



**WELSH GOVERNMENT CONSULTATION**

**BREXIT AND OUR LAND:  
SECURING THE FUTURE OF WELSH FARMING**

**RESPONSE BY THE**

**AGRICULTURAL LAW ASSOCIATION**

**30 OCTOBER 2018**

**Agricultural Law Association  
PO Box 10489  
Oakham  
LE15 0GL**

**[mike.holland@ala.org.uk](mailto:mike.holland@ala.org.uk)**



## **1.0 The Agricultural Law Association**

### **1.1 Background**

The Agricultural Law Association ('the ALA') was formed in 1976 and is the UK's largest inter-professional organisation devoted to the law and business of the countryside.

We focus on the law in a non-partisan, apolitical way in order to promote its knowledge, understanding and development among those who advise rural businesses.

The ALA has over 1400 members across the legal, surveying, accountancy, farm business consultancy professions together with academia and members with specific expertise in international trade and investment; with all principal professional firms and, uniquely, all other principal member organisations within the agriculture sector represented within the membership.

We are a member of the following current sector cross organisation groups in the UK:

Tenancy Reform Industry Group  
Agricultural Representatives Bodies Group (Taxation)  
Scottish Land Commission – Tenant Farming Advisory Forum  
Land Partnerships Service – National Advisory Group

We are also the largest member association of the European Council of Rural Law.

The Association's Regional Group in Wales which comprises practitioners from the legal, surveying and accountancy professions as well as academics and farm business consultants, has an active role in responding to matters of policy which affect their clients in practice.



## **1.2 Consultation Work by Members**

As part of our response to Brexit and our land ('this/the Consultation'), we have conducted member consultations with our Welsh members and this response is submitted on behalf of the ALA and its members and we look forward to working with the Welsh Government, its agencies and other sector organisations on shaping the future policy for our sector.



## 2.1 The new context of Brexit

- 2.1.1 We agree with the statement that Brexit forces us to consider our policies afresh and we agree that this offers significant opportunities for reform.
- 2.1.2 In ensuring the impact of Brexit does not undermine the true value of our land and its managers provide to Wales, **policy must ensure that the core activity of agriculture, as an integral part of the UK countryside, and its economic contribution are fully recognised.**
- 2.1.3 Whilst there is a case for change in the way agricultural policy is delivered, as an overriding principle, **support for UK food production must be at the core of any future agriculture policy.**
- 2.1.4 **We note that the Welsh Government proposes to publish a Bill before the end of this Assembly term in 2021. It is imperative that the Welsh Government ensure that sufficient consultation has been undertaken with industry stakeholders in the preparation of this Bill to minimise any impact on the confidence in the agricultural and rural sector when the Bill is published.**

## 2.2 The value of Welsh land

- 2.2.1 We support the Consultation proposals aimed at supporting the multi-faceted contribution of Welsh land and those that manage it.
- 2.2.2 Whilst the Consultation highlights natural resources and healthy ecosystems as part of the foundation of Wales' productive capacity for food and forestry, the Consultation initially lacks reference to the role of those that manage the land as 'farmers'. There is a constant reference to 'land managers' but this falls short of properly recognising 'farming' and 'farmers' as terms which apply to any new policy.



- 2.2.3 Whilst the Consultation references food producing farms as the core of Welsh land, in bringing forward more detailed proposals in Spring 2019, the Welsh Government must ensure proper reference to farmers as farmers and not simply as land managers; a term which if taken literally, suggests a move away from properly recognising policy support for sustainable food production and farming as core activities.

## 2.3 Case for change

### Trade

- 2.3.1 **The Agricultural industry requires certainty and transparency on the future free trade agreement with the EU.** In this respect, regard must be given to the allocation of tariff rate quotas, development of tariff schedules and resolution of non-tariff measure issues in order to optimise the UK's continued trading relationship with the EU whilst retaining the ability to form our own trade policy.
- 2.3.2 Development of a draft and preferably agreed UK WTO schedule of concessions is fundamental to the ability of the UK to negotiate both future EU and other bilateral/multi-lateral trade arrangements. This process should seek to mitigate the risk of technical dispute whilst facilitating opportunities for substantive agreements.
- 2.3.3 To achieve the trade aspirations of the sector, particularly with reference to new markets, **there is a requirement for dedicated support and expertise for the agri-food sector with the appropriate resources within the Department for International Trade to maximise the potential of the Welsh agri-food sector.** Policy options should seek to avoid the tendency to focus on niche, high value products in the context of export development and recognise equally Welsh farmers as providers of bulk commodity products operating in a highly competitive and dynamic global market. High profile international campaigns promoting the sector must be supported with an end to end approach ensuring delivery of commercial outcomes.



