

## Agriculture (Wales) White Paper

### Introduction

On the 16<sup>th</sup> December the Welsh Government published the eagerly awaited White Paper that will set the framework for agriculture policy over the next 15 – 20 years. The consultation period alongside the White Paper will last until **25th March** and the CLA Cymru team have a clear plan for consultation with members via working groups and committee meetings. In terms of timing for the implementation of future policy, the document indicates the Agriculture (Wales) Bill will be laid before the Senedd in the summer of 2022. The powers contained within the Bill will be required to both enable a new scheme to operate and to replace powers within the UK Agriculture Act that “sunset” (expire) at the end of 2024. Further consultation with stakeholders will take place after the Bill is laid so that secondary legislation can be put in place that provides the details of how powers within the Bill are actually used. In other words, there is still a long way to go before the industry gets the full details of both how and when the new scheme will be introduced.

The press release published alongside the White Paper states Welsh Government’s intention to pay the Basic Payment Scheme in the same way in 2021 and 2022 as for 2020. The CLA has been encouraging Welsh Government to make this commitment in view of the many uncertainties currently facing agriculture and land use.

This briefing summarises the chapters of the White Paper and provides an initial analysis of key areas. It does not represent the CLA’s final view on the White Paper as our strategy for engagement with members, internal committees and other stakeholders will be key in shaping our response over the coming months.

### How can you contribute?

We have put in place a plan to ensure maximum input from members and expert staff. We will be using the various CLA committees to develop our response and will be meeting formally and informally with Welsh Government officials to gain further insight into what the paper might mean for members in the future. In addition, we are setting up small, virtual working groups with members who are not part of the committee structure to further develop our submission. We would of course encourage you to submit your own response to the White Paper which can be found at the link below but if you would like to discuss any aspect of the consultation or join our working groups then please contact [fraser.mcauley@cla.org.uk](mailto:fraser.mcauley@cla.org.uk).

The consultation document can be found at the following link:

<https://gov.wales/sites/default/files/consultations/2020-12/agriculture-wales-bill-white-paper.pdf>

The press release accompanying the White Paper can be found at the following link:

<https://gov.wales/agriculture-wales-bill>

## Key terms

**Sustainable Land Management (SLM)** is the principle that underpins the proposed new scheme.

**Sustainable Farming Scheme (SFS)** is the mechanism to deliver SLM and is loosely the equivalent of the Environmental Land Management scheme in England.

## Chapter 1

This chapter sets out the aims of the White Paper and outline the challenges future policy must consider, address or mitigate. Key challenges identified include:

- The climate emergency;
- Future trading environment;
- Covid-19 health crisis and associated economic downturn;
- Wider public health;
- Biodiversity loss;
- Sustainable food production.

## Chapter 2

### *Section 1 National Minimum Standards: Keeping, clarifying and applying regulation*

This section outlines proposals on the introduction of a new set of national minimum standards. These will replace the range of existing regulations currently under cross compliance and other legislation and will apply to all farming businesses. Meeting these standards will be a requirement to enter the new Sustainable Farming Scheme. Secondary legislation and further consultation will take place on the detail as these proposals will just provide the legislative powers. This section also considers how advice and guidance can be better used to ensure as many businesses comply with the new standards.

#### **CLA Analysis**

The ambition of drawing together regulation into one set of minimum standards seems sensible as does ensuring there is adequate advice and guidance to ensure businesses know the rules. The development of the standards will need to take into account the impact on competitiveness and be compatible across the UK.

### *Section 2 Civil Sanctions: An effective and proportionate approach to enforcement*

This section proposes powers for civil sanctions that will be needed to enforce the following areas of agricultural regulation described in this White Paper:

- National Minimum Standards;
- Animal health and welfare regulation;

- Forestry and woodland management regulation.

Civil sanctions will be introduced but are not intended to be a direct replacement for BPS penalties and they will be separate from sanctions for the new Sustainable Farming Scheme. Detailed consideration and consultation will be needed on the scope and application of civil sanctions and how these interact with scheme requirements. These civil sanctions could include a range of options from warning notices, stop notices, fixed penalty and variable penalties. Currently, the only way to enforce legislation is through BPS/RDP penalties or criminal sanctions.

