Consultation on Policy Options Arising from the reform of the Common Agriculture Policy (CAP) A response from RSPB Northern Ireland, January 2014

Introduction

The RSPB welcomes the opportunity to respond to this consultation on the reform of the CAP in Northern Ireland (NI) from 2015-2020. The RSPB remains disappointed at the Ministers decision to transfer 7% of Single Farm Payment (SFP) to the future Rural Development Plan (RDP). In no way would this of met the needs of rural communities and the environment between now and 2020. This RSPB remains dismayed at the non-decision of a 0% transfer of funds from SFP to RDP. This leaves NI languishing behind Scotland, England and Wales that decided to transfer 9%, 12% and 15% respectively. The RSPB urges DARD to now use their influence within the NI Executive to ensure significant funds are leveraged to fill the significant funding gap.

The RSPB’s vision for agriculture is a profitable farming sector that provides a sustainable supply of safe healthy food, in turn providing society with a range of public goods such as thriving biodiversity, clean water supplies, adaptation to climate change and resilience to local land use pressures such as flooding. Our long term view is that Pillar I subsides should be phased out, with farmers delivering ‘public money for public goods’ through a sustainable land use model that protects and enhances priority wildlife habitats, conserves populations of priority biodiversity species as well as ensuring designated wildlife sites are in good condition.

In Northern Ireland (NI), we give advice to farmers over a land area covering in excess of 15 000 ha, including farmers in NICMS. Our interest in the agricultural sector has stemmed from the fact that since the early 1970s, wild farmland bird populations, which are used as an indicator for the health of the farmed environment, have declined by up to 52% (some over 80%). Breeding waders have declined by 83% since 1987. Indeed, corn buntings became extinct in the 1980’s and there have been no records of breeding corncrake in the past 10 years. Such declines have been rapid, massive and widespread, with parallel declines in other components of farmland biodiversity, including wild plants and insects, and ecosystem services upon which the future of farming depends upon. Unless concerted action is taken, it is highly likely that some of our most iconic species and habitats in NI, such as peat bogs, Marsh Fritillary butterflies and yellowhammers, could disappear within this generation.

Summary

- Fully support the decision not to apply reduction coefficient to permanent grassland located in areas constrained by environmental factors
- Farm size is not relevant to environmental potential and for some very small agricultural holdings, including some HNV farms, Pillar I payments may be the critical factor for continued active management of land and the delivery of public goods
- Continuing to pay entitlements based on historic payments perpetuates the problem and the sooner policy enables the industry can transition away from this unfair approach the better
- The RSPB believes DARD should keep the regional reserve option open, specifically with regard to abandonment
- CAP to provide meaningful ‘greening’ which could prevent further biodiversity decline, improve water quality and help society adapt to climate change
- The RSPB is disappointed with this current consultation that no information has been provided on what greening will achieve in Northern Ireland
- We strongly disagree with the departments view on not to make use of the ‘equivalence’ option. for the greening payment to buy no change in NI would be totally unacceptable
- Strongly support ANC being paid from Pillar I, in light of recent 0% court ruling
Consultation Questions

Q1. Do you agree with Department’s suggestion not to apply a reduction coefficient to permanent grassland located in areas constrained by climatic conditions, soil quality, steepness and water supply and not to exclude agricultural area under permanent greenhouses from being used to establish entitlements?

Fully support decision not to apply reduction coefficient to permanent grassland located in areas constrained by environmental factors. Such areas are often, although not always, managed in a way which delivers non marketable public goods. Any reduction in CAP payments to such areas could incentivise changes in management which would have negative environmental consequences e.g. intensification. The CAP is still failing to adequately support HNV farmers and those who have retained, and managed, areas of semi natural permanent pasture and DARD should explore ways to do this under the new CAP framework.

Q2. Do you agree with the Department’s suggestion not to apply a reduction coefficient to land used to activate entitlements where grasses and other herbaceous forage are not predominant but which is grazed as part of established local practice?

Whilst accepting that Pillar I payments are not linked to the delivery of public goods, any reduction to land such as this would be likely to make its continued agricultural management less attractive, with a subsequent risk that the level of public goods would be reduced. An area where herbaceous forage is not predominant is agricultural and DARD must make sure that eligibility rules, e.g. the amount of gorse allowed, do not lead perversely to their undue removal.

