

# WLGA CONSULTATION RESPONSE

Welsh Government's Agriculture (Wales) White paper  
25 March 2021



CLILC • WLGA

## INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and three fire and rescue authorities are associate members.
2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.
3. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.
4. The WLGA welcomes the opportunity to respond to the Welsh Government's (WG) Agriculture (Wales) White Paper. This response has been informed by the knowledge and expertise of Local Authority Members and Officers and the views ascertained from discussions at meetings of the WLGA Rural Forum and discussions with some of our key partners.
5. The WLGA published its Rural Manifesto in January 2021 and recognises the vitally important role the agricultural industry plays within the rural economy and in sustaining rural communities, including the role of small family farms in maintaining the Welsh language and managing the rural landscape. The WLGA supports agricultural policies that safeguard an economically resilient industry, producing affordable food to high standards of environmental management and animal welfare. The WLGA Rural Forum continue to lobby as appropriate on all those matters.

6. We look forward to continuing our engagement with the Welsh Government and key partners as these proposals are further developed and refined to ensure a sustainable future for our rural communities.

## **Response to Consultation Questions**

### **Regulatory Reform**

#### **1. (a) Views on proposed approach to the creation of National Minimum Standards**

##### **(b) The need for flexibility to amend the National Minimum Standards where necessary? Are there any further considerations which are needed?**

- Consolidating regulations can be considered to be an effective way to manage compliance but whilst it is not entirely clear within the consultation what the minimum standards will entail, it is assumed that what is proposed seeks to raise the regulatory baseline. The WLGA is concerned if regulations are raised to a level far higher than those for farmers in other nations, including Scotland, Northern Ireland, EU countries and those with which the UK may have a future trade deal. The WLGA wish to see a fair and level playing field for welsh farmers and food producers, and they should not be placed at a competitive disadvantage as a result of these proposals, particularly with other farmers within the United Kingdom. Any divergence in standards amongst the UK nations could pose a direct threat to the competitiveness of welsh agriculture, particularly as food production standards will be discussed and negotiated in future trade deals.
- Removing the link between penalties and statutory payments makes sense, especially in terms of ensuring that recipients of support do not receive financial penalties from clerical errors. However, there is a concern that pending the interpretation of regulations by compliance officers, we would not wish to see farmers and land managers potentially criminalised for simple errors. If not managed properly, we have concerns that creating National Minimum Standards could raise unnecessary case of criminal and civil offences, and question the public interest in pursuing litigation within this context, particularly if these standards were not homogenous across the United Kingdom.

**2. (a) How advice and guidance can effectively support farmers to understand the National Minimum Standards**

**(b) The further considerations needed for advice and guidance? For example, what form guidance should take, who should provide it, the scope of guidance and how farm advisory services may support farmers.**

- If the introduction of National Minimal Standards is adopted, it is necessary that all farmers and land managers understand the standards. The advice and guidance needs to be clear, concise and easily applicable to individual businesses and the day-to-day operations on a farm or forest.
- The information needs to be made available across a range of media channels. Short, easy to use information should be a priority, and whilst video and web-based short courses can be a great way to disseminate information, caution should be exercised on relying solely on web-based resources given that some parts of rural Wales suffer from the poorest broadband connectivity in the UK.
- The WLGA would strongly oppose a complicated regime, where a reliance on external consultants would be needed for the completion of a range of reports and plans for compliance. The WLGA wants to ensure that any funding available for farmers and the rural economy is invested directly within these businesses.
- In delivering guidance, there will naturally be concerns from farmers as to the implications of breaking the new regulations. Regulators and compliance officers will need to fully scope the breadth and depth of the regulations and be able to provide clear case studies to farmers that will closely mirror the proposed actions that would be taken in a real-life situation.
- It should be Welsh Government's duty to administer, advise and guide the programme through the utilisation of their budgeted funds, ensuring a high quality service to farm businesses and value for money for the public purse.
- There should also be a focus on ensuring a bilingual advisory service, with face to face drop-in services available within WG offices across the rural areas of Wales.

**3. What are your views on the proposals for civil sanctions to enable proportionate enforcement of regulations? Are there any further considerations which are needed?**

- Proportionate enforcement is something to be welcomed but what is defined as proportionate needs to be shared between industry and Government. There are major concerns amongst the rural community that these proposals would place welsh farmers at a significant disadvantage to their competitors. It is felt that increasing regulations, with additional civil sanctions, monitoring and a higher regulatory baseline would put significant pressure on farming families.
- There is concern that raising the regulatory baseline as part of the National Minimal Standards could raise unnecessary cases of criminal and civil offences, and unduly prosecuting farmers and land managers for small non-deliberate offences.