- 2.3.4 Dedicated funding for the agri-food sector within the UK Export Finance ('UKEF') budget and development of associated trade facilitation products will be required. For those seeking to export this may include export insurance, letters of credit, export capital funding and bond insurance. UKEF will also have a roll in facilitating overseas buyers for UK agri-food producers. Bespoke products for the agri-food sector are likely to include buyer credit guarantees, buyers' line of credit facility and buyer direct financing. Sector specific expertise will be required to expedite the development and use of such products and to enable Welsh agri-food products easy access to those markets.
- 2.3.5 A practical and robust customs handling system will be necessary to ensure the ongoing rapid movement of goods across the agri-food value chain into the EU and new markets. The system must be scalable and designed with embedded training, reflecting the increase in the number of customs transactions and number of potential new users that are likely to be required.
- 2.3.6 The opportunity exists for collaboration and partnership with private sector expertise in delivery of the Government's agri-food and agri-tech agendas. This includes development of skills and training on international trade practices, provision of competitive and market intelligence, business planning for export, market access advisory, product and brand development, cultural awareness training, qualified lead generation and development of specialist trade finance products.
- 2.3.7 Although export development is included within the terms of reference of the Food and Drink Sector Council, its efficacy is currently untested due to the relatively recent commencement date of operations. Whilst a lead from a high-profile sector organisation is welcome, international trade practice and knowledge of global markets should become embedded at strategic and operational levels throughout the industry. It is important that a Welsh voice and perspective is provided on this Council and that its members are mindful of the Welsh agenda.
- 2.3.8 Both UK produced and imported food prices are a function of the world market and modified by any bilateral/multi-lateral trade arrangement. Unless the Government is advocating unilateral trade liberalisation as a policy, food prices will



find equilibrium based on these two factors – clarity on the approach promoting lower consumer prices and innovation is required.

- 2.3.9 UK Agriculture policy and International Trade policy should not be developed in isolation – understanding and acting on the significant cross-cutting themes between the two policy landscapes is essential in delivering sustainable and resilient commercial, environmental and social outcomes.
- 2.3.10 **Depending on the outcome of the current negotiations with the European Union, the Welsh Government must be prepared to provide immediate assistance, financial or otherwise, to any potential disruption to the trading conditions for Welsh farmers and in particular the sheep and beef sectors which are very susceptible to adverse trading conditions being heavily dependent currently on the export market.**

### **The Common Agricultural Policy in Wales**

- 2.3.11 The system of support to the UK farming sector through the CAP has led to a reliance on that support in general and has, in many circumstances, led to a stasis in innovation and investment; but that must be viewed through the prism of the effects of world prices on the commodities that the UK farming sector produces and the underlying profitability of farming businesses exposed to the world market and the high input cost of production, whether that be, for example, on labour, machinery, fuel etc. As is often cited, UK farmers are price takers and the ability of farmers to influence the farmgate price, particularly in the case of bulk commodities such as cereals, is, on the whole, currently limited and will probably remain so.
- 2.3.12 The Consultation recognises that farmers are reliant on funding from the BPS. The transition away from the current support regime through the Basic Payment Scheme will have a direct impact on profitability levels and any reduction will result in reduced profitability. **The basis of the Welsh Government’s proposals for moving away from this type of support must therefore ensure that adverse impacts on farmers’ profitability during the proposed transition is properly managed to provide them with sufficient time to adjust their businesses and to avoid a mass response to the market which may be more detrimental than a smoother gradual transition.** Businesses need



ample time, funding and resources to make a calculated and informed transition from one trading and policy framework to another.

## **2.4 Land Management Programme for Wales**

### **2.4.1 We support the five principles set out in the Consultation.**

2.4.2 With reference to 'other land managers' under Principle 1 (and with reference to our comments on the term 'land manager') and Principle 5 which proposed not to restrict support to current recipients of funding under the CAP, it is important that clarity is provided by the Welsh Government as to its definition of 'land manager'. In the context of let land, this is important in order to provide a clear direction for Landlords and Tenants and any potential impacts on existing and proposed tenancy arrangements.