#### **CLA Analysis**

We have long advocated the need for a more proportionate enforcement system that includes a range of options that can be used for rule breaches. The current regime of BPS reductions can result in significant losses for businesses despite minor transgressions-this needs to change. Effective enforcement is necessary to ensure that everyone is treated fairly, and that civil sanctions are a necessary part of that process. These proposals, if enacted carefully with input from the industry, could improve the way agriculture is regulated.

### *Section 3 Sustainable Land Management: Future Policy and Support*

Sustainable Land Management was defined in *Sustainable Farming and Our Land* (the last Welsh Government consultation on agricultural policy) as: “The use of land resources, including soils, water, animals and plants, for the production of goods to meet changing human needs, while simultaneously ensuring the long-term potential of these resources and the maintenance and enhancement of their environmental benefits”. In short, the aim of the Sustainable Farming Scheme is to reward farmers to produce outcomes rather than compensate them for the cost of the inputs. This reflects the obligations placed upon the Welsh Ministers and public bodies set out in the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

SLM represents an opportunity for farm business to:

- improve the efficiency of their business model whilst operating within the natural limits of their land,
- reduce their reliance on external inputs,
- access to financial support for the delivery of environmental outcomes.

In terms of payments, the Welsh government proposes to replace BPS and other EU agri-environment schemes with a single direct financial support. The Sustainable Farming Scheme is directed to farmers and land managers and will include advice and support through the Farm Sustainability Review. The Farm Sustainability Review is depicted as a mandatory part of entry into the scheme with the aim to enable farmers to take full advantage of the new market and diversification opportunities connected to the delivery of Sustainable Land Management.

### **CLA Analysis**

The CLA has long advocated a model based on the principle of payment for public goods. This model provides a more secure rationale for continued payments to farmers and land managers. Key issues will be how we transition from where we are now and that existing good practice in addition to new actions are rewarded. We will also be working to clarify the eligibility criteria for entry into a new scheme to ensure all members who wish to enter are able to.

### *Section 4 Industry & Supply Chain: Future support*

The Welsh Government proposes separate funding for the wider industry and supply chain development beyond the farm gate.

The objectives of this support include:

- Supporting territorial development of rural economies and communities, including the creation and maintenance of employment;
- Contributing towards the sustainable management of natural resources as set out in the Environment (Wales) Act 2016;
- Facilitating support and development for the agri-food industry and supply chain beyond the farm gate;
- Ensuring non-agricultural rural climate resilience through adaptation measures.

Currently, support for rural development is provided by both the EU and Welsh Government through the Wales' Rural Development Programme 2014-2020. Under the terms of the Withdrawal Agreement, EU Law continues to provide funding until the development programmes close or commitments end. In addition to the ongoing funding scheme, the Welsh government is considering how to domestically fund rural development arrangements alongside the EU spending commitments.

Welsh government's proposed *priorities* for industry and supply chain include:

- To support greater market alignment by helping farmers to better identify consumers' preferences and meet demand;
- To effectively promote Sustainable Land Management to improve the promotional offer for farmers' products effectively demonstrating the way in which they are produced to the public;
- To support farmers to increase the quality and the quantity of the Welsh products both in Wales and beyond;
- To enable and support the creation of local supply chains for Welsh products;
- To assist farming businesses with market intervention measures in case of price volatility or market failure.

The Welsh Government will consider providing financial support to other sectors (e.g. forestry and wider food industry support) if this will help the delivery of Sustainable Land Management.

**CLA Analysis**

Developing new markets and adding value to the primary products is a key way in which rural businesses can improve profitability and build resilience. The focus on the supply chain by Welsh Government in this section is welcomed but there needs to be adequate funding outside of the support provided to primary producers to make these priorities a reality.

*Section 5 Sharing and collection of data*

This section outlines Welsh Government's intentions to collect and share data on the proposals within the White Paper. They intend to monitor and evaluate the new Sustainable Farming Scheme, compliance with the minimum standards, animal health and welfare, waste and environmental impacts of the agri-food supply chains. The data regulation and monitoring powers within this section will also be made available to the public via the Senedd so the public will be informed of the value for money of the new schemes.