Q8. Do you agree with the Department’s suggestion to set (i) the minimum area for which the establishment of entitlements can be requested and (ii) the minimum claim size at 5ha?

No. The RSPB acknowledges that there are issues of transaction costs for very small claimants, however farm size is not relevant to environmental potential and for some very small agricultural holdings, including some HNV farms, Pillar I payments may be the critical factor for continued active management of land and the delivery of public goods.

Considering that approximately 4,700 direct support recipients in Northern Ireland would be adversely affected by this decision, this would represent a significant loss to both the rural economy as well as to our environment. DARDs assertion that the change would have minimal impact on the environment can be challenged: a report commissioned by Defra3 identified that very small farm holdings are considerably more likely to fail GAEC standards, including several measures which are not linked to any specific UK or EU legislation, such as those relating to soil. The same study highlighted that Pillar I payments provide significant leverage to make farmers comply with legislation and other environmental requirements, via the cross compliance inspection regime and the associated risk of payment deductions in cases of breach. Therefore, removing this leverage from the subset of farm businesses that are at most risk of breaching environmental standards seems perverse. This change may save DARD time and money in terms of processing small claims, but the environmental and wider costs could very well be significantly more costly to address.

We therefore urge DARD to reconsider this decision and to retain the minimum claim size at the current 1ha until thorough research conclusively identifies that a higher claim size will not lead to environmental problems.

Q10. Do you agree with the Department’s suggestion not to pay the Basic Payment as a flat rate payment from 2015? If not, please explain why.

The RSPB understands DARDs rationale for not choosing to pay entitlements as a flat rate from 2015 due to the instability this will cause for the industry. However, continuing to pay entitlements based on
historic payments perpetuates the problem and the sooner policy enables the industry can transition away from this unfair approach the better.

The hybrid model in place from 2007-present has acted as a transitional phase which has helped farmers to adjust. It is now appropriate to fully sever the link to historic production in order to reflect the continuation of policy development within the EU to a move to a flat rate. The transition from historic payments to flat rate payments entails a redistribution of subsidies. In most cases this redistribution would be away from intensive farmers that tend to deliver less for the natural environment, toward smaller and less competitive farmers that certainly have more need for support and in many cases also deliver substantial and often unrewarded, public goods.

The RSPB would not support a payment reform which unreasonably threatened large numbers of farming businesses with bankruptcy. Redistribution impacts must be thoroughly assessed and decisions made on a sustainable basis throughout the current economic crisis.

Q12. Do you agree with the Department’s suggestion not to move to a system of flat rate payments by 2019? If not, please explain why.

The RSPB disagree with this approach. The RSPB would not support a payment reform which unreasonably threatened large numbers of farming businesses with bankruptcy. Redistribution impacts must be thoroughly assessed and decisions made on a sustainable basis throughout the on-going economic crisis. However, as outlined above the hybrid model in place from 2007-present has acted as a transitional phase which has helped farmers to adjust. It is now appropriate to fully sever the link to historic production in order to reflect the continuation of policy development within the EU to a move to a flat rate.

Q15. Do you agree with the Department’s suggestion not to use the Regional Reserve to allocate entitlements to farmers in areas subject to restructuring where there is a need to prevent land abandonment and/or compensate for specific disadvantages?

The RSPB believes DARD should keep this option open, specifically with regard to abandonment. Rural Development funds allocated to farmers through agri-environment will remain the best options for pro-active interventions for environmental management. However, scant rural development funds, due to the non-decision of a 0% transfer from pillar 1 to pillar 2 will mean less opportunity for farmers entering into agri-environment.

Q17. What are your views on the Department’s suggestion to make a Level III qualification in agriculture (or a closely related subject) a requirement for young farmers and new entrants to receive an award from the Regional Reserve?

The RSPB agrees with this approach but believes that all qualifications should contain explicit modules on environmental requirements and best-practice contextualised within an NI/UK/EU framework. It is essential that environmental management is mainstreamed within education and training for the sector rather than treated as an ‘optional extra’. Given the range of environmental challenges facing farmland, and the need for improved understanding of the linkages between farming and the natural environment across the farming sector, the RSPB would like to see public support for new entrants and young farmers explicitly linked to environmental advice and training.