Furthermore, it is no longer the case that occupation or use of land falls in to two distinct camps of owner occupier and tenant. There are currently a plethora of business structures from share farming, to contract farming, equity partnerships, Limited Companies and trusts being utilised by innovative and progressive farmers as models for business efficiency and efficacy. **Any new policy must therefore consider this variety of business models and ensure that policies do not hinder the development of such appropriate structures as allow the business to work at its most effective level.**

2.4.3 However, a new Land Management Programme must avoid 'turning back the clock' on productivity improvements that the agricultural sector has continued to adopt; albeit that as stated above, the reliance on the CAP has led to a degree of stasis in the industry which needs to be addressed.

2.4.4 Whilst we support the principles of an Economic Resilience Scheme and a Public Goods Scheme. **It is important that access to both schemes in parallel as suggested by the Consultation, is carried through to legislation.** This will assist in supporting a sustainable approach to food production and environmental land management in tandem. It is important that farmers do not become members of one 'silo' to the detriment of the aims and objectives of the other schemes available.





- 2.4.5 The Consultation also asks if the Welsh Government needs to take action to ensure tenants can access new schemes. Subject to there being measures to ensure that Landlord's are part of the decision-making process in relation to future land use and management and provide their consent for the same under the new schemes, the current legislation governing let agricultural land provides sufficient scope. The provision for ensuring that Landlord consent is required for a tenant to enter into such schemes will also ensure that should the tenant vacate the land during the term of a scheme agreement, that the Landlord is obliged to fulfil the obligation of the scheme for the remaining term. However, **the affect of the schemes on the let land sector can only be properly considered once the full details of these schemes are issued for further consultation** and it is suggested that there may be an affected on rental values and rent affordability.
- 2.4.6 Furthermore, in relation to the tenanted sector, **whilst farm business tenancy agreements, particularly new agreements, under the Agricultural Tenancies Act 1995 allows sufficient scope for the parties to agree contractual terms that can reflect the adopted policy(ies), land let under the Agricultural Holdings Act 1986 will often be more restrictive on the activities that the tenant is permitted to carry out on the holding.** Therefore, further consideration of this is required once further details are forthcoming on the proposed new policy and the Land Management Programme.
- 2.4.7 Whilst formulating the policy(ies) to deliver the five principles, the Welsh Government must consider carefully any potential conflict between those principles that may hamper successful outcomes. For example, **future support for the provision of public goods must avoid conflict with the continued support for the economic activities of farmers in the production of food.**

## **2.5 Economic Resilience Scheme**

- 2.5.1 In supporting the principle of an Economic Resilience Scheme, the Welsh Government must bring forward a flexible scheme which avoids policy driven farming models and allows for bespoke approaches. Farming businesses must have the freedom to make business-based decisions when entering the scheme



and during its lifetime without fear of losing access to the benefits such a scheme will provide.

### **Area 1: Increasing market potential**

- 2.5.2 With reference to collaboration founded on the principle of fairness in the supply chain, the farming sector is a crucial part of the supply chain however, we are disappointed that the remit of the GCA was not widened following the recent UK Government consultation that closed in January 2017 and **we urge the Welsh Government to encourage the UK Government to re-consider the GCA remit to include primary producers.**
- 2.5.3 As part of our approach to food products and, equally, with reference to food produced in Wales or imported for UK consumption, it is imperative that the system of food labelling provides the consumer with the necessary information to make a fully informed choice as to the food products they purchase. **It is essential to the success of the Welsh farming, and to the whole UK farming sector, that a high-quality food product produced by Welsh/UK producers is properly and transparently distinguished from imported products.**
- 2.5.4 **We suggest policy should include the maintenance of the special status of Producer Organisations including derogations from competition rules.**
- 2.5.5 **There should also be provision for the funding of larger scale processing projects and infrastructure capability at a local level to support the ability of producers to add value in locations closer to the primary source of production.**

