

Sustainable Farming and our Land - Consultation Response Form:

This response form provides an opportunity to comment on the content of the *Sustainable Farming and our Land* consultation.

If you have any queries on this consultation, please email:

LandManagementReformUnit@gov.wales

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Confidentiality

Responses to consultations may be made public on the internet or in a report.

If you do not want your name and address to be shown on any documents we produce please indicate here

If you do not want your response to be shown in any document we produce please indicate here

Date:	
Name	Bob Vaughan
Are you responding as an individual or as an organisation?	Organisation
Are you or your organisation based in Wales?	Yes
If you are answering as an individual, do you identify as Welsh speaking?	
Address	Cambria House, 29 Newport Rd, Cardiff CF24 0TP
E-mail address	Robert.Vaughan@cyfoethnaturiolcymru.gov.uk

Please indicate which of these best represent you or your organisation (please select only one)	Farming	
	Forestry	
	Environmental	
	Tourism/Hospitality	
	Food and timber supply chains	
	Public Sector	X
	Private Sector	
	Third Sector	
	Trade Union/Representative	
	Other	

If you have indicated that you are a farmer, please identify your main farm activity (please select only one)	Sheep	
	Beef	
	Dairy	
	Arable	
	Horticulture	
	Mixed	
	Other	
Do you currently claim BPS?		
	No	

Do you currently have rights to graze stock on a common?	Yes	
	No	

Are you a tenant farmer?	Yes	
	No	

Responses should be returned by **30th October** to

Land Management Reform Division
 Welsh Government
 Cathays Park
 Cardiff
 CF10 3NQ

Responses completed electronically to be sent to:

FfermioCynaliadwy.SustainableFarming@gov.wales

FfermioCynaliadwy.SustainableFarming@llyw.cymru

Question 1 - Sustainable Land Management (refer to chapter 3)
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What are your views on the Sustainable Land Management framework? You may want to consider:

- whether the structure of benefits, outcomes and actions is a useful tool
- whether the benefits and outcomes sufficiently cover the broad contribution of farmers, foresters and other land managers
- how we have described the Sustainable Land Management outcomes
- whether it is right to focus an income stream on environmental outcomes
- whether an alternative policy framework would be more appropriate

Comments

We support the approach proposed by Welsh Government for Sustainable Land Management (SLM) in Wales. As stated, Sustainable Land Management is an internationally recognised concept which balances the needs of the current generation with the obligations to the next. This is in line with the Well-being of Future Generations (Wales) Act 2015. Although this concept is overarching and can be applied to both forestry and agricultural land uses, the consultation document does not recognise that the Sustainable Management of Forestry is already well developed with International, European and National principles, policies and documentation that support its delivery. Since sustainable farming does not presently have the same level of recognition, NRW would recommend that the proposed overarching policy framework incorporates seven key principles: building resilience, managing for multiple benefit, adaptive management, planning for long term, using evidence, scale and preventative actions. Incorporation of these principles into the framework aligns it to the Sustainable Management of Natural Resources (SMNR) as set out in the Environment Act (Wales) 2016 which in turn is aligned to delivering the Goals outlined in the Well-being of Future Generations (Wales) Act 2015. Ecosystem resilience could also be placed at the core of the scheme. Ecosystem resilience can be measured through five ecosystem attributes: Diversity, Extent, Condition, Connectivity and Adaptability (DECCA). Currently it is not clear within the scheme's design how it will contribute to these attributes. We would be interested in working with Welsh Government to ensure DECCA is embedded within the scheme.

The SLM framework makes good links between different actions and outcomes, with those outcomes being combined to generate benefits. The approach, action-outcome-benefit model does not necessarily incorporate delivery for multiple benefits. The scheme should seek to maximise multiple benefits wherever possible and this should be embedded into early scheme development to ensure that consideration is given to achieving the most benefit while delivering the best value for money, NRW has recognised that there has been significant progress in this respect but there remains other interventions not included in the reviews and scopes. Taking this approach may result in a slightly different set of actions being identified for delivery. Approaching scheme development from this perspective means that the key benefits of the scheme are not missed. This will increase the attractiveness of a voluntary scheme, increase stakeholder buy in and provide the potential for the scheme to deliver the step change in outcomes and tangible benefits to environment, social and economic aspects of sustainable land management.

