



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

EU Exit Preparation and Delivery: Northern
Ireland Environment Link

10 September 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Ms Diane Ruddock	National Trust
Mr Sean Kelly	Northern Ireland Environment Link
Mr John Martin	Royal Society for the Protection of Birds (NI)
Ms Rebecca Hunter	Ulster Wildlife

The Chairperson (Mr McAleer): I welcome, via StarLeaf, Sean Kelly, the parliamentary development officer in NIEL; John Martin, head of policy and advocacy in the RSPB; Rebecca Hunter, chair of the Ulster Wildlife marine and fisheries group; and Diane Ruddock, external affairs manager in the National Trust. I will give the representatives an opportunity to begin their presentation.

Mr Sean Kelly (Northern Ireland Environment Link): Thank you very much, Chair. Can I check that everyone can hear me OK?

The Chairperson (Mr McAleer): Yes.

Mr Kelly: Thank you, Chair. This is Sean Kelly from Northern Ireland Environment Link (NIEL). Thank you, Chair, for your welcome this morning. We thank the Committee for the invitation to brief it on Northern Ireland's Brexit preparedness, certainly from our point of view of looking at the environmental aspects.

By way of background, Northern Ireland Environment Link is the networking and forum body for non-statutory organisations that are concerned with the environment in Northern Ireland. We have 65 full members and represent over 190,000 individuals, which, I think you will agree, is a significant constituency in Northern Ireland, and our members manage a large land area and deliver a variety of benefits to society. Our members are involved in environmental issues of all types and at all levels

from local community issues to the global environment, and NIEL brings together a wide range of knowledge, experience and expertise that can be used to help to develop policy, practice and implementation across a wide range of environmental fields.

Moving on to Brexit, following the outcome of the EU referendum, through our Nature Matters NI campaign, we have been advocating for improved environmental protection in order to secure the best future for our environment post-Brexit. We are particularly focused on areas such as agriculture, marine, environmental governance and North/South and east-west issues.

I understand that you have received our briefing on our views on Brexit preparedness, but we would like to make the following observations and summary points, if we may. As we rapidly approach the end of the transition period in December, we are still dealing with massive uncertainty with negotiations still ongoing, which I am sure you are very much aware of. While the Department is grappling with operationalising the requirements of the Northern Ireland protocol, members will be aware that that work may be impacted by the outworkings of the proposed United Kingdom Internal Market Bill, which was introduced yesterday. We still have to go through the detail of that.

Important UK legislation with implications for Northern Ireland, such as the Environment Bill, Agriculture Bill and Fisheries Bill, which are designed to replace EU legislation, have yet to complete their passage, and, as the Committee is all too aware, a substantial programme of secondary legislation and frameworks requires implementation before the end of the year. As timescales are extremely challenging, the Department has been prioritising having a viable policy and legislative framework and operational readiness and contingency measures in place for January 2021, and that, of course, is not surprising.

We would like to make the following comments specifically on the environment. As part of the current draft withdrawal agreement, particularly the introduction of the Northern Ireland protocol, from January 2021, we will find ourselves in a position in which we will have a mixture of environmental laws and arrangements required by the protocol as well as retained EU requirements for areas that are not covered by the protocol. The complexity and extremely short time frame in which those requirements need to be put in place is a major concern for our sector. Those already tight timescales have been further complicated by the impact of the COVID-19 pandemic on the Department in the form of reduced operational capacity and increased workload due to the COVID recovery, which, again, is understandable.

I will comment briefly on some of the issues that we raised in our Brexit preparedness summary table that we provided as part of our written submission. First, it must be remembered that the existing Northern Ireland protocol deals with environmental issues only in relation to trade and does not cover a range of key environmental legislation such as the birds and habitats and water framework directives. It is our understanding that, currently, work on environmental issues beyond the protocol is not being seen as a priority in the Department.

The UK common frameworks to deal with common goals, minimum and maximum standards, harmonisation etc could reduce the risk of regulatory divergence, or a race to the bottom, in relation to climate change, biodiversity, conservation etc, but, following a prioritisation process of the 18 DAERA common framework policy areas, the four that relate to biodiversity and natural environment are rated as low priority, while freshwater environment is omitted from the list.

We have not yet gone into the detail of the Internal Market Bill that was published yesterday, but the UK White Paper has serious implications for the environment in Northern Ireland and across the UK. The White Paper places the pursuit of frictionless trade above all other policy ambitions, including the Government's desire to achieve world-leading environmental standards. All four UK legislatures must agree to the non-regression of environmental standards as a common baseline, along with a shared stated ambition for environmental policy to be world-leading in its effectiveness, stringency and ambition.

The UK Agriculture Bill provides certainty in the short term for Northern Ireland farmers, but there is no long-term vision for how agriculture and the environment will be supported in the future, and the absence of a sunset clause in the Bill means that there is no onus to progress a Northern Ireland agriculture Bill in a time-bound manner.