### **Area 2: Improving Productivity**

- 2.5.6 As a general principle, we support policy approaches that promote efficient farming practices to underpin the domestic agricultural policy.
- 2.5.7 Our members see the encouragement of CPD as a positive move for the farming sector, but the terminology of Continuing Professional Development may not be well suited to ensure take up in the farming sector; **we propose that it should be geared more to a reference to 'Skills Development' or similar.**



- 2.5.8 The sector is a skilled sector throughout the layers of labour on farm but enabling all farmers to recognise the broad range of skills they have does require support; whether that is through local benchmarking exercises or on a wider scale through organisations, such as the Agriculture and Horticulture Development Board (AHDB). This should include anonymity for participants to encourage wider take-up of benchmarking approaches, where they would then have the confidence that their individual performance is not being linked to them directly in the production of benchmarking data results.
- 2.5.9 In the tenanted sector and specifically in relation to land let under the Agricultural Holdings Act 1986, in order to encourage greater investment by the Landlord, **the Tenancy Reform Industry Group ('TRIG') (of which we are a Member) proposed to the Minister for Agriculture in October 2017, that legislation be amended to allow for investment in the holding and the return to the landlord on that investment to be ring fenced from the statutory rent review procedure. We would support such a change to encourage investment in this part of the let land sector where one could arguably state there has been significant under investment.**
- We recommend that the Welsh Government should seek to engage with all stakeholders, including organisations such as ourselves, whose members are advising on tenant farming matters on a daily basis, to discuss the implications of these proposals on the tenanted sector.**
- 2.5.10 We also consider that a provision for small equipment and tools grants/loans should be made available as in some cases a relatively modest level of investment can make a significant difference to work rates and productivity.



### **Area 3: Diversification**

- 2.5.11 The Consultation recognises the ongoing opportunity for farming businesses to diversify where such opportunities exist. The success of diversification is determined by demand and the ability to obtain sufficient investment.
- 2.5.12 However, **any new policy must guard against a propensity to view diversification as possible for all farming businesses. Diversification is not a panacea.**
- 2.5.13 Policy also needs to recognise that not all diversification is from agriculture to non-agriculture. There are examples of farming businesses diversifying from traditional beef and sheep enterprises into dairy or poultry and with significant pressure on the profitability of beef and sheep in Wales, support for diversifying into alternative agricultural sectors should be made available.
- 2.5.14 We do not propose to provide a detailed commentary on the current planning policy, but it is clear that the approach of some local authorities to applications in a rural context can be inconsistent with the promotion of a sector trying to innovate and invest and crucially to provide for much needed rural housing. **There needs be a more holistic approach across Government departments. Such an approach is needed now whilst we are developing a new agricultural policy framework.**
- 2.5.15 We also suggest that the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) should be extended to areas of landscape designation, for example Areas of Outstanding Natural Beauty or National Parks, to assist farmers in those areas to invest on equal terms with those outside of these areas.
- 2.5.16 It must be noted that with reference to comments under 2.4.6 above, for the tenanted sector, the ability to diversify may be restricted by the tenancy agreement.



#### **Area 4: Effective risk management**

- 2.5.17 Fundamental individual business resilience begins with optimising best operational and financial practice before adding in insurance or volatility measures. Opportunity exists to engage with producers to facilitate training in business planning and management skills, delivered through public and private sector collaboration.
- 2.5.18 Uptake of insurance products in the UK agricultural sector is low in comparison to many other developed economies where such instruments are routinely employed as part of a comprehensive risk management strategy and with Government support. A relatively immature UK market for these products requires a number of factors to be addressed before a significant increase in uptake could be expected. A key driver is the availability to the insurance industry of significant data sets with sufficient granularity to enable the development of index-based or standalone policy products. Additionally, raising awareness and use of insurance as a risk management tool amongst producers, balancing policy cost vs policy terms (coverage), minimising complexity, and facilitating a competitive insurance market would aid greater adoption of these products.
- 2.5.19 A broad range of price volatility management products are available and widely used internationally by producers and other supply chain actors in trading fungible agricultural and soft commodity products. Use of such instruments in the UK at a producer level is anecdotally limited. Physical forwards contracts, commodity futures and options derivatives, exchange traded commodities and similar forex products offer significant potential for price volatility management. A programme developing awareness of these products, promotion of their use and linking producers with appropriate advisors and providers will be required to achieve a significant increase in uptake.
- 2.4.20 Public and private sector collaboration would be a logical delivery mechanism. Increase in demand for price volatility management products may also result in greater supplier competition, producer choice and development of new bespoke instruments.
- 2.4.21 There should also be a domestic safety net mechanism modelled on the EU Common Market Organisation to provide support and stabilisation in times of crises - particularly with reference to critical disease or weather events.



