE

Those interested in any aspect of the EU Water Framework Directive will find answers to many of their questions on the internet at [www.euwfd.com](http://www.euwfd.com)

This web-site is primarily financed by the Foundation for Water Research, a registered charity that has invested some £400,000 from its own resources in its development so as to educate the public concerning the provisions and implementation of the Water Framework Directive.

*13 March 2007*

**Letter from Baroness Young of Old Scone, Chief Executive, Environment Agency to the Clerk of the Committee**

**WATER FRAMEWORK DIRECTIVE**

I refer to the copy you kindly sent us of a letter of March 13 from Committee from the Foundation for Water Research.

We disagree with the Foundation for Water Research conclusions. We are absolutely committed to delivery of the Water Framework Directive, to involving stakeholders who can act to deliver the requirement of the directive, and strongly believe we will achieve legal compliance with the participation requirements of the Directive.

We have set up River Basin Liaison Panels but are not proposing to set up further formal consultative groups, preferring to target our limited resources on engagement with appropriate deliverers who will be able to tackle the key issues identified within each river basin.

We piloted the Common Implementation Strategy guidance in 2003 in the Ribble catchment in north west England. We found that stakeholders wanted to move from talking to delivery, and did not want duplication of existing engagement processes or fora.

We have a long-standing and extensive engagement programme to support our day to day activities, and where there are important local issues we always set out to engage with those affected. Within our proposals for River Basin Planning we've made it clear we will set up further local consultation where it's needed.

The Ribble pilot also gave us practical evidence for the ideal shape of River Basin Liaison Panels. We designed these to involve all the sectors contributing to delivery, including consumers (Consumer Council for Water is represented on all panels), environmental NGOs and local authorities. The panels have worked with us to produce the first consultation document required by the Directive, published in December 2006. This consultation, called *Working Together*, puts forward our proposed options for the amount and form of engagement during the River Basin Planning process.

The consultation closes in June 2007 and our plans for engagement will be finalised when we have considered all the responses.

I would suggest that Mr Woods or the Foundation for Water Research should be encouraged to respond to our *Working Together* consultation. This will allow them to formally make their views known to both us and the public.

*16 April 2007*

**Letter from Rob Hitchin (DEFRA) to the Clerk of the Committee**

**EU WATER FRAMEWORK DIRECTIVE (WFD)**

Thank you for giving Defra the opportunity to comment on the letter sent from the Foundation for Water Research (FWR) to the Committee which is critical of the evidence provided to the Committee on the role of public participation under the EU Water Framework Directive (WFD).

I understand that the Environment Agency have written separately to set out their views of the concerns raised by FWR.

From the perspective of Defra I would like to set out some of the efforts and initiatives we are taking to ensure that the requirements of the WFD regarding public participation (under Article 14) are being implemented at the national (England) level.

Since 2002 Defra has chaired a National Stakeholder Forum for England on the WFD which meets every three to four months. It comprises over 40 national organisations covering a broad range of sectors on interests including agriculture, industry, ports and navigation, environmental Non Governmental Organisations, anglers, fisheries, energy and research institutions. FWR are also members. The Forum allows Defra and the Environment Agency to provide regular updates on the progress in WFD implementation in England, UK and at EU level. It also allows national stakeholders to put across the views and concerns of their membership so that Defra and the EA can take on board these views at an early stage. Parallel arrangements exist in respect of the WFD Article 17 Groundwater Directive and the WFD Article 16 proposal on quality standards for Priority List dangerous substances.

There are also two sub-groups of the WFD Stakeholder Forum that have been established on economics and communication of the WFD to wider audiences. The former meets several times a year to provide input into the development and implementation of the economic tools and analysis that are central to the successful implementation of the WFD. The latter meets on an ad hoc basis and proved extremely useful in helping DEFRA and the EA communicate the initial results of the river basin characterisation exercise in 2004 to a wider audience (which also received coverage in national newspapers and radio).

Stakeholder engagement throughout the Defra led Collaborate Research Programme on River Basin Management Planning Economics for the WFD (CRP) has also been central to its work from the start with several national organisations contributing funds to the Programme. Major national workshops on the CRP and WFD economic analysis generally—open to any interested parties—have also taken place annually in an attempt to disseminate more widely the findings and methodologies that are emerging on cost-effectiveness analysis, disproportionate cost analysis and benefits assessment.

The Defra led (together with Welsh Assembly Government) preliminary Cost-Effectiveness Analysis (pCEA) work currently taking place in England (and Wales) is actively involving key sectors and stakeholders that use and benefit from the water environment through the establishment of sector working groups. These groups are tasked with working up the potential costs associated with national measures that could help meet WFD objectives. A wider workshop is planned in coming months to disseminate the findings to a wider national audience.

Defra also chairs other national level stakeholder for a covering components of WFD implementation which include those on Catchment Sensitive Farming (both policy development and delivery) and non-agricultural diffuse pollution.

The Committee may also wish to note that 30 Catchment Steering Groups have been established under the England Catchment Sensitive Farming Delivery Initiative. Their main function is to bring together input from Natural England, the Environment Agency and local stakeholders including farmers to inform activity in the catchments. Water companies, nature conservation bodies and farming sector representatives are members of these groups.

Defra continue to provide frequent presentations on WFD implementation at various EU and national conferences, workshops and events with the aim of helping extend the understanding of this challenging and important Directive to a wider audience and how it can be used for ensuring the Government's objectives for the protection and enhancement of the water environment are met. For example we are working, alongside the EA and other UK competent authorities on the WFD, with the Chartered Institution of Water and Environmental Management (CIWEM) who are organising a UK conference on WFD Implementation in London on 26 June.

In addition, there are the formal requirements of Article 14 of the WFD which include the requirement for a timetable and work programme for the production of the river basin management plan, including consultation on a statement of the consultation measures to be taken. (In England EA are fulfilling this through their current consultations on "Working Together" being undertaken in each River Basin District); consultation on an interim overview of the significant water management issues identified in each river basin district (to be undertaken by EA this summer) and consultation on draft copies of the river basin district management plans (to be issued by the EA by 22 December 2008).

Defra (and WAG) have also provided statutory guidance to the EA in the form of our River Basin Planning Guidance (August 2006). Chapter 11, Working in Partnership, of the guidance states that the EA should set up River Basin District Liaison Panels and the chapter also provided guidance as to what these panels should do. In addition chapter 11 provides guidance on other types of partnership working and dispute resolution, involving Ministers, if necessary.

I hope that by outlining some of the significant efforts we are making to ensure full stakeholder and public participation, the Committee will be reassured that we are doing a great deal to actively meet the public participation requirements of the WFD.

*30 April 2007*

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