We are supportive of the Northern Ireland provisions in the Environment Bill, but we are not aware of any further action undertaken by DAERA in relation to those provisions. We would very much welcome progress on the development of an environment strategy for Northern Ireland, a commitment to

establishing, in law, nature recovery targets in Northern Ireland and a commitment to the non-regression of environmental law in the Bill, as well as progress on the design and establishment of an office for environmental protection here.

Finally, we broadly welcome the UK Fisheries Bill as a piece of framework legislation that aims to deliver sustainable fisheries management alongside a healthy marine environment, but, despite the Bill's welcome ambition and additions to it, we believe that it falls short in delivering a legal commitment to the fishing industry.

To conclude, although we acknowledge the extremely tight time frames, the potential implications of the ongoing political negotiations at UK/EU level and the local resource issues exacerbated by the COVID pandemic, we believe that significant and worrying gaps and delays are already occurring in a range of environmental issues that need to be addressed as part of the Brexit process, as well as those that have been delayed due to the Brexit resource requirements in other important areas, such as progress on the ammonia and biodiversity strategies, on an independent environmental protection agency (EPA) and on Northern Ireland climate change legislation, to name but a few.

That concludes my introductory comments. We are happy to answer any questions.

The Chairperson (Mr McAleer): Thank you very much for that comprehensive presentation. I want to pick up on a couple of points. You said that the protocol dealt with environmental issues only in relation to trade and does not cover key areas such as the birds and habitats and water frameworks. Do you have an assessment of the potential impact of the implementation of the protocol on those areas?

Mr Kelly: The panel may want to comment, but my understanding of the protocol is that it deals only with, and is there primarily to avoid, a hard border on the island of Ireland. Therefore, issues in relation to water quality, birds and habitats are not seen by them to necessitate action, because there does not need to be a hard border to deal with those issues.

The problem that we have is that, because those areas are not included in the protocol and are not deemed a priority at the moment — I am well aware that that is because of the tight time frames etc — we do not know how they will be progressed or looked at, or what environmental protection standards will be maintained in those areas in Northern Ireland. However, there are also important cross-border issues to do with birds, habitats, water etc. As a sector, we are not aware of any negotiations or developments in those areas at all on how they plan to deal with them. It could be a case of business as usual, but we do not necessarily know what that means for environmental governance in relation to those matters. At the moment, we are not aware of how those things are being progressed.

Mr John Martin (Royal Society for the Protection of Birds (NI)): If I could come in. The protocol includes 18 environmental regulations or directives that would apply to Northern Ireland, if the protocol is implemented. They include the Invasive Alien Species Regulation, the Timber Regulation, and the Protection of Species of Wild Fauna and Flora Regulation. Therefore, a range of things will apply as a result of the protocol, and we are reliant on the institutions of the EU for us to be able to comply with those, because, at the minute, those do cover NI. We would like to think that there is sufficient environmental governance in place to cover those things that already exist.

Our concern is that there are major gaps in that list. We would have liked to have seen the likes of the birds and habitats directives, the water framework directive and other important legislation continue to apply in Northern Ireland as a result of the protocol, but they currently do not. A lot of that EU legislation was lifted and dropped into the EU (Withdrawal) Act, and then they said that they would get around to developing equivalent legislation in the UK to help deliver that. The major challenge for us, in Northern Ireland, is that, because of the border with the South, we share some protected areas, so we have boundaries that go from Northern Ireland into the South, and vice versa. Some of those boundaries are around European designated sites under the birds and habitats directives, for example, so we face a situation where they are managing for a protected site on one side of the border, using the European designations, and on the other side of the border, we are using, I guess, whatever designations are created as a result of leaving the EU.

Our concern is that, if a lot of those designations do not apply, a lot of our European sites are not underpinned by local areas of special scientific interest (ASSIs) designations. Again, with that, there is a governance gap for Northern Ireland in comparison with other parts of the UK. As Sean said, there

are 18 environmental directives that apply as a result of the protocol, but there are huge gaps, and, as things stand, we do not have the legislation to fill those gaps in Northern Ireland.

Mr Kelly: Chair, if I may come back in briefly, my understanding is that, because the areas that John outlined — birds, habitats, the water framework directive etc — are not part of the protocol, the responsibility now is with bilateral discussion and agreement between the UK Government and the Republic of Ireland Government. Of course, there are the roles for the North/South Ministerial Council (NSMC) and the Northern Ireland Executive as well. The arrangements for those areas are the responsibility, basically, of the two member states — though one of them is no longer a member state — the UK and Irish Governments, to discuss how they are going to work out those areas and cooperate in the future. I am not sure that any of those discussions have happened yet.