### **Area 5: Knowledge exchange, skills and innovation**

- 2.5.22 We agree with the Consultation that progress in these areas has been made in Wales and policy should encourage further uptake of knowledge exchange, increasing skills and encouraging innovation to assist in improving productivity.
- 2.5.23 We also agree that initiatives such as Farming Connect have greatly assisted in this area. However, the Farming Connect structure, whilst good, is too restricted in its remit. The plethora of advice surgeries, business planning support, Agrisgop groups, benchmarking, and events have been invaluable to farmers to seek new opportunities, review existing business performance and learn in a peer to peer environment. Extension of its remit to allow businesses more flexibility to pick and choose the advisors or type of advice it seeks would be beneficial post-Brexit to allow room for more innovative and new ideas which may be useful to improve business productivity and efficiency.

There is ample opportunity for Welsh farmers to visit demonstration farms and many do. However, the opportunity to effectively consolidate learning and embed key learning points is often not taken by the field officers present. What is the evidence for the impact on change of these demonstration and technical sites? A new policy approach should seek to maximise the potential for these sites to better promote best practice, for example using change facilitation adapted from other industries.

The promotion of technical courses by Farming Connect, HCC and Lantra is confusing for those that they aim to support. There are also farms that have inadequate connectivity to access the websites and online content. A single host site with a library and an effective search facility would greatly assist field officers and businesses to access the full range. It is not enough to provide these courses if those they are directed at are not aware of them. It is appreciated that the funding for HCC and Farming Connect are from different sources however, there is no reason why collaboration could not be achieved to provide a more accessible and responsive service.

Our understanding is that the take up of the advisory service is heavily focused on soil analysis and nutrient management plans. This could be considered to be best



practice and regular source of information for farmers if the opportunity to fully engage with an experienced and capable technical consultant is more widely promoted.

The AHDB Horizon reports are useful reading yet not available via the Farming Connect website. Collaboration between these organisations and others should be encouraged.

- 2.5.24 We do not propose to comment in detail on developing technology as other organisations closer to the current developments on farm are better placed to provide that comment.
- 2.5.25 However, a recent visit to the Harper Adams Innovation Centre highlighted the significant opportunities that are developing for another Agricultural Technology revolution. Furthermore, there are exciting developments in relation to slurry transformation in to water at Gelli Aur and such projects should be supported and promoted for adoption on farm once they have been piloted in colleges and innovation centres.
- 2.5.26 The process of data sharing and ownership will underpin the ability to benchmark success and allow development of wide scale new approaches and it is important that data platforms used in the farming sector can be easily shared.
- 2.5.27 **Consideration should also be given to a tax credit for investment in on-farm R&D**, whether for individuals or groups of farms who are collaborating through joint venture or other business structures.
- 2.5.28 A policy of facilitation and financial support for near-market R&D approaches to encourage R&D investment throughout the supply chain is required. **In addition, there should be an extension of the R&D tax relief for partnerships and sole traders.**
- 2.5.29 **Funding should be provided to support agricultural societies, discussion groups and Young Farmers Clubs** to assist them with event costs, including speakers and venue expenses and other knowledge exchange initiatives promoted by these organisations.



## 2.6 Public Goods scheme

- 2.6.1 We support as a general principle the protection and enhancement of our environment with reference to the public goods set out in the Consultation. A policy which provides for a public goods scheme must provide for active management of those environmental assets. **As policy develops there must be an acceptance that it encompasses proactive management and, further, that the baseline against which any enhancement initiative is measured, is properly defined.**
- 2.6.2 The delivery of the best level of protection and enhancement of the environment, including the active management of the environment, is directly influenced by the profitability of the farming sector and its ability to produce food at viable financial levels.
- 2.6.3 We support a system that promotes long term sustainable land management and integrated food production, timber production and environmental measures.
- 2.6.4 **It is crucial that the financial and management terms of contracts entered into by farmers, foresters and land managers, offer a reasonable financial return and are fixed for the full duration of the contract term.**
- 2.6.5 **We seek clarification on the reference to 'land manager' which requires definition.**
- 2.6.6 **Any obligations for the management and enhancement of the environment under contracts voluntarily entered into by the parties must not then lead to statutory designations of land.** Any scheme must allow for flexibility and variation of timing where weather events or issues outside of the control of the farming party to the Agreement impact on the timing of delivery. The environment is an ever-evolving landscape and contract terms must not be so rigid as to ignore that fact.
- 2.6.7 We would support collaborative projects over a wider area (for example, river catchment areas). Further clarification is required on the structure of such agreements – for example are these envisaged to be multi-party agreements or agreements with single parties but with a common set of management