**CLA Analysis**

Improving the sharing of data across the primary producers and supply chain is another way in which resilience can be improved within the sector. Better access to market information for businesses to aid them in benchmarking is a proven way to improve performance. Transparency by Government in sharing all the information with businesses, supply chain and the Senedd and the way in which it is collected will be key, as will ensuring the privacy of individual businesses is protected.

*Section 6 Forestry and Woodland*

This section outlines how forestry and woodland creation/management will fit within the new Agriculture (Wales) Bill and the powers Welsh Government needs to legislate for a range of actions. It includes:

- powers to amend Environmental Impact Assessment (EIA) regulations for new woodland planting;
- powers to amend felling licenses and to punish illegal felling.

Welsh Government intend the proposed Sustainable Farming Scheme will provide payments to farmers who plant and manage woodland on their farms that deliver:

- Carbon sequestration;
- Improved biodiversity;
- Public amenity.

Welsh Government also make clear support must also continue to be provided for woodlands not on farms

#### **CLA Analysis**

Woodland creation and bringing existing woodland under management can have a range of benefits for the environment. It is essential that in addition to incentivising on-farm woodland management/creation, additional barriers are removed to contribute to the targets Welsh Government miss in terms of new planting. The CLA will review the proposals and suggest solutions to ensure forestry and woodlands become an integral part of future agricultural policy in Wales, alongside the development of private environmental markets that can work in tandem with Welsh Government schemes to plant the trees Wales needs. Similarly, the role of agro-forestry in the Sustainable Farming Scheme needs to be clarified.

#### *Section 7 Proposals for additional Powers*

This section covers a range of powers including management of common land, regulation of snares, need for sustainable business practice (such as the dairy code), changes to agricultural minimum wage and animal disease powers to set up control zones.

Most significant is a proposal to enable tenants of Agricultural Holding Act 1986 (1986 Act) tenancies to refer to dispute resolution requests for landlord's consent to activities that are restricted under the terms of their tenancy agreement or requests for a variation of terms, where that request relates to the tenant accessing Welsh Government financial assistance schemes.

#### **CLA Analysis**

The nature of the Welsh Government support packages will play the largest part in dictating the future of farming in Wales and relationships between landlord and tenant are highly valued by both parties. The CLA will make sure however, that when the regulations on varying the terms of tenancy agreements are discussed, the interests of the landlord are protected in the assessment of the reasonableness of the request.

### **Chapter 3**

#### *Summary - Proposals to replace powers in the UK Agriculture Act*

This Chapter sets out Welsh Government's proposals to replace certain powers that apply to Wales contained in the UK Act in to the Agriculture (Wales) Bill. They have considered the extent of the powers in the UK Act, whether they will still be required, and if changes or improvement are needed. Subject to further discussion, Welsh Government intend to make appropriate provision in the Bill to replace certain provisions in the UK Act including:

- Powers taken for the Welsh Ministers through the UK Act which will expire ('sunset') on 31 December 2024;
- Certain powers relating to Wales through the UK Act which do not expire on 31 December 2024.

### *Section 2- Powers that expire (Sunset)*

This section includes powers:

- to modify or revoke retained EU law in relation to BPS and RDP until the transition to a new scheme is complete
- to declare exceptional market conditions and intervene in the agricultural markets;
- be able to offer Public Intervention and Private Storage Aid schemes to support agricultural producers;
- to modify carcass classification and marketing standards.

#### **CLA Analysis**

Recent challenges to the industry have highlighted the need for Welsh Government to intervene in exceptional circumstances. With the EU no longer the body to make such interventions these powers will enable Welsh Government to take actions in the event of exceptional circumstances. Again, the importance of collaboration with other UK Governments will be vital to ensure the continued working of the UK internal market.

### *Section 3 Powers which do not expire*

This section outlines the powers that do not expire in the UK Act but Welsh Government wish to be incorporated in Welsh legislation as they are the competent authority. They include regulations on fertilisers, animal identification and organics. This needs to be considered carefully within the parameters of the UK internal market.

#### **CLA Analysis**

There needs to be considerable analysis to ensure join up with other UK Governments. The CLA team is working to ensure these powers do not compromise UK internal markets.

**Fraser McAuley**  
**Senior Policy Adviser**  
[Fraser.mcauley@cla.org.uk](mailto:Fraser.mcauley@cla.org.uk)  
**07702926069**