NRW understands the need to be able to demonstrate causality between action-outcome-benefit, particularly where Welsh Government bares the risk in terms of payment if agreed actions do not lead to outcome or benefit and actions are not necessarily prescriptive in nature. However, this approach could reduce innovation by the farmer or forester in terms of delivering the outcomes and the benefits associated with those outcomes. Specific means of stimulating innovation in delivering outcomes should be considered.

The scheme has the potential to deliver a wide range of outcomes not all of which have currently been captured within the SLM framework. By undertaken a wider analysis of potential outcomes and then applying the rationale for supporting different outcomes (presented in the consultation) would provide a transparent and open methodology to what is in the scope of the scheme. This would also identify the current evidence gaps that inhibit actions from being included in future. For example, information can be gained from the comprehensive list of the goods and services that could be provided by the scheme. These are captured in the UK National Ecosystem Assessment (UK NEA) and UK NEA follow-on report as well as the future generation commissioners report.¹ This wider analysis should also be based on the WG legislative frameworks, and outcomes linked to wider Welsh Government strategies and frameworks.

The National Strategy for Flood and Coastal Erosion Risk Management in Wales identified the opportunity for farming and land management policy to widen the implementation of Natural Flood Management (NFM), to those without direct responsibility for flood risk management.

The effective delivery of *Policy 8 - Strategic framework for biodiversity enhancement and ecosystem resilience* and *Policy 9 – National Forest* of the Draft National Development Framework will also be depended on its alignment with Sustainable Land Management Scheme.

In Prosperity for All – A Low Carbon Wales (Mar 2019), Welsh Government committed to planting 2,000Ha per year in Wales, aiming to increase this to 4,000 hectares as rapidly as possible. Integration across the sustainable land use scheme would encourage woodland creation to be considered as part of the whole farm agreement, as well as management of open space as part of a woodland agreement. This would increase the likelihood of establishing new woodlands in appropriate locations and Section 7 habitats included within proposed woodland creation areas could be maintained as open habitat.

Other opportunities for action listed in Annex B are very general and it is not easy to recognise where they could support delivery towards:

- restoring natural hydrological functions
- managing and enhancing our statutory site network;
- creating new habitats to develop resilient ecological networks through landscape-scale outcomes;

¹ Future generation commissioners report: Planning today for a better tomorrow - learning from Well-being assessments: <https://futuregenerations.wales/documents/well-wales-planning-today-better-tomorrow/>

- creating space for coastal habitats to allow migration inland in response to sea level rise;
- managing and maintaining water resources for river flows, abstractions, soil water availability and drought risk.
- restoring natural hydrological function of rivers (restore riparian zones; reconnect the floodplain; restoring/creating floodplain features reduce livestock and soil introduction).
- Control of Non-native invasive species (INNS) which pose a direct and highly significant threat to ecosystem resilience.
- maintaining and restoring Section 7 habitats and species, including delivery of tailor-made options for species on the edge of extinction.

Where there is detail it may need further analysis. For example, NRW are pleased to see flood risk mitigation identified as one of the desired outcomes of sustainable land management. Flood risk mitigation interventions can deliver multiple environmental benefits but this should be strengthened by identifying this outcome as a significant additional environmental benefit and not contained within 'high water quality'. Interventions for flood mitigation are not necessarily the same as those for water quality mitigation and vice versa. The framework should align with, the Welsh Government Flood and Coastal Erosion Risk Management Strategy, (WG FCERM Strategy) and support the delivery of the WG FCERM Strategy *Aim, Objectives and Measures*. The Flood Management Actions (Action 13) are largely based on evidence from the Working with Natural Processes Evidence Directory. As far as we are aware this is the most up to date information and evidence in relation to these types of flood mitigation measures. The development of Sustainable Land Management may benefit from considering recently completed, on-going and future research in this area to help shape and improve these actions. Some key projects and programmes are listed below:

- Defra have recently completed a research project looking at 'The Enablers and Barriers to the Delivery of Natural Flood Management Projects'. The findings of this could help inform and shape the development of this scheme in delivering flood mitigation measures.
- The ongoing NERC funded natural flood management research programme, aims to update the research and evidence for this area. The study sites are in England, but the findings will be relevant to Wales.² NRW and Welsh Government are partners in the Joint England and Wales FCERM R&D programme. Future work to update the current Working with Natural Processes Evidence Directory is being considered and whilst this may be several years away, the scheme could acknowledge that evidence and understanding is developing and improving.