The Chairperson (Mr McAleer): Thank you. It may be too early for a full assessment, but have you had any chance to consider the impact of the Internal Market Bill? I know that it was only published yesterday, but do you have any emerging views on it? Have you had a chance to look at it to see whether it will have any impact on environmental issues?

Mr Kelly: As you said, we have not had a chance to go through it in detail. My understanding is that a lot of it has implications for the withdrawal agreement and the Northern Ireland protocol, but, as John mentioned, only a certain number of environmental aspects are covered by the protocol; other bits remain outside it, and we do not know what the implications for those will be.

It is very difficult because the Bill was introduced yesterday and may go through as is, it may be amended or it may be challenged by other jurisdictions and be delayed by courts etc. It adds to the uncertainty in the area. Things were uncertain to start with due to the rushed time frame, but the Bill may cause additional problems. The Bill's outworkings are, once again, more to do with the protocol and the trade arrangements between GB and Northern Ireland. So, it will have implications in some areas, but we cannot say yet what their extent will be.

The Chairperson (Mr McAleer): Thank you very much. I will move around the members for questions. First on the list is Rosemary.

Mrs Barton: Thank you very much for your presentation. You spoke about the UK Agriculture Bill and it having no long-term plan for the future. If we were to have the opportunity to devise our own Northern Ireland agriculture Bill, what would you like to see in it?

Mr Kelly: Thank you for your question. I am happy to hand over to John, who heads up a lot of our agricultural work.

Mr Martin: That is a really good question, and it is something that we would like to see coming forward ASAP.

The Agriculture Bill in Westminster covers Northern Ireland and allows the status quo to continue. Our concern is that that Bill, as it stands, allows the status quo to continue indefinitely. There was some movement in Northern Ireland, when the Assembly was down, to move the debate along a bit. Our concern is that farmers face significant uncertainty because they do not know when a change is going to come, so the Agriculture Bill will allow us to continue to make payments to farmers.

For the future, we need primary legislation in Northern Ireland to deliver for the agriculture sector. A recent survey showed that two-thirds of farmers were worried about uncertainty, which has an impact on them making changes to their farm business.

We would like to see farmers incentivised to deliver environmental public goods. We have an agrienvironment scheme that delivers a contract between farmers and wider society, through which farmers are paid for delivering measures for nature and wildlife, such as helping us to combat climate change, prevent wildlife declines and improve water quality. There is not enough funding in that. We would like to see the majority of funding moving towards public funding for public goods delivery for the agriculture sector in Northern Ireland so that it can be appropriately funded for the public goods that it provides society.

The agriculture sector has a role in food production as well. That obviously will continue, but we would like to see more focus on profitability as opposed to productivity. Profitability shows where farmers can

make changes to improve their financial bottom lines, whereas productivity has got us into the current situation, with a lot of associated environmental problems from intensive agriculture.

There is a lot of legislation in place to improve the sustainability of agriculture, but it is taking a lot of time to bed in. There is acknowledgement globally, in Europe and in the UK and Ireland that we need to do more to improve the sustainability of farming. We think that a focus on delivering payments to farmers on the basis of public money for public goods would be a neat way of being able to do that. We are in the process of working up some research and examples for what that might look like. We have a costed approach that we sent to the Assembly last year on how much that would cost the taxpayer.

We need to look at funding for that big block of finance for the agriculture sector, not just in isolation but in how we deliver for a range of other priorities. A lot of the priorities that would fund agriculture would deliver for sustainable land management across our landscape, 75% of which is farmed. If you can incentivise agriculture to deliver in a way that is sustainable, it delivers for a lot of other objectives such as water quality, health and well-being, species etc. It would be a good way of delivering cross-policy objectives through a sustainable fund to farmers.

Mrs Barton: Are you saying that you see the problem as productivity versus profitability, weighing one up against the other?

Mr Martin: There is an issue around sustainability. Farmers are constantly challenged with more and complicated legislation. Some of that legislation and regulation is necessarily complicated, because delivering some of the objectives within sustainability is difficult. I would not necessarily say that it is profitability versus productivity, but I think that the agriculture sector could deliver more from a profitability point of view, whilst also delivering sustainability alongside it.

Mrs Barton: OK, thank you.

Mr Blair: I thank the panel for the presentation today and for the work that they are continually doing on these and other issues.

The presentation has clarified that there is already a delay in the development and introduction of appropriate environmental policy and legislation in Northern Ireland. Does the panel agree that the problem has been exacerbated by the uncertainty and distractions of recent days and that it could become, frankly, an absolute crisis if current negotiations between the UK Government and the EU were to crash? We would then be left in a situation where the Assembly, the UK Government and other interested parties would be preoccupied, frankly, with picking up the pieces.