- We would welcome sight of an appeals process as part of these proposals, ensuring that appeals can be resourced in a fair way so that appellants can readily access the process.

## **SLM – Future Support**

### **4. What are your views on the proposed purposes for funding in support of the delivery of SLM? Are there other purposes which you feel should be considered?**

- The WLGA recognises the vitally important role the agricultural industry plays within the rural economy and in sustaining rural communities, including the role of small family farms in maintaining the Welsh language and managing the rural landscape. The WLGA supports agricultural policies that safeguard an economically resilient industry, producing affordable food to high standards of environmental management and animal welfare.
- The WLGA is highly concerned about the impact that cuts in direct support to farmers will have on the rural economy, and the social fabric of rural life. The WLGA feels that Welsh Government should have a stronger focus on food security in future agricultural policy, and increasing the self-sufficiency of food production, whilst also exploring further opportunities to grow the horticultural sector in Wales.
- As per our response to previous consultations on this issue, the WLGA believes that the Welsh Government's definition of 'public goods' is too narrowly focused, based purely on environmental sustainability and fails to account for the social and economic aspects of sustainable rural development. Welsh Government has proposed changes so that future agricultural support is in line with the requirements and policy direction of the Environment Act and the Wellbeing of Future Generations Act, but it fails to address how this new model of support contributes to the social, economic and cultural well-being of rural communities.
- Previous iterations of consultations relating to the future of farming in Wales made reference to the valuable relationship between agriculture and the nature of family farming in Wales and the Welsh language, yet this White Paper omits this relationship as an example of a 'public good.'
- By comparing Welsh Government proposals to Scotland and Northern Ireland, and countries within the European Union, Welsh farmers face a significant competitive disadvantage, as they will continue to receive some form of direct support. Given the reliance of the Welsh agricultural sector on exports to the EU and further afield, and the current and prolonged friction in trade from added export certification and bureaucracy, the economic resilience of farm businesses is crucial for the well-being of rural communities.
- Given the impact of Covid-19 on supply chains and the integrity of production standards, the WLGA struggles to accept why the Welsh Government fails to recognise food security, food safety and maintaining high animal health and welfare standards as key 'public goods' that warrant recognition and support as part of the future farm support scheme.

- We understand that the same on-farm interventions could have potentially different payment rates pending the location of the intervention, leading to a postcode-lottery approach to SLM funding for farmers. The WLGA would strongly oppose any scheme where farm support and rural funding was diverted from rural areas.

## **Industry and Supply Chain**

### **5. What are your views on the proposed priorities for industry and supply chain support?**

- Direct payments to 'active farmers' should remain as the bulk financial mechanism for supporting rural areas. However, the WLGA advocates a complementary rural development programme, with socio-economic interventions aimed at stimulating the rural economy and ensuring community cohesion, creating opportunities for rural businesses to thrive.
- Support to improve supply chains and add value to primary produce from Wales is welcomed by the WLGA. However, focusing support on SLM principles rather than specific economic objectives is concerning. In terms of adding value to the agricultural sector, industry and supply chain support should focus on providing higher farmgate prices, to account for the higher production standards, with added costs for welsh farmers and provide the 'added market value' from adopting SLM principles on a farm level.
- In essence, removing direct support from the Sustainable Farming Scheme and added regulation increases the production costs for welsh farmers. So industry and supply chain support should focus solely on economic objectives, so that welsh farmers can retain the added value at farmgate to compensate for these additional production costs.
- In the WLGA Rural Vision document public procurement and community wealth building, building on the Foundation economy of rural areas was considered as part of our Key Asks to develop the rural economy. Investment in industry and supply chain should focus on these objectives, with investment in the processing capacity of primary produce from Wales.
- Welsh Government should focus on the strength of the supply chain, with strategic investment in dairies and meat processing plants for welsh produce.
- Within the context of red meat, Hybu Cig Cymru's vision for the sector is centred on maintaining a critical mass of livestock in Wales. A drop in livestock numbers has a knock-on effect on lamb and beef supply in Wales, affecting the profitability of the whole Welsh red meat supply chain and impacting on revenue derived from food. Interdependencies between different parts of the supply-chain mean that loss of critical mass at any one point could lead to wider collapse.
- Within a context where Welsh Government policies are advocating a 'Wales first' approach to public procurement, it needs to ensure that the infrastructure to maintain welsh supply and welsh jobs is supported. The concept of a 'resilience premium' for procuring welsh food has been considered by Local Authorities, accounting for the premium quality of food produced in Wales, and

the value of retaining jobs within the rural economy, with associated socio-economic benefits including the impacts on the welsh language.