In the majority of situations opportunities for habitat and woodland management, both for species composition and structure, are important. Often a change in structure precedes a change in species composition. Common Standards Monitoring measures both species composition and structure for this reason. "measuring and assessing habitat quality for good condition can also be hard" This is an area in which NRW has

² NERC funded natural flood management research programme. <https://research.reading.ac.uk/nerc-nfm/>

a high level of expertise and would be able to provide accurate information to help develop the scheme.

Protected Sites (including SSSIs and the NK2 network) can form the core of resilient ecosystems. The scheme could ensure that these sites are maintained, and their resilience developed. Maintenance and restoration of habitats on statutory sites should remain a high priority. Other potential mechanisms to increase site resilience could include targeting land adjacent to statutory sites for habitat restoration and creation. There is significant evidence to show that delivering resilient ecosystems will maintain and enhance ecosystem services. Questions around priorities are far more about spatial targeting and policy decisions on funding allocation rather than the need to prioritise ecosystem service delivery over “conservation” *per se*.

There is a misunderstanding and simplification of connectivity, confounding the two attributes connectivity and diversity – a lack of diversity in the structure of connectivity within a system would be a bad thing, rather than too much connectivity *per se*. In some situations, it has been suggested that connectivity can be a bad thing, promoting the spread of disease and invasive non-native species. However, such undesirable organisms are often already highly mobile (e.g. wind dispersed tree diseases) and unlikely to be greatly encouraged by actions that benefit native biodiversity, or they occur in specific locations where an understanding of connectivity can be used to inform management for control (for example some aquatic systems). There is growing evidence that, in general, the benefits to biodiversity of improving connectivity outweigh the costs.³

Enclosed farmland could be included as a Category 3 habitat, as it plays a critical role in ecosystem resilience providing the permeable landscape through which some species, responding to climate change for example, can move as well as supporting important habitats and species of its own. This habitat type also offers perhaps the greatest potential for actions to build ecosystem resilience through habitat restoration and creation.

It is also not clear how the scheme will deliver actions to support the recovery of species populations that are predominantly found in the farmed environment. These options could include: habitat actions tailored for individual species; collaborative actions to deliver for species with landscape requirements and/or specialist project officers to deliver for individual species or suites of species. These options are likely to require a higher level of skill from staff, or efficient access to specialist advice.

³ Haddad, N.M, Brudvig, L.A., Damschen, E.I., Evans, D.M., Johnson, B.L., Levey, D.J., Orrock, J.L., Resasco, J., Sullivan, L.L., Tewksbury, J.J., Wagner, S.A. & Weldon, A.J. (2014). Potential negative ecological effects of corridors. *Conservation Biology*. 28: 1178-1187

Question 2 - Sustainable Farming Scheme (refer to chapter 4)

What are your views on the proposed Sustainable Farming Scheme? You may want to consider:

- how the Farm Sustainability Review and Farm Sustainability Plan could be delivered in a proportionate manner
- how best to reward farmers for outcomes through their actions
- how the Sustainable Farming Payment should operate
- what business support should be offered to farmers
- what eligibility criteria are needed
- whether there is a role for capped or diminished payments
- how best to design the scheme to leverage additional private finance
- alternative ideas for supporting farmers in a manner consistent with Sustainable Land Management

Comments

The delivery of the Farm Sustainability Review needs to encompass the scale of ambition for the scheme. NRW are supportive of the scope in the review in terms of including environmental, social and economic aspects of the business. However, we also recognise that this requires a significant change in the skill sets of the staff in the potential delivery team. If this scheme is to realise the benefits and aspirations set out for Sustainable Land Management, then the review should be in depth to enable all opportunities to be identified. NRW are supportive of the view that the review should be seen as an investment in the farming business. This review could also provide an opportunity for Farmers to be made aware of other sources of funding and investment opportunities.