Mr Kelly: Thank you for your question, John. To sum it up, as we said at the outset, before the introduction of the recent Bill — I know that people in the Department have been working on the Northern Ireland protocol on day-one readiness and having a viable product — one of the problems was around definitions in the protocol. Anything like that adds further uncertainty, and not just if you are in the environment sector — Rosemary and John were talking about farmers — people in business look for certainty and to know where they stand. The Chair asked what our reaction is to the Bill, but I do not know what the Bill will do per se. There may be amendments to it; it may come in exactly as is, we do not know. What I am aware of is that, if we are talking about day-one readiness across a range of issues, we only have a certain number of days left.

Right across Northern Ireland society, we would like to know whether we can have some established things that we can build upon and react to right across the range, rather than creating confusion and asking, “Does this mean this or does that mean that?”. We really need to have clarity for the sake of Northern Ireland's environment and the wider society. I do not know enough about the details of this Bill. Questions have been raised at this point, and further questions may not be helpful within the current time frame, but we are where we are with it. We are just going just have to try to work through it and try our best to deal with whatever the outcome is.

Mr Blair: I am grateful for that. I know that no one has a definite answer to these questions. I am trying to glean a picture of what this could become in terms of a crisis if that happened.

On a separate and more specific issue, if agreement is not reached on fishing waters, that could pose a threat to proper quotas and plans that are based on environmentally informed scientific advice, so

can you give us any more information on the details of the problems that might arise for fishing stocks and conservation?

Ms Rebecca Hunter (Ulster Wildlife): That is one of our big concerns. We have seen many times that a lack of agreement on fisheries management and fisheries negotiations can lead to disputes. One of the best known examples of that was the mackerel wars in 2013-14, which resulted in mackerel being overfished at 35% above the recommended scientific levels. One of our great concerns about the Fisheries Bill is that there is no legally binding requirement for the Secretary of State to include sustainability in the negotiations. That is something that we are really asking for. We are also looking at asking for the introduction of remote electronic monitoring. That was added to the Bill in the Lords, so, hopefully, it will remain. We need to keep an eye on that, because it would really increase our data gathering and monitoring.

Mr McGuigan: Just to work backwards and to start on that last point, will vessel owners have to fund remote electronic monitoring and CCTV cameras or do you suspect that they will be government-funded?

Ms Hunter: Some schemes have looked at using the European maritime fisheries fund to cover a large proportion of that, and the remainder could perhaps be covered by government. The European maritime fisheries fund finishes at the end of the year for the UK, so another key thing that we need to see for our fisheries management is financial support for the new technologies. Those will massively support a move towards area-sustainable fishing, which is going to help the environment and the industry. We are looking to see a new funding mechanism that is able to do that.

Mr McGuigan: More generally, and like everybody else, I thank you for your written presentation, which was very useful, and for the opportunity to speak to you today. A lot of individual members, and the Committee as a whole, would agree with a lot of the issues that you raised and have been actively pushing for them. For example, non-regression and environmental standards were mentioned by the Committee in its contribution to the Bills. There is also the lack of progress on an EPA and a climate change Act and of clarity on an office for environmental protection. You are kind of putting the delays on those down to Brexit preparations and people working elsewhere. I think that, in some of those cases, maybe a lack of drive from the Minister is the reason why we do not have more progress. Sunset clauses and having our own environment and agriculture Bills have also been advocated by the Committee.

There is a lot of stuff that you and the Committee agree on; the issue is how we bring those to bear. Have you any specific asks for the Committee to take some of that stuff and your concerns forward? We will be meeting, as we do, officials and the Minister, and we raise most of those things on a regular basis. Over and above that, are there any specific asks that the Link has for the Committee?

Mr Martin: From an agriculture point of view, there is concern that the status quo will continue, despite the widespread acknowledgement that it cannot. The United Kingdom Internal Market Bill kind of throws into stark realisation that there is going to be a key difference between how agriculture operates in Northern Ireland and how it operates in other parts of the UK. Wales and Scotland have commitments from their Minister and Government to change agriculture policy by at least 2024. There is no commitment yet in NI to do that. Departmental officials are working behind the scenes on policy regarding agriculture, marine, environment etc, but there has been no indication around the timing of a lot of those things. We would like to see primary legislation on agriculture, on marine and fisheries and on the environment in Northern Ireland, but we have had no assurances from the Minister or the Executive on when some of that will be. If the Committee could push the Department and the Minister for some assurances on how those things are going to be dealt with in the future, that would be something to prioritise.

Ms Diane Ruddock (National Trust): John has covered agriculture, in particular, really well. Also, on environmental issues, you mentioned, in particular, the office for environmental protection and the need for an independent environmental protection agency, which is acknowledged in the New Decade, New Approach agreement. Those are areas that the impending changes in Brexit throw into much sharper focus. We encourage the Committee to continue to prioritise them and to push, in particular, for timelines for the establishment of them. Those governance arrangements are so important for the protection of the environment. It is not just about protecting the environment; it is about what that means to society, particularly in these times, where there are challenges around recovering from COVID as well. They are bodies that will play their part in those challenges.