Greening

The RSPB believes that whilst agriculture is linked to a suite of environmental challenges, it is also the principle means to address them. The RSPB therefore endorses the need for the CAP to provide meaningful ‘greening’ which could prevent further biodiversity decline, improve water quality and help society adapt to climate change. Agriculture covers over 75% of NI and consequently has a major impact on wildlife and natural resources. The CAP must play a significant role in converting the current negative environmental impacts of farming to a positive one. Therefore we support in principle the
Commission’s proposal for greening of farm subsidies, including the creation of Ecological Focus Areas. However, we recognise that such an innovation requires careful integration with agri-environment schemes which in our view still offer the best means to support farmers to deliver long term targeted environmental benefits. It is vital that the introduction of measures such as EFAs does not undermine that long term approach.

The RSPB is disappointed with this current consultation that no information has been provided on what greening will achieve in Northern Ireland, or a discussion on the implementation of greening measures. The Agriculture industry will have to do very little to comply with greening regulations, therefore keeping NI standing still in the face of non-compliance with European directives and further species and habitat declines. Our starting point with all CAP payments is that they should be directed toward the provision of environmental public goods. The introduction of greening, although imperfect, gives member states and regions the opportunity to move away from a mentality of just ‘getting the money out of the door’ in the cheapest way possible, to an approach that actually secures some return for the significant public spending on Pillar I. Maximising the environmental benefits of greening should therefore be the overriding criteria.

Q18. Do you agree with the Department’s suggestion to operate the greening payment as a percentage of the total value of BPS entitlements activated by an individual farmer rather than as a flat rate payment?

By paying greening as a percentage of the BPS it will mean that those receiving lower BPS payments (reflecting historic levels) will also get a lower greening payment even though many of these - often extensive producers - will actually be delivering higher levels of public goods. In the same vein, those getting higher BPS payments tend to be more intensive and if the greening payment were paid as a percentage, these more intensive farms would, somewhat perversely, be getting a higher greening payment, even though their level of environmental delivery is likely to be lower than other, more extensive farmers. A flat rate greening payment would therefore be fairer and would give higher prominence to a payment that is supposed to reward a basic level of environment delivery of every farm.

Q19. Do you agree with the Department’s suggestion to monitor the permanent grassland requirement at regional level rather than farm level?

Monitoring permanent grassland on a regional basis will not take account of the differing level of environmental value of the various grassland types. For example, the regional statistics could stay the same; however the NI Countryside Survey or monitoring of designated sites could show a net loss of areas with a high conservation value. A comprehensive inventory of Permanent Pasture (PP) is required so that NI government can locate and protect this important habitat.

Q20. Do you agree with Department’s suggestion not to expand the ploughing ban beyond the areas of permanent grassland covered by the Habitats and Birds Directives as specified in the EU Commission regulation?

The RSPB disagrees with this approach. While priority should be given to areas covered by the Habitats and Birds Directives it may be appropriate in certain circumstances to extend the ploughing ban beyond these areas. RSPB would therefore prefer that this option is retained and applied to all priority habitats and where appropriate buffer areas to sites of high conservation value.

Other existing mechanisms that can help protect valuable areas of PP - particularly EIA regulations linked to cross compliance in NI, which are currently not offering the level of protection areas of conservation value need, in part due to the inappropriately high 2ha threshold. This means smaller pockets of land slip through the net, again highlighting the need for a comprehensive PP inventory.

Q21. What are your views on which areas should be eligible for use as EFA?
The core driver and entire rationale behind the ‘greening’ of the CAP was to improve the overall environmental performance of the CAP. Intentionally adopting an approach that allows for the greening requirements to be met without need for additional action is therefore clearly unacceptable. The RSPB therefore believes that all areas of the UAA with a high conservation value should be eligible for EFA.

Given the scale of need and level of spending associated with greening, the overriding criteria used to assess which measures to include should be environmental effectiveness, based on the best available evidence. Another basic principle of our approach to the CAP is that funding should be used to secure the provision of non-marketable public goods.