Information provided by the farmer before the Farm Sustainability Review on future ambitions will need to be used by the advisor to tailor the sustainable review process. Sustainable land management will need to be embedded at the heart of the business review and not just in terms of supporting environmental and social outcomes. It will need to include common land where the farm has common land rights, as this will have an impact on the outcome of the Farm Sustainability Review.

The consultation indicates tension between risk to the farmer for non-delivery of outcome, from a public value perspective, and reasonable desire to isolate farmers from risk to payments in the face of non-delivery through reasons beyond the farmer's control. The approach outlined amounts to farmers making the decisions on what options (previously screened on good evidence of delivery) to undertake and Welsh Government bears the full risk of non-delivery. There is evidence that this approach may not be the best way of fostering ownership of broader outcomes by farmers, and instead shifts towards being action-based rather than outcome focussed. Payment for outcomes and particularly payment-for-results systems that use incremental payments provide a strong incentive for a land manager to find the best management to achieve the required outcome. There is potential to consider a hybrid approach that provides

assurance of basic management payment alongside a bonus for attainment of measurable outcomes. We believe this is worth exploring further.

Consideration should be given to the scheme being available to all active land managers including those that do not necessarily qualify for the current schemes due to not meeting EU requirements. *e.g.* horticulture. Restricting the scheme to farmers excludes a significant area of land that has a high potential and often has less restrictions on delivering public goods.

A balance will need to be struck between being able to adapt management and the longer timescales required in order to allow habitats to establish/recover in natural successional time scales. *i.e.* grassland restoration to unimproved status will need decades, whilst creation of woodland (which should aim for woodlands with a diverse structure and composition) could take hundreds of years. It may be necessary that the contract has long and short-term elements to delivery over the appropriate time scales. As such this would need to be considered as part of the contract renewal process.

In the context of the climate emergency declared by Welsh Government and other pressing environmental issues such as water quality it may be necessary to evaluate the level of delivery that sits within the Mandatory requirements and the optional activity.

Currently mandatory actions include effective nutrient management planning for farms that produce slurry. The previous Tir Cynnal scheme required all farmers to undertake nutrient management planning. The outcome for water quality is only achieved when the plan is implanted. Therefore, actions to implement the plan should be the required actions within the mandatory options.

Over recent years (2015-19), there has been a low rate of woodland creation under the Glastir Woodland Creation (250-300Ha per year). As already stated, there are positive benefits of integrating woodland/forestry into farming businesses. It may be worth considering whether a level of woodland creation should fit in the mandatory element of the scheme.

The Sustainable Farming Scheme and the Area Statement process share the same policy context and outcomes sought and operate in complementary manners (top down, bottom up).

- Both initiatives take their explicit policy cues from the Well Being of Future Generations Act, Environment Act and the Natural Resource Policy.
- Both initiatives seek to enhance wellbeing outcomes through sustainable management of natural resources and sustainable land management.
- The NRP and the Sustainable Farming consultation recognise the Area statements as an important local delivery context to sustainable agricultural support.
- The Sustainable Farming Scheme is a nationwide approach acknowledging the need for local prioritisation and a place-based approach, while the area statement focus is at a subnational level, acknowledging the need to deliver on national scale priorities.

- The bottom-up local focus of area statements and the National top down focus of the Sustainable Farming scheme are complimentary in nature and there is likely to be value in coordinating their co-delivery (see below)
- This synergy is also congruent with the First Minister's continuing emphasis on co-production in the public sector.

While a combined approach is clearly desirable, achieving the required balance between the top-down and bottom-up governance is important and will require careful co-design. This co-design work could be organised around four key themes:

1. Bringing forward collaborative approaches amongst area statement stakeholders to deliver joint outcomes.
2. Identifying opportunities for innovative approaches and projects
3. Using Area Statement evidence, skills, knowledge to develop spatial priorities to nuance the delivery of the Sustainable Farming Scheme.
4. Bringing together complimentary sources of funding (PES, Public, Private, Third Sector) to deliver outcomes.