Ms Hunter: John mentioned the Agriculture Bill. The UK Fisheries Bill is a framework Bill; it is very high level. Following the passage of the Fisheries Bill, all the devolved Administrations and the Secretary of State will need to create a joint fisheries statement that sets out how each of the Administrations will meet the really high-level objectives of the Fisheries Bill. Our current legislation, the Fisheries Act (Northern Ireland) 1966, does not include the word "sustainable". We have a bit of work to do around our local legislation to make sure that we can meet the objectives of the Fisheries Bill.

Mr Kelly: A number of things occur to me. The headlines in terms of help are, first of all, to do with resources. As the Committee will be aware, the Department has had an extra-large workload with Brexit and what it means for agriculture, the environment etc. I know from our interaction with DAERA that it is pretty much flat out; I am not suggesting otherwise. Resources are needed to look at all these areas that, staffing-wise or whatever, as I said, have been hit by the pandemic as well, which is only natural. It has impacted on the amount of things that the Department has been able to achieve.

Whether you are talking about the protocol, things beyond the protocol, North/South or east-west or whatever, there would be a degree of comfort if we were at least able to achieve something in relation to non-regression. It would not solve everything, but it would be a degree of comfort for the sector. We would very much welcome any support in that regard. That is also related to points that Diane raised around governance arrangements. I am aware of the fact that people say, "Look, we're going to continue on outside of the protocol with some of the key environmental areas. It'll be like business as usual". However, if, for example — I am sure that you are well versed on this — we do not have access to the European Court of Justice in some areas etc, then so be it, but then there have to be the arrangements for some alternative to that. They are the ones that stand out with regard to resources, non-regression and governance arrangements. I had also previously mentioned some sort of commencement, if they have not already commenced, of bilateral discussions between the UK and Irish Governments and the Northern Ireland Assembly about environmental cooperation beyond the protocol.

(The Deputy Chairperson [Mr McGuigan] in the Chair)

Mr Harvey: Thank you, Sean and John. On the environment, birds and habitats etc, my understanding is that we just keep doing things as we are doing them at the minute. I know that you are probably not even doing things as normal with COVID-19. Probably there are a lot of changes already, so nothing is really the same anyway. However, we basically want to just keep doing things as they are, and it is my understanding that we are doing that. Would that be right?

Mr Martin: No, I do not think that that is right. The legislation, like the birds and habitats directive and others, went through a huge review within the past few years in the European Commission, and they were judged to be fit for purpose. The European Commission has this process called "refit" where it looks at its directives every so often to make sure that they are fit for purpose. Those things were deemed as fit for purpose, and our view is that they act as a really good architecture for delivering protection for our most precious species and habitats.

The water framework directive, for example, provides an excellent architecture for delivering for good water quality, and the marine strategy framework directive, again, provides a great architecture for delivering good ecological status for our marine protected areas. However, the delivery on the ground has not achieved the goals that were set out for those things. So this really speaks to Sean's previous point around resourcing the Departments to actually do their statutory duty. The resources from an environmental delivery point of view have not been forthcoming for the Department. The Department is then forced to prioritise what it actually can do with the resources that it has, and it is not able to do enough. So, for example, the biodiversity strategy, which was from 2015 to 2020, is running out this year, and it is hard to see what it has actually achieved in that period. Therefore, we do not want to see the status quo continue; we want to see a step change with regard to resource delivery to allow the statutory Departments to do what they are set up to do.

Mr Harvey: What complications has COVID-19 brought to what you are saying?

Mr Martin: I can speak from the RSPB's point of view where we have an operational point of view, and that speaks to how the Department has been operating as well. With a lot of people working from home, a lot of our on-site management had to be paused. Some of it continued because people were able to work from a lone worker point of view without any risk, but on a lot of the work where we were monitoring sites, for example, we had to shut down our entire fieldwork season where we were

monitoring sites for our projects to assess the abundance and quality of habitats and species. We were just not able to do that this year. Therefore, we will have a gap in our knowledge of the impact of our previous work — 2018-19 up to this point — and whether that work achieved its objectives, because that monitoring allows us to see where we make changes. That is just one example of how it has impacted us.

From a financial point of a view, a lot of organisations and businesses, as we well know, have been impacted. It is similar from an environmental NGO point of view, where we have not people visiting our reserves in the same numbers that we would have previously had. For example, the seabird centre on Rathlin Island had to be shut for the summer period, and that is a key time for people to visit that spectacle. There is an impact from a revenue point of view for organisations, as well as the on-the-ground operational delivery.

The Deputy Chairperson (Mr McGuigan): OK. Clare, can you hear us?