- There are concerns around the value for money of some farm advisory services. Prior to the development of future support schemes, a full cost-benefit analysis should be initiated for schemes such as Farming Connect, with proposals of a refined scheme with a strong focus on added value.
- Welsh Government has proven success in the development of the food and drink sector and should build on the achievements of the Helix programme working through the three food centres in Wales. This support could be extended to look at a wider range of added-value activities, such as sustainable fibres and the potential for pharmaceutical and nutraceutical applications for welsh primary produce. Welsh Government should engage closely with institutions such as the Aberystwyth Innovation and Enterprise Campus and the Life Sciences Hub in Cardiff to leverage novel market opportunities.
- To support novel future applications and markets for welsh primary produce, investment is needed in the rural skills base. Investment is needed in added-value technical skills to support a blueprint for growth of the rural economy, with close engagement with Regional Skills Partnerships, Regional Economic Forums, Growth Deal Partnerships and Further Education institutions.
- In our Rural Vision document, the WLGA proposes diversifying the economic base for the natural harvest, as well as investment in STEMM (Science, Technology, Engineering, Maths and Money) Centres of Excellence in rural Further Education Institutions, with a focus on Food Science, Agriculture, Advanced Manufacturing, Circular Economy, Health and Medical Care, Bioeconomy and Low Carbon Infrastructure.
- There is concern that support through supply chain interventions could be diverted to other sectors such as forestry, which dilutes the funding available for agriculture.
- Current Rural Development schemes, such as LEADER and many of the Socio-Economic measures, have been vital to sustaining rural communities and future schemes should focus on what has worked well. There is no mention within this consultation of the future of Rural Development funding post 2023.
- Future Rural Development schemes need to be simpler to apply, administer and manage. The proposals of the Wales Audit Office review into Rural Development funds should be adopted and a strong stakeholder role with thorough engagement and involvement of current Programme Monitoring Committee members on a future governance structure and in the design and development of new schemes.

## **Collection and sharing of data**

- 6. What are your views on the proposed purposes for collecting, sharing and linking data?**
- 7. What are your views on the establishment of a national database for farms and livestock?**
- 8. In terms of the future scheme, what are your views on the proposals to enable to data we collect on a farm to be used by farmers to track progress and demonstrate their sustainability credentials?**
- 9. What are your views on the proposals for improving the monitoring of regulatory compliance?**
- 10. What do you think needs to be considered in future to enable regulators to effectively monitor regulations?**

The WLGA has no specific comment to make on the detail relating to the collation and sharing of evidence, only to ensure that the focus of future funding to support farmers is mainly spent on that purpose. Any future changes to the current monitoring and evidence collation should be proportionate and ensure value for money.

Any proposals to increase monitoring should not unduly burden the farming sector, or impact upon their rights for data privacy and anonymity.

## **Forestry and Woodland**

- 11. What are your views on the proposed amendments to forestry legislation?**
- 12. What are your views on how the Welsh Government can support landowners in Wales to benefit from carbon markets for planting trees?**

Re 2.122 – There is no mention of widespread felling required to manage Chalara ash dieback in this section. Does the 2,000 hectares take the replacement of felled trees into account?

Re 2.126 – Need to ensure sufficient expertise and resource is available for the long-term management of woodlands as part of any Sustainable Farming Scheme.

Re. 2.127 – The WLGA welcomes the system of ‘earned recognition’ but there should be a mechanism for ensuring the good practice being done by some can be shared with others to share knowledge and expertise of woodland planners.

Re. 2.142 – We welcome the changes to legislation in relation to exemption of felling licences for dangerous ash trees.

## **Tenancies**

- 13. Do you think the dispute resolution procedures described in the proposals should be extended to FBTs?**
- 14. Do you think there will be instances where landlords may require the same access to dispute resolution as described above?**
- 15. Do you think it will be appropriate to allow joint landlord/tenant SLM scheme arrangements?**

Local Authorities are significant landowners in Wales, which vary according to each Council area. To illustrate, the Powys County Council Farms Estate is made up of 138 holdings and 11,250 acres of land, Pembrokeshire County Council's estate comprises 44 farms, whilst Conwy County Borough Council has 7 farms. Local Authority farms are leased out via a mix of Agricultural Holding Act and Farm Business Tenancies.