The ability of land managers to work collaboratively in groups at scale to share and build knowledge and skills and deliver shared outcomes is important to scheme success, particularly where ecosystems overlap farm holdings. Funding to facilitate similar activity within England's Countryside Stewardship scheme has proved very successful. Its incorporation into WGs scheme is seen as essential if this scheme is to help deliver ecosystem resilience.

Common Land covers about 8% of Wales and there is high correlation between statutory sites and common land. Targeting collaborative action on common land would help to address multi-ecosystem services including biodiversity over landscape-scale areas of Wales. There will be a need to consider all rights of holders, including active and non-active rights, as not exercising rights of common can deliver positive environmental outcomes such as not cutting peat.

Glastir Commons was particularly effective as an incentive to resurrect and establish new Grazing Associations. The new scheme could build on this with opportunities for commons councils on large, contiguous commons and for groups of small commons. They could apply for one agreement managed by the Council. Getting the wide range of interests to cooperate would be particularly beneficial in addressing issues such as fly tipping, abandonment of ponies, traffic management/fatalities, open access/recreation.

Question 3 - Advisory service (refer to chapter 5)

What are your views on an advisory service? You may want to consider:

- whether you agree an advisory service should be established
- the functions of the service
- what the relationship should be between the advisory service and the Welsh Government
- the appropriate scale of delivery

Comments

For the scheme to be successful it is essential that advice and guidance, training and support are available as an integral part of the scheme. These will need to support land managers to enable the scheme to deliver the outcomes and benefits identified as part of the sustainable land management framework. Identifying the appropriate scale of delivery is a fundamental determinant of the ambition that can come to fruition through scheme delivery

Appropriately skilled staff will be essential. Within a conventional prescription-based or payment-for-outcome scheme, specialist input can be used once to provide prescriptions or a range of outcomes. Within the proposed scheme, where staff will negotiate actions for each farm, staff will require a high level of specialist knowledge. Staff will require extensive training and specialist support to produce agreement that are fit for purpose. Good staff retention will be vital to maintain the required level of skills for successful delivery.

The staff skills set (and / or connections to appropriate skilled individuals) will need to be extensive, and would need to include regulation, agricultural, business, forestry, and ecological knowledge (over and above the management of habitats). For example, to ensure the delivery of flood mitigation actions, effective, advice and guidance will be required. Issues with liability, consenting and ongoing maintenance requirements will also need to be considered if the implementation is to be successful. This would be similar for each outcome identified, unless the delivery model includes numerous specialised staff advising the individual farmer.

There is potential for organisations that are also regulators to be a delivery partner within the advisory service. In the past all of the predecessor organisations of NRW had both a regulatory role and an active delivery role in relation to legacy Rural Development Schemes. Removing this linkage disrupts the central connection between regulation and incentives that is a key engine of behaviour change. The key issue is to determine a code of practice enacting principles by which the regulatory and advisory roles are separated to be implemented.

The concept of evolution rather than revolution may need to be revisited. The evolution of the current model will be needed to start the process of embedding sustainable

land management into delivery as we leave the EU. The sheer scale of delivery required across Wales poses a major scheme administration challenge to the principle that anyone can enter the scheme. This challenge may not be able to be met from any current delivery model.

NRW agree that an integrated partnership approach, working closely with WG and others on design and delivery of the scheme as outlined in the consultation document is likely to be at the core of a successful solution – and we look forward to working with WG to bring this about.

Question 4 - Industry and supply chain (refer to chapter 6)

What are your views on providing support to the industry and supply chain? You may want to consider:

- whether it is right for support to be subject to Sustainable Land Management
- whether the proposed priorities reflect the right areas of focus

Comments

The priorities identified in the consultation can support and align with the delivery of Sustainable Land Management. However, it is necessary that all support drives the direction of travel in line with SLM. Therefore, funding to support industry and the supply chain need to drive and embed this principle and promote the uptake of SLM.

These links can easily be seen where Sustainable Land Management and environmental requirements are embedded in the sustainable brand values programme, but there is little or no discussion of the potential link (and co-founding opportunities delivering value for public investment) with the supply chain beneficiaries of *public goods* outcomes which the scheme can enhance (e.g. water companies off-setting nutrient loadings).