Ms Bailey: Yes. Thanks very much for being here, guys. It is great to see you back again. In relation to the Agriculture Bill and some of the issues that are being announced, I am just reading a statement from the Department that the Minister has just announced that he is removing the greening requirements from the farmers' basic payment scheme post-December, saying that it has not delivered any ecological benefits and that he will replace it with a more focused, targeted payment. We have no details yet on what that will be. That is probably a good example of the point that John made in response to Rosemary, which is that it is not just about profitability over sustainability, and that what we really need to look at is how departmental policy places economic value on the environment. I think that we can all agree that our environmental track record in Northern Ireland is absolutely appalling. I will keep a wee eye on that.

I want to go back to a lot of the concerns that you raised in the presentation about the lack of, say, an ammonia and biodiversity strategy — that it is not being addressed by the Department and that the EU withdrawal work is pushing it further down the agenda. That raises alarm bells for me as well. Specifically, if we have some protected sites that are cross-border, do we know how many of them there are and whether any of them currently breach EU directive regulations that we need to be mindful of?

Mr Martin: I do not have the figure to hand for the number of sites that there are. However, the Department would be able to provide that, no problem. We do know from the environmental statistics report that what guides the condition of those protected areas is favourable management and favourable status. I think that something like 0-18% of those sites are currently under favourable management. There is a significant way to go to improve the favourable conservation status of those sites. At present, yes, we would say that those sites are currently failing their designation status to move from bad status currently to good status. That needs to be addressed ASAP. It is one of those things that you could pour resources into, but there would be a long lead-in time for it to improve. Due to the way that recording is done, if you have, essentially, a management plan in place, that moves the status from unfavourable to favourable/recovering, even if there is just a management plan and no work has taken place. There are issues there with regard to what we would describe as good management and not good management. Our view is that the majority of those sites are in unfavourable condition. From a community and health and well-being point of view, as well as a legal point of view, we are not living up to the objectives of those sites at present.

Ms Bailey: Have you any idea whether, post the transition period, we, as in the UK Government, can still be held accountable under EU directives? I am thinking particularly about annex VI, and specifically about ammonia. We know from the Department's own figures that we are in breach of acceptable ammonia levels on 98% of our special areas of conservation. In some cases, we have breached those levels by over 300%. Do you know or have you any thoughts on whether we can still be held accountable for breaching them while in the transition period? After transition, where will accountability for those breaches be held?

Mr Martin: I am not 100% sure whether we could still be held accountable, but there are cases where the EU has taken other countries outside the EU to court where it has impacted on protected sites. For example, if protected sites in the South were impacted because of mismanagement in the North, there might be a case there to look for remediation from Northern Ireland or the UK Government. Therefore, potentially —.

Ms Bailey: If we are currently breaching rules on any of those sites and that continues after transition, there could be a very strong case that we can still be held accountable for that by the EU.

Mr Martin: Potentially, yes.

(The Chairperson [Mr McAleer] in the Chair)

Mr Kelly: May I come in here, Chair? Potentially, yes, but this is also one of the key issues in the North/South bilateral discussion on shared sites etc. Yes, the border is there, and therefore the argument can be made that some of the ammonia deposition that occurs comes from farms on the Southern side and, depending on the way the wind is blowing, lands on the Northern part, and vice versa. I understand what you are saying about how we can address that issue and where action can be taken, but I would have thought that it was in the interests of the Northern Ireland Government, so to speak, and the Republic of Ireland Government to try to sort the issue out. If we are in breach, it is affecting them; if they are in breach, it is affecting us. It is a cross-border issue.

Ms Bailey: That all sounds like common sense to me, but we already know that we will not have bird, habitats or water framework directives. We know that they have been pushed down the Department's work schedule. Those directives are critical, and we are not doing very well in that area anyway. We will keep looking at it.

The Chairperson (Mr McAleer): Patsy.

Mr McGlone: Can you hear me OK?

The Chairperson (Mr McAleer): Yes, Patsy. Loud and clear.

Mr McGlone: Thanks, Chair, and thanks to members. It is good to see them again.

I am trying to work through the elements of where we are at the minute. I do not expect you to be legal experts on the quagmire that we are in at the moment over the Internal Market Bill and the implications of it. I am thinking of the cross-border issues — John referred to them — such as, for example, river basin management and fracking. Those are examples of where the EU facilitated compliance of standards, enforcement of standards, encouragement of good environmental standards and, indeed, other things.

From the perspective of many, the British Government have looked at the protocol and are trying to run a cart and horses through it. As you know, part of the withdrawal agreement was that, in the absence of an agreement — an actual agreement — or in a no-deal scenario, we would stay as is. However, has anyone thought through what will happen if the British Government are no longer compliant with an agreement that was signed just recently and that they agreed to adhere to? There will be repercussions for compliance with other aspects of that agreement, such as adherence to proper standards, and the implications, which we need to have, for non-regression on environmental, food and other standards might just be cast to the wind. That might be a personal view. These are questions that are running through my head as to the direction in which the British Government are taking us and where we could wind up.