prescriptions? We note that the Welsh Government will explore different models and expect further consultation on this in due course.

- 2.6.8 Whilst developing this new scheme, the inclusion of social public goods (e.g. health and education) to recognise the importance of agriculture as a core part of rural communities and the value that sustainable management of agricultural land brings to a community.

## **2.7 New regulatory framework**

- 2.7.1 We note the reference to the Environment Act (Wales) 2016 and the Future Generations (Wales) Act 2015 in the Consultation. **As a general statement, new legislation in relation to agriculture must avoid multi-layered designations.**
- 2.7.2 We further note that a statement will be issued in the autumn on how the Welsh Government will approach post-Brexit regulatory reform and as acknowledged it is critically important that stakeholders are provided with the opportunity to enter into dialogue with the Welsh Government as and when these proposals are published.
- 2.7.3 **The regulatory burden on agriculture is significant and requires simplification and rationalisation.** For example, we note the review being conducted by Dame Glenys Stacey on behalf of DEFRA into the inspection regime and **we would support a policy towards an integrated inspection and enforcement regime that is more targeted and proportionate.**
- 2.7.4 The Consultation refers to the possible introduction of 'Basic Measures' which define responsible land management. We would support an approach whereby these basic measures are the existing statutory management requirements and, to the extent that Good Agricultural and Environmental Conditions ('GAEC') are included, financial support should be associated with their attainment, as it is under the existing Basic Payment Scheme.



## 2.8 Transition, delivery and legislation

2.8.1 The proposed end of the transition period is 2025. With reference to the transition period arrangements for Wales as set out in Schedule 3 of the Agriculture Bill as published by the UK Government on 12 September 2018, paragraph 5 says:

*(1) The agricultural transition period for Wales is the period of seven years starting with 2021.*

*(2) The Welsh Ministers may by regulations amend sub-paragraph (1) for the purpose of extending the period specified in that sub-paragraph.*

Whilst we consider a transition period that ends in 2025 to be too short, the current provisions in the Agriculture Bill only permit the Welsh Ministers to extend the transition period, not to shorten it.

Notwithstanding that the Agriculture Bill as drafted does not provide for a transition period which ends before 2027, **we consider that the transition period should mirror that in England and should be no less than seven years to end in 2027.**

2.8.2 We acknowledge that a new Agriculture Policy in Wales will move away from Direct Payments and that these will be phased out and we support the acknowledgement by the Welsh Government that this needs to be considered carefully. There is a need for stability, certainty and a smooth transition to achieve new policy objectives.

2.8.3 Part of this transition phase must be to encourage viable and sustainable long-term investment and innovation in the sector and to put farming businesses in a position of better profitability, productivity; and with an ability to invest in both the farming business and the environment on which it depends. But it will take a significant period of time to allow farming businesses to adapt to this change.

2.8.4 The margin of profitability remains acute for many farms of all sizes and the economies of scale in the delivery of environmental management need to be assessed. This must be recognised by any policy of reductions applied to Direct Payments during the agricultural transition.