The consultation focuses on the agri-food industry supply chain and does not consider broader supply chain requirements. Woodland creation is a key opportunity that can deliver against many of the environmental benefits outlined within the sustainable farming scheme. To maximise the benefits of woodland creation from social and economic aspects of sustainable land management, it is necessary for farm woodland management to become an integrated part of a farm business and generate revenue through sales of wood/timber as well as payments for delivering Public Goods benefits such as carbon sequestration, biodiversity, and clean water. Farming and woodland management is an integral part of a farming business in Europe. To enable this to happen at scale in Wales, consideration needs to be given to the requirements of the agri-timber supply chain so that woodland created through the sustainable farming scheme can deliver these benefits. The priorities identified in this chapter for agri-food are also applicable to agri-timber supply chains particularly in relation to identifying and overcoming barriers in the supply chain. These barriers do not just relate to the infrastructure to enable extraction but also the identification of markets/development of co-ops or wood networks to bring together timber sellers and buyers and provide a viable marketplace for the sale of small volumes of timber.

Question 5 - Regulatory framework (refer to chapter 7)

What are your views on our proposals to improve the current regulatory system and develop a new regulatory framework? You may want to consider:

- how the current regulatory framework can be improved upon
- the scope of a future regulatory framework
- the role a future regulatory framework would play in championing Welsh standards
- how compliance with regulation should be monitored
- how breaches can be fairly and proportionately enforced

Comments

NRW agrees with much of the broad approach outlined in Chapter 5 and we look forward to the opportunity to continue to assist and advise Welsh Government in this process going forward, in line with our statutory remit.

As the consultation question acknowledges, the breadth of this topic is considerable and further consultation will be required. We are encouraged that, the guiding principles proposed by Welsh Government (covered in the final section of the chapter) are strongly aligned with our own. We focus first on these principles in our response, as they set context for much of the rest of our response to this section of the consultation.

Principles guiding land management regulatory reform should be based around a coordinated model of behaviour change to maximise effectiveness, fairness, acceptability and cost-effectiveness. As a regulator, NRW recognise that effective regulation depends on changing behaviours. We also recognise the pivotal role that the land managers play in the delivery of sustainable management of natural resources. In seeking to drive positive behaviour change, we recognise that many policy tools from multiple policy areas can influence behaviours, including formal regulation, advice & guidance, innovation, voluntary approaches and incentives. Behavioural insight work reveal three key findings:

- tools (e.g. formal regulations, incentives etc.) are most effective when they are co-designed and delivered around shared outcomes;
- coordination across policy areas is critical, as integration will be tested in practice because many policy areas converge around the land managers role
- a truly participatory development approach with all stakeholders in the regulation chain (government, local authorities, regulators, industry bodies, land managers, environmental NGOs) helps to embed ownership of behaviour change amongst those that will make it happen.

These three principles are broadly reflected in the “Developing the Framework” section of the chapter and in the overall structure of the proposals covering formal regulation, monitoring and enforcement, in the context of linkage to scheme incentives.

The first stated principle of adaptability is also welcomed and should, with the policy framework provided by the Environment Act, provide the opportunity to ensure that regulation facing land-managers remains evidence-based and proportionate.

While a behavioural focus is generally reflected in the stated principles and structure of the consultation proposals, explicit consideration of behaviour change will be especially useful when considering critical implementation details, such as

- designing fair and consistent enforcement policies that link scheme penalties and regulatory enforcement options and;
- developing a coordinated timeline for potential scheme entrants that aligns compliance checks and guidance on compliance issues, provides time to achieve compliance, and highlights how progress beyond compliance will be rewarded as part of the scheme.

The timing and design of these linkages with the Sustainable Farming Scheme will have a significant impact on their combined effectiveness to drive positive behaviour change.

The need for an effective regulatory framework. In terms of the environmental imperative for an effective regulatory framework, this consultation does not consider in detail the specific environmental challenges that the future regulatory framework will need to play its part to address, beyond mention of the context of State of Natural Resources Report (SoNaRR) and a statement of environmental ambition for regulation.