Removing support from the production of food to interventions proposed via Sustainable Land Management creates tension between tenant farmers and landlords, as the interventions prescribed create material, often permanent, changes to the land, and its future uses.

The landlord should have absolute discretion to allow variation of restrictive clauses, with no new route to third party dispute resolution. The landlord should not be involuntary tied to long-term land use change that will affect the land long beyond the conceivable tenancy period.

Woodland creation and sustainable land management conflict with the kind of agricultural use contemplated by the Agricultural Holdings Acts, and it seems illogical to extend the reach of that legislation by introducing new dispute resolution provisions. Where tenants with 1986 Act tenancies wish to cease farming in favour of alternative land uses, but are restricted by the tenancy document, then a new tenancy under contemporary legislation would be the appropriate vehicle to achieving this.

The same principle applies to Farm Business Tenancies, the tenancy document should be the definitive point of reference for establishing whether entry into long-term SLM schemes is permitted. New third-party dispute resolution provisions will introduce uncertainty for Landlords and are likely to discourage Landlords from offering long-term Farm Business Tenancies due to the possible loss of control over future land use.

The prospect of joint landlord / tenant SLM scheme agreements would seem a more appropriate measure to allow the interests of both Landlord and Tenant to be protected whilst encouraging participation in such schemes.



## **Animal Health and Welfare**

**16. What are your views on the proposals for additional powers for Welsh Ministers to:**

- a) Establish Movement Control Zones to control the movement of animals, semen, embryos, animal products, animal by-products and / or other things that can spread infection e.g. equipment and utensils, in the event of a significant, new animal disease threat, where there is currently no or limited power to do this?**
- b) Specify 'animal', 'farmed animal', 'livestock, 'pet animal' and 'animals intended for agricultural purposes' beyond the current rigid traditional definitions to ensure animal disease control measures can be applied appropriately and flexibly to any species of kept animal where there is a potential disease risk?**

The details of proposals under these changes will need to be considered fully at the stage of bringing forward secondary legislation. Making changes to the specifications of animals could be helpful when communicating to a broad audience on animal health measures, as there are individuals who keep a range of animals as pets, who would need to comply with animal disease control.

### **Snares**

**17. What are your views on the proposal for a power to enable increased controls covering such matters as the manufacture, sale and use of snares? Do you think such a power is required? If not, why not? If so, what matters do you think the power should be used to address?**

No comment.

### **Integrated Impact Assessment**

**18. What are your views on the impacts we have identified in the integrated impact assessments? Are there any further impacts that should be considered?**

In terms of mapping the Well-being objectives to this White Paper, identifying only three targets of the *Taking Wales Forward* document appears to be a piecemeal approach to assessing these proposals against the Well-Being of Future Generations Act. It would be more in keeping with the essence of the Act to fully consider these proposals alongside the 7 well-being goals, given the magnitude of the impacts of these changes on the rural economy and rural communities in Wales, where the nine most rural counties in Wales make up a third of the Welsh population.

In terms of assessing the proposals against the Ways of Working, we have concerns around the Welsh Government's approach to Involvement and Collaboration. Whilst the White Paper can cite the high number of 15,000 responses, the experience of stakeholders in engaging with these changes has been one where they feel that they have been consulted, rather than a truly participative approach where they feel concerns and ideas have been adopted, as advocated by the Act.

In terms of impact on People and Communities, the issue of 'spatial justice' should be considered, where the burden of decarbonisation and nature recovery actions should not fall disproportionately on rural communities. Whilst the WLGA recognises that rural Wales has many opportunities to support a Sustainable Wales, people living in rural communities should have opportunities to access jobs and a thriving economy, as much as residents living within Wales' more urban areas.

Based on our comments above, we are concerned that there has not been a specific Socio-Economic assessment done for the rural economy as part of the development of this White Paper. Any change to the funding regime for farm businesses will have a direct impact on wider rural businesses and communities thus needs to be factored into the development of future support schemes.

Further modelling is required on the impact of these changes on the rural economy, which needs to consider the proposed changes in other countries, such as Scotland and the EU, to ensure that Welsh farmers are not put at a disadvantage within the marketplace.