Do you have any ideas on the legal implications of where we are going due to the Internal Market Bill and how that could affect standards in the North, particularly when there has not been a legal commitment to non-regression?

Ms Ruddock: I will start. Those are all very good questions, but, to be honest, given that the Bill was published just yesterday, it is too early for us to have had an opportunity to take advice on what all the legal implications might be in relation to those questions and other questions that we and many other organisations will have. It is one to keep a watching brief on.

Mr Martin: RSPB and NI Environment Link each provided a response to the Internal Market Bill White Paper. If we provide those responses to that Committee, they will give you an idea of where we were flagging some of the potential risks of the White Paper and what is different in the Bill, but only in a limited and specific way. We can provide some comment on what that looks like once we have had a chance, as Diane said, to fully consider it.

Mr McGlone: Sorry, I did not mean to spring that on you. It appears from media enquiries that the Attorney General cannot respond to that either, so thanks very much for that.

Let us reverse to a month or two ago, and I will ask the same question in a different way, irrespective of the Internal Market Bill. What course of action between the jurisdictions would ensure adherence to proper standards in the issues relating to river basin management and fracking that have all-island, cross-border implications? Other issues might come into that as well, such as wildlife etc. That is clearly a body of work for the North/South Ministerial Council. How do you see it taking that forward?

Mr Martin: One of the things that we talked about in a lot of our communications regarding Brexit and in our response in the Internal Market Bill White Paper was the importance of common frameworks on the way in which we worked within the EU. I will take the common agricultural policy or the birds and habitats directives as examples. The directives, legislation and policy were common across all the EU, so everybody knew where they stood with their delivery.

Going forward, there has been a bit of resistance in the UK to devising common frameworks for certain things. So, for example, say that we had a common framework on how we managed our protected sites, we would be able to manage those with the same potential outcomes and outputs as other parts of the UK. So, from a North/South Ministerial Council point of view, it would be prudent, I guess, to discuss the potential common frameworks where we share protected sites so that we manage them in a similar way instead of there being two potential outcomes, North and South. So, we would push for common frameworks for a range of those issues. We could provide some comment to the Committee on where we see the need for common frameworks going forward.

Mr McGlone: Thanks very much for that, John. I think that, if that could be done, it would be very helpful to us.

Mr M Bradley: Some of my questions have already been covered. I thank everybody for their presentations and for their answers so far. I find it very interesting. I am thinking along the lines of a Northern Ireland environmental protection Bill that recognises the need to protect natural habitats, wildlife, birds, freshwater etc. If we had had such legislation, what weight would it have carried when rolling out the Ireland protocol?

As mentioned, there are possible discrepancies between two jurisdictions — the UK and the EU. Like everybody else on the Committee, I think that it is vital that we fight as a Committee to have no regression whatsoever from the standards that we already have. What is the panel's opinion on that?

Mr Martin: I will start off, and others can come in. As legislators, you create legislation that ensures that people comply by the law to create certain outcomes. A good example of that is the UK Climate Change Act. Enacted in 2008, it placed a legal duty on the UK Government to reduce emissions by a certain date. By hook or by crook, we are starting to move towards lowering carbon emissions to help to abate some of the devastating impact of climate change here in the UK and in other parts of the world.

Looking forward, if we were to have an environment Bill that, for example, had a legal duty to have targets in law to help to reduce the decline in biodiversity or restore nature, the Government would be bound to that target and would have to direct resources towards helping to meet that target. So, your question is a bit of an existential one in a way, because we do not have that legislation. If we did, what would the outcome be? We are not sure, but we think that, if we had a legal duty and targets in law to help to restore nature, there would be a difference in the delivery and in the resources that were directed towards the Department in a way that helped it to meet its statutory duty. In a way, at the moment, we do not necessarily feel that it is in that place.

Mr Kelly: May I come in there? I totally agree with John. We very much want an environment Bill or an environment strategy for Northern Ireland. However, as John says, part of the problem is that we have a sustainable development strategy that has been around for years. We have also had a biodiversity strategy but, unfortunately, those strategies have not achieved a lot. Unless, as John says, there is some legal footing whereby targets have to be met, resources tend not to go that way, and what remains is a wish list. What we are trying to achieve with those strategies is a wish list.

John mentioned biodiversity targets earlier, which, I think, were for 2010. We were to do something by 2015, and by 2020 we were supposed to have halted biodiversity loss, but little or no progress has been made on that. All that you do with that strategy is just bump it down the road and add another

five years in which to do something. There is no legal footing or drive to say, "No, you have to do it. You have to make those things happen". If we are to have an environment strategy, it must have its own environment Bill as well. Then, it will be a question of resources. Of course, such a strategy and a Bill need to be bespoke and designed to help Northern Ireland, given its unique circumstances.