- 2.8.5 If it is, therefore, agreed that there will be a policy of applying reductions to Direct Payments during the agricultural transition, **we propose that the reductions model applied should be based on an equal and fair application of reductions across all farm sizes and at a graduated rate during the agricultural transition that eases the effect of the removal of Direct Payments on the sector.**
- 2.8.6 **Detailed modelling of a proposed mechanism of reductions, if that is the adopted policy, must be undertaken to enable stakeholders the opportunity to advise on the impact on the full range of farming business size and the impact on the fixed costs of the farming business,** for example additional costs of and available borrowing capacity to meet business and environmental management costs currently supported by Direct Payments.
- For example, what would be the additional costs of and available borrowing capacity required to meet business and environmental management costs currently supported by Direct Payments?
- 2.8.7 **We support the proposal to simplify the current scheme.**
- 2.8.8 One common thread amongst our members, is the concern that an agricultural policy might be set without full knowledge of our trading policy or other interconnected policies that need to be established outside of the EU, that will affect the farming sector.
- 2.8.9 Whilst acknowledging a move towards a new policy, **the agricultural transition period must also recognise the need for a clear direction on other interconnected policies, such as Trade.** Knowledge of the UK Government's trade policy and labour outside of the EU is fundamental to the decisions of farming businesses on their objectives and structure. The ability of the farming sector to make decisions on the long-term direction of their businesses must not be undermined by an agricultural policy which is set without certainty in other policy areas.
- 2.8.10 We also must recognise that in the Landlord and Tenant sector, many agreements will be subject to 3 yearly rent review cycles (in the main) and other ongoing fixed term arrangements whereby the ability of the parties to those agreements to



adjust their business and/or the objectives of those agreements would be limited in a very short agricultural transition.

- 2.8.11 Whilst we recognise that the farming sector needs to move towards a new policy and all that this will entail and that it might be tempting to set a specific period, we strongly recommend that the agricultural transition period should run in parallel with trade and labour policy timetables to enable the Welsh Government and the farming sector to adapt the final agricultural policy approach and the end of Direct Payments in light of certainty on trade and labour policies.

## 2.9 Working across the United Kingdom

- 2.9.1 **As a general principle, there must be legislative and enforceable provisions that the administrations across the UK are bound to act in the way that has been agreed;** with reference to the Inter-governmental Agreement on the EU (Withdrawal) Act 2018 and the ongoing work of the Joint Ministerial Committee. The interaction of the provisions of the EU (Withdrawal) Act 2018 and the proposed provisions for Wales in the Agriculture Bill need to be carefully considered. In this respect, we note that the Welsh Government is considering the Welsh-specific provisions in the Agriculture Bill.
- 2.9.2 In respect of funding, **commitments on future funding for agriculture are required**, notwithstanding that there is a proposed transition period and by implication funding commitments by the Welsh Government during that period, the UK Government's stated commitment to funding in the sector is currently limited to 2022, both for the UK as a whole and the devolved administrations where agricultural policy is a devolved matter. Given the long-term nature of decision making in farming businesses, we seek clarity from the UK and Welsh Governments at the earliest possible stage as to future funding. Otherwise, there is a risk that the sector is restrained from making significant strategic and investment decisions over the next few years.
- 2.9.3 We note that the UK Government has suggested that the Barnett Formula will not be adopted in setting the allocation of funding.



## **General Comment on the future direction of the Common Agricultural Policy**

Our experience as a member of the European Council for Rural Law and liaison with countries who are currently outside of the CAP, suggests it will be important to continue to look at the development of the CAP both during transition and in the future and the continuation of Direct Payments under the CAP.

### **3.0 CONCLUSION**

- 3.1 We have welcomed the opportunity to consider the Welsh Government's policy proposals through this Consultation but at present a significant level of detail is absent for the farming sector and its ancillary industries to properly consider the on-farm impact/opportunities it creates.
- 3.2 We urge the Welsh Government to continue to engage with all stakeholders on each specific areas of policy as set out in this Consultation and specifically, on the proposed Bill which is proposed to be published prior to the end of the current Assembly term in 2021.
- 3.3 The farming sector is well suited to change and adaption as it has done many times before and this is no exception, but in an appropriate timeframe to adapt farming systems. Further, acknowledgment of the world market exposure of the agriculture sector and its finely balanced profitability is of crucial importance to provide a sound business foundation to deliver the Welsh Government's aspirations.
- 3.4 The Welsh Government must allow for flexibility in adapting any new schemes in light of the responses to this Consultation and to fully evaluate the potential overlap and interaction between the Economic Resilience and Public Goods schemes.



**Contact Information:**

Address: Agricultural Law Association  
PO Box 10489  
Oakham  
LE15 0GL

Email: [mike.holland@ala.org.uk](mailto:mike.holland@ala.org.uk)

Tel: 07885 643341