Ecological Focus Areas have significant potential to benefit the farmed environment, but must only include features or land uses which are genuinely environmentally beneficial. Positive management of EFAs has significant potential both to recognise and reward those farmers who have retained environmentally and agronomically useful features or practices on their farm and to drive those who do not have such areas to incorporate them on their land. However, eligible hectares as defined in the proposals (above), amount to 7000ha in NI so the environmental benefits of this option are welcomed, but limited. There are some swift and simple measures that the DARD can take in order to ensure EFAs deliver greening. In order for EFAs to be totally effective in NI the RSPB recommends that:

- EFAs should be required on all farmland including grassland of high conservation value and features that are currently exempt from Pillar I payments such as gorse, should be eligible as EFA land
- That options that improve the biodiversity value of improved grassland such as pollen and nectar mix are included as options for EFAs. This is especially important in NI, where improved grassland is the dominant land-use, especially as NI has been recently highlighted as “at risk” from loss of pollinators
- Land lying fallow: the value of fallows to pollinators depends on their age and how they are managed. Pollinator numbers (bees and butterflies/moths) are greater on two-year old fallows, compared to one-year old fallows. Pollinator densities are highest where flower densities remain high, which may be achieved by sowing seed mixtures containing non-competitive grasses or by limited, mid-summer mowing (for bees but not butterflies/moths) to prevent competitive grasses taking over. If Government chooses to implement Commission’s basic three options, fallow should be included within EFA and its management enhanced through voluntary measures (promoted by the CFE) and agri-environment payments
- Buffer strips: grass buffer strips support higher numbers of bumblebees than the crops they replace, but their utility is greatly by the presence of flowers or sources of pollen and nectar. Buffer strips quickly become grass-dominated in the absence of management (cutting, grazing), reducing flower production to levels that cannot support foraging bumblebees. Margins planted or managed specifically to maximise flower production support significantly greater densities of foraging bees. Unmanaged grass buffer strips can also provide valuable breeding habitats for bees as well as grass-feeding butterflies and moths. The Merckx study also showed that wider buffer strips (6 m rather than 1m) are more effective for increasing moth diversity. Narrow, grass-dominated field margins will therefore provide some additional resources for pollinators, but more substantial benefits for pollinating insects requires the sowing of flower-rich, or pollen and nectar rich, margins managed by regular cutting or grazing. Again, we feel the inclusion of this measure within EFA would be beneficial, but its value could be greatly enhanced through more specific management requirements

Landscape features: hedgerows can enhance numbers and diversity of bees, especially if allowed to flower. Reduced trimming may increase flower production and support more bees, but its effectiveness has not been measured. Moths/butterflies that breed in hedgerows are negatively impacted by trimming, though infrequent trimming (>1 year intervals) or avoiding sensitive times of year (e.g. late winter) can ameliorate losses. Retaining hedgerow trees increases diversity of moths. Therefore the inclusion of hedgerows within eligible EFA features, potentially with a requirement to trim no more than a third or half of hedgerows in any one year, would be beneficial.

Q22. What is your view on whether or not to use conversion factors in the EFA conversion matrix in determining the area of land which counts as EFA?

We do not feel that either the conversion or weighting factors should be used. Firstly, they give disproportionate environmental value to certain land types (for example individual trees which receive a conversion factor of 20) which translates into them counting towards more EFA area than their true land take. This would mean the 5% EFA requirement would in reality be significantly less at the farm level which is totally unacceptable – the EFA requirement must translate into no less than 5% of the real farm area being managed for environmental benefit. This approach also gives no scope to provide additional ‘weight’ or value to land use types which genuinely secure added environmental value for example pollen and nectar mixes.

Q23. Do you agree with the Department’s suggestion not to make use of the option to allow groups of farmers to use collective arrangements for up to 50% of their EFA obligation?

The RSPB understands DARDs reasoning from an administrative point of view, but would highlight the building evidence base surrounding the need to make space for nature in the wider countryside. As highlighted by the Lawton Review, collective action, on a landscape scale could provide significant benefits. With climate change, the situation is likely to get worse. This is bad news for wildlife but also bad news for society, because the damage to nature also means of natural environment is less able to provide the many services upon which we depend.

We urge DARD to further explore ways greening could be used to generate landscape scale environmental benefits.

Q24. Do you agree with the Department’s suggestion not to make use of the option to implement up to 50% of the percentage points of the EFA at regional level?

We would support this decision as one of the key principles of greening is that every farm undertakes (or continues) some positive land management in return for the greening payment. A regional approach would either mean sections of the farming community were not subject to EFA requirements at all or that they would have to undertake an even lower percentage. Neither is acceptable.