Mr M Bradley: There is no sense in having a guard dog with no teeth, so I agree with that. However, considering that 75% of Northern Ireland is, as mentioned, farmed in one way or another, what impact are the current pandemic restrictions having on the implementation of environmental protection across Northern Ireland?

Mr Kelly: I pay tribute to the Department for its response to COVID-19. It has engaged with and included the environment sector in discussions with the agriculture industry — the farmers, the producers, the dairy and beef sectors and the Food Standards Agency. It has done a good job in pulling those meetings together. A lot of resources have gone into that. Farmers are still producing animals, and they have to continue to be of the same high standard, but it is also about how we manage to get them off the farm, given the COVID situation. I am sure that you are aware that the marts were closed down for a while.

It is also about keeping the processors operational, with all the related implications, including the use of personal protection equipment, and continuing to put food on the shelves. The COVID response has taken up an awful lot of resources, and the Department has had to put an awful lot of staff into it. It has engaged pretty well with the sector, including the environment sector, so I want to give it credit for that. All of that work, Maurice — this is my opinion — means that it has been very difficult at a time of severe crisis in Northern Ireland to ask, "How are we getting on with the environment strategy?" These are important issues. However, not surprisingly, in many cases, they are not what people see as issues of life and death. We cannot argue against that; it is a fact that COVID is where all the resources have had to go.

Mr M Bradley: Thank you very much, Sean.

The Chairperson (Mr McAleer): Thank you, Maurice. All the best.

Mr Irwin: I thank the witnesses for their presentation. As a farmer all my life, I will say that we are sometimes, wrongly, painted in a bad light when it comes to the environment. The vast majority of farmers work for the better in relation to the environment and, indeed, wildlife. Many farmers have been involved in schemes to increase bird cover and all the rest.

We will all agree, I am sure, that it is important that the Agriculture Bill is got right and is not rushed into. We are setting the stage for the next 20 to 30 years. Many farms received grant aid in the 1970s for new silos and buildings. Those buildings are at the end of their lives. There are major issues for farmers, and they need aid and support to help them to move forward, improve water quality etc for the future and deliver for the environment. Do you accept that?

Mr Martin: Yes, absolutely. Do not take our views as criticism of farmers per se but as criticism of the direction in which the policy has been driven. We work with 400 or 500 farmers across Northern Ireland who are doing fantastic things for wildlife. Without them, some species would become extinct. It is as simple as that. We need them to continue that good work on the ground to ensure that they continue to deliver for species and wildlife across Northern Ireland. We want to see them rewarded in a way that reflects the work that they are doing and the care that they have for their land.

The big issue in Northern Ireland is that the synergy between policies as they are developed is not good. Sean mentioned the biodiversity strategy, which came into play in 2015 and finishes this year. At the same time, we had an agri-food strategy that was pushing the industry in a certain direction. Those policies and strategies came into direct conflict. One was causing a pollution problem because of the drive in intensification; the other was set up to support, challenge and remediate some of the problems that the other was causing. They were not talking to each other. Both policies were from the same Department, but they were counterintuitive. We need to move forward in such a way that one policy area supports the other, and vice versa, because there is no point in having two conflicting policies or strategies — one driving intensification; the other trying to clean up some of the problems that it is causing. We have to get that right because it will dictate how agriculture delivers for people and wildlife in Northern Ireland for more than 30 years. We have been in the CAP for the past 70 years or more, so we need to think long term about how we develop future policy in a way that delivers for agriculture, nature and wildlife, and for the public because, ultimately, it is public money.

Mr Irwin: You will accept that ammonia levels in Northern Ireland are high and that it is vital that they are reduced, but they are lower today than they were in 1990. Strategies could be put in place to drastically reduce ammonia levels, and it is important that they are brought to the forefront. Spreading slurry by injection or trailing shoe, for instance, will reduce ammonia levels by something like 30%. Do you accept that there are things that can be done to reduce those levels?

Mr Kelly: Yes, I accept that. During my presentation, I mentioned that our ammonia strategy had been delayed. Next week, the Department is running a couple of webinars on how it hopes to address the ammonia issue. I look forward to seeing those proposals. The Department has been engaging with farmers and the environment sector, and we have all put forward suggestions on how the problem could be addressed. Hopefully, in the next week or so, we will get some direction on how to deal with the problem. It is a problem and something that we have to deal with. There is a legal requirement to deal with it, and the issue is causing great concern across farming and those involved with environment. Everybody recognises that. We have to find practical and useful ways to deal with it.

The Chairperson (Mr McAleer): All members have spoken and asked questions. Panel, thank you for your contributions and thorough answers, and thank you for your attendance. We will be in contact with you over the next number of months as we roll out our programme.