## **Welsh Language**

**19. We would like to know your views on the effects that the White Paper proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

**20. Please also explain how you believe the proposed policy could be formulated or changes so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

- The WLGA believes that any moves to reduce funding to farming families and rural communities has the potential to impact negatively on the Welsh language, as the rural areas of Wales are the strongholds of the Welsh language. This is evidenced in the recent Farming Connect report on 'Iaith y Pridd'<sup>1</sup>, that evidences and explores the relationship between agriculture and the Welsh language.

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<https://businesswales.gov.wales/farmingconnect/sites/farmingconnect/files/documents/Iaith%20y%20Pridd%20report.pdf>

- Continued funding for small scale family farms and rural communities is vital to sustaining rural communities and to meeting with WG's target of a million Welsh Speakers by 2050.
- We would also support building on the lessons learned from successful initiatives and funding schemes that have been designed with supporting the Welsh language and culture as vital assets within local economies, such as the ARFOR Programme, which pilots innovative approaches in promoting entrepreneurship, business growth, community resilience and the Welsh language in the four predominantly Welsh-speaking Local Authority areas across the West of Wales (Anglesey, Gwynedd, Ceredigion, Carmarthenshire).
- Further, the emerging piece of work these four Local Authorities are developing with Wavehill, as part of the ARFOR Programme, exploring the links and relationship between youth out migration and a decline in the language, and resulting economic impact, should be considered as part of evidencing the need for new and innovative approaches to enable young people to stay in their communities to live and work.
- Retaining young people to live and work in rural communities is a vital component of ensuring the future resilience and vibrancy of these communities and local economies. It is also vital in the efforts to meeting with WG's target of a million Welsh Speakers by 2050. Measures for future farming support and investing in the supply chain should give serious consideration to the impacts on Welsh language.

### **Any Other Comments**

- 21. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.**

### **Common Land**

- The consultation made specific reference to proposals under Common Land but failed to ask a question. We present our comments from a local authority perspective on your Common Land Proposals here.
- We understand that local authorities have been consulted on these proposals as members of the Commons Act Advisory Group and present our comments formally to this consultation within the WLGA response.
- In reference to 2.158 – **Powers to revise the consenting regime on common land**
- We generally welcome the exemptions if these are to be similar to what has been introduced in England, i.e., a list of works that are exempt or outside the scope of the section 38 process, such as the exemptions in installing temporary fencing or erecting small signs and interpretation boards on common land. However, we do need greater detail to be able to comment fully.

- We would require further information on what the anticipated revision to consents that also require planning permission would entail. During the planning process, comments would still be needed from the Commons Registration officers on whether Common Land is affected by any works but who would be commenting on the appropriateness of the work in relation to the Common itself?
- In reference to 2.159 – **Revise the enforcement responsibility and function on common land in response to breaches of the consenting process where restricted works have been undertaken without permission**
- Currently any member of the public is able to take issues relating to breaches on Commons to Court but very little restricted works are taken to court. The current legislation has very little teeth, especially when compared to Rights of Way legislation. There would be a significant resource burden if there are views to place a statutory enforcement responsibility on Local Authorities, and guidance would be needed on how to deal with historic issues in particular. There are many examples of encroachments on commons, many of which pre-date the Commons Act 2006 and if Local Authorities were expected to take retrospective action, they would need the resources to deal with it. Within National Park boundaries, these issues can be dealt with through the planning system of the National Park Authority. Where commons are designated as SSSI or SACs, Natural Resources Wales is able to take action through the Habitats Directive. If it is expected that Local Authorities would take on additional statutory enforcement powers, there is a need for dedicated ringfenced revenue budgets to cover staff time, especially given the resource pressures faced by Countryside Access and Recreation teams within authorities in recent years. Powers to serve notices will make this easier but again resources are needed.
- The Impact Assessment for this consultation has not accounted for the resource requirements for introducing more statutory measures. There are also issues facing Local Authorities in taking actions on breaches without a legal or management interest for land, which is significantly different to Rights of Way as they are designated highways. As an example if an owner of Common Land sells a parcel of commons to another person to build a garage, who would the Authority enforce – the new owner of land who built the garage, or the previous owner?
- The Commons Registration Authority currently has no statutory powers of entry to inspect, which would need to be considered as part of these proposals.
- In reference to 2.160 – In relation to Commons Councils
- From the experiences in England, Commons Councils are expensive to run and would need funding to legally constitute themselves. We question what would be the incentive for commoners to create a Commons Council? If there was little to no incentive, commoners are unlikely to establish Commons Councils.