Q25. Do you agree with the Department’s suggestion not to make use of the ‘equivalence’ option?

No, we strongly disagree. The alternative approach to implementing greening on offer to Member States, or countries therein provides the scope to significantly add value to the Commission’s core proposals which have been massively watered down in negotiations. The decision not to use this approach is to knowingly opt for an unacceptably low environment value approach to greening and a very poor use of the public money that will fund this payment.

6 Hannon (2009) Biol Cons 142, 2140–2154
9 http://archive.defra.gov.uk/environment/biodiversity/index.htm
Northern Ireland is predominantly grassland and the equivalence option has the potential to add real environmental value on land that would otherwise remain completely as it is – for the greening payment to buy no change in NI would be totally unacceptable.

Annex IX of the new Direct Payments Regulation (1307/2013) includes a number of land management options deemed to be equivalent to the basic permanent pasture measure, but which would offer improved scope for environmental benefit including specific management requirements, hay production, input restrictions and extensive grazing. We would therefore urge DARD to reconsider its suggestion not to use the equivalence option.

Q.26. What are your views on the Department’s suggestion to make a Level III qualification in agriculture (or related subject) a requirement for Young Farmers’ Scheme eligibility?

As outline under Q.17, we believe that all qualifications should contain explicit modules on environmental requirements and best-practice contextualised within an NI/UK/EU framework. It is essential that environmental management is mainstreamed within education and training for the sector rather than treated as an ‘optional extra’. Given the range of environmental challenges facing farmland, and the need for improved understanding of the linkages between farming and the natural environment across the farming sector, the RSPB would like to see public support for new entrants and young farmers explicitly linked to environmental advice and training.

Q29. Do you agree with the Department’s suggestion to provide support to Areas of Natural Constraint (ANCs) via Pillar I from 2015 scheme year?

Yes- given the recent decision to transfer 0% of SFP to RDP the RSPB agrees that ANC must be paid from Pillar 1 funds. The RSPB recognises that many of the areas that may be classified as ANC are also the most valuable for a range of priority species and habitats. We also recognise that farming in these areas can be an integral part of ensuring a long term future for several key species, hence our long term support for the concept of High Nature Value farming. Within our submission to the RDP consultation in October 2013 stated that:

“Our two overarching concerns with regard to this decision are therefore that firstly, we require a much better understanding of the environmental implications that this decision would be likely to have. Secondly, we stand by our long held belief that any public support should be conditional on the provision of environmental public goods.”

These concerns remain, however given that ANC payments are likely to cost the tax payer £20m a year, the RSPB believes it would be prudent to protect RDP funds from this spend, and given there will be significantly less money within the RDP budget. A recent WTO ruling stated that ANC was not an environmental scheme, and must be used for income support. This would suit the current Pillar I structure which already provides income support. Because of this, and although not asked within this consultation, we also believe ANC should not count towards the 30% minimum spend within the yet unknown RDP budget. With significant cuts to RDP, and 0% transfer, it is imperative that DARD target scant RDP funds towards agri-environment.

Q30. If so, what percentage scale back should be applied to direct payments to fund ANC support via Pillar I (maximum is 5%)?

DARD should apply the percentage which enables them to support the ANC programme to the maximum.

Q31. Should coupled support be applied in Northern Ireland?

The RSPB believes DARD should not introduce ‘conventional’ coupled support. Coupled payments are a regressive component of the CAP, and that, in the main, such support has a high risk of subsidising, and perpetuating, unsustainable forms of land management.

However, article 38 of the Direct Payments Regulation is not only restricted to ‘conventional’ coupled support as it provides Member States with the flexibility to channel additional funds to sectors or regions where specific types of farming are particularly important for economic and/or environmental reasons. The economic challenges facing HNV farming are well documented, as is their environmental and social value. Therefore we urge DARD to research ways in which this measure could be used to support HNV farms in Northern Ireland specifically for environmental delivery.

Q34. Do you agree that the Redistributive Payment should not be implemented in Northern Ireland?

Yes. The RSPB supports DARD’s intention not to implement the redistributive payment approach as it would not generate any additional funds for Pillar II.

Q35. Do you agree that the Department should not implement the Small Farmers’ Scheme if the minimum claim size limit is set at 5ha?

The RSPB support the decision not to use the small farmer scheme as these claimants would not be subject to cross compliance or greening however, as we outline in Q 8, we disagree with DARD’s proposal to set the minimum claim size at 5ha. This should remain at 1ha.

Q36. If the minimum claim size limit is not set at 5ha, do you agree that the Department should implement the Small Farmers’ Scheme provided it delivers simplification?

No- for reasons outlined above we do not believe DARD should employ this scheme.

Q37. If the Scheme is implemented, do you agree with the Department’s suggestion automatically to include all farmers who would receive less than €1,250 into the scheme unless they opt out?

No- for reasons outlined above we do not believe DARD should employ this scheme.

Q38. If the Scheme is implemented, do you agree with the Department’s suggestion to set the payment at the level the recipients would otherwise receive in a given year (subject to the upper limit of €1,250)?

No- for reasons outlined above we do not believe DARD should employ this scheme.

Q39. Do you agree that additional non-agricultural businesses should not be added to the negative list?

The RSPB supports DARD’s preferred option not to extend the negative list however, the risk that the active farmer test will capture genuine farmers applies equally to the Commission list, which DARD have no flexibility to alter. It is therefore extremely important that DARD ensures that they inform organisations that they might be on the negative list as soon as possible to allow those organisations to consider their options and for those that are conducting genuine agricultural activities on their land holdings but are captured by the negative list, the ability to appeal the decision and become re-eligible in a simple, quick and efficient manner.

Q41. Do you have any views on how land naturally kept in a state suitable for grazing or cultivation should be defined, and do you feel there is land in Northern Ireland that might fall into this category?
The RSPB is not convinced that there is any agricultural land type that is truly ‘naturally kept’ i.e. that it requires absolutely no management. We would welcome further dialogue with DARD to explore this issue further.

Q42. Do you have any suggestions for how minimum levels of activity should be defined for land that is naturally kept in a state suitable for grazing or cultivation?

It is vital that any minimum activity requirements do not negatively affect the ability of very extensive land managers, who are conducting genuine agricultural activity and often delivering exceptionally high levels of environmental public goods, to continue to do so.

Where such land is under an agri-environment agreement, the management requirements of the agreement must take precedence over minimum activity requirements.

Q43. Do you agree that payments made under the Basic Payment Scheme to any given recipient should be capped at €150,000?

Although this will have a negligible effect in NI, the RSPB agrees with this approach, and supports the funds being transferred to the RDP.

Q44. Do you agree that ‘salary mitigation’ should not be applied?

Whilst salary mitigation would reduce the impacts of the cap on larger Pillar I beneficiaries (of which there are a small amount), including those who are using this funding to support more sustainable land management, we do not believe that the level of benefit potentially secured would outweigh the administrative burden on government. The RSPB agree with Defra’s view that the burden placed on their Rural Paying Agency arising from salary mitigation should be avoided, allowing them to concentrate on administering Pillar I payments in good time and providing the highest quality support possible to claimants. We therefore support Defra’s intention not to adopt salary mitigation in England, and believe that DARD should follow suit in Northern Ireland.

Additional Comments

Cross Compliance needs to addressed

The RSPB is disappointed to note no reference to cross compliance within this current consultation. EU-level negotiations on cross compliance has already been watered down significantly. In addition to the removal of SMRs, articles from the Birds and Habitats Directives have been removed from cross compliance. These relate to deliberate killing or disturbance of wild birds and protected species of plants; to the requirement for national authorities to assess plans and projects not directly connected to the management of a Natura 2000 site but likely to have a significant effect, and to mitigate for any damage to the Natura 2000 site if the work is authorised. Although Defra is not able to alter the SMRs as set out by Commission, this changed baseline must be taken into consideration as part of the overall implementation of the CAP.

GAECs provide a basic standard of environmental protection in return for large payments of public money. The RSPB is strongly opposed in principle to any watering down of the level of protection provided. In particular, a low breach rate on any current cross compliance rule is not a valid reason to remove that rule. A low breach rate could be due solely to a low level of detection, or it could be that the rule is acting as an effective deterrent and removing the rule would lead to environmental damage. Furthermore, cross compliance represents the baseline above which agri-environment payments can be made. Lowering this baseline, so that measures which were previously a requirement become eligible for payment, would represent an extremely poor use of public money.