As the work programme progresses from principles to design, such an analysis will be essential, to understand which environmental outcomes within the scope of land managers our present regulatory system is struggling or failing to address.

NRW is keen to help Welsh Government identify these priorities through data we have gathered via our SoNaRR, Area Statements and farm regulatory activities.

Scope of regulatory framework. The recognition that the regulatory system should reflect the linkages between farmers and other land managers is welcome. All land managers have a role to play in maintaining and enhancing the environment. The regulatory system should recognise this and harmful activities based on poor land management practice should be regulated, whether they are perpetrated by farmers, foresters or other land user. While the present consultation faces sustainable farming, a more generally applicable approach using general binding rules can encompass all land managers, helping drive environmental outcomes in an open and fair manner.

NRW supports the suggested analysis of the Forestry Standards model of regulation that combines minimum legal standards with best practice, driving outcomes jointly through legal compliance and product assurance underpinned by the Forestry Standard. This approach aligns well with progress already being made to align assurance schemes more closely with existing legal minimum standards. Such an approach also feeds strongly into a Brand Wales and Sustainable Brand Values narrative based around evidencing standards of sustainable agricultural production, underpinned by clear legal minimum requirements.

Links with the proposed Sustainable Farming Scheme. NRW endorses the concept of a scheme that rewards delivery of outcome that is underpinned by clear legal minimum requirements. We also agree that the fit of these two elements is critical. As we have already outlined, two key mechanisms by which the regulatory framework

and the SFS will need to interact seamlessly if they are to effectively drive behaviour change are:

- The farm sustainability review. This process will inevitably encounter regulatory non-compliances which will prevent farmers from being able to enter the scheme. Rather than simply point this principle out to the farmer, the opportunity exists to offer an assessment of the scale of non-compliance at this time along with advice and guidance and timescale for achieving regulatory compliance. This is likely to drive behaviour change more effectively. Such an approach will require close work between regulators and the farm sustainability advisors. While a close relationship between the regulators and scheme advisors could be seen as a disincentive for expression of interest, if an SFS entrant was acknowledged as representing a lower regulatory risk, due to an effective regulatory assessment at the outset and subsequent action beyond compliance as part of the scheme, then the regulator could offer a reduced routine inspection frequency, by way of earned recognition. This would also effectively mean a more joined up approach to compliance monitoring and would permit redeployment of compliance and enforcement resources to higher risk activities and farms.
- Enforcement policy and scheme penalties addressing regulatory non-compliance. These will need to be considered in the round in terms of their impact on the farmer and their proportionality to the particular compliance breach.

Clear-minimum standards. NRW agrees with the proposal to codify and clarify into a single text the full suite of legal minimum environmental requirements facing farmers. This is a step in line with the principle of cross-policy integration to drive positive behaviour change. The further suggestion of emphasising within the document linkages from different minimum requirements to action beyond compliance that could attract payments under the SFS is an excellent implementation of the second behaviour change principle of joining up complimentary tools.

Both these proposals also serve as a useful interim waypoint along the path towards an agricultural national standards approach that combines legal minimum requirements with sustainability standards (provided by SFS participation), upon which assurance schemes and brand can be built. In some respects, the previous incarnation of CoGAP and could be used as a basis for development

The process of clarification and codification will also help to expose inadequacies and gaps in the present legal minimum standards or where cross policy regulation may result in hindering delivery of aspects of SFS (such as agroforestry). NRW is able to contribute evidence towards this process.

Exploration of general binding rules has already been suggested in our response. It is worth emphasising that the positive Scottish experience of GBRs has been associated with significant compliance monitoring resource, comprehensive powers for use of civil sanctions and definition of environmental offences in terms of strict liability, all elements that would likely need to be implemented in order to deliver outcomes through GBRs.

Looking beyond the end of the BPS, we agree that this is the point in time where cross compliance will need to be replaced with a set of legal minimum standards

which update the environmental protection previously afforded by cross compliance and extend its coverage to all land managers, subject to a further separate consultation. The lack of cross compliance coverage for non-claimants of BPS is a significant weakness of the present system.

Smarter monitoring NRW welcomes the proposals to drive closer integration of monitoring effort between regulators visiting farms and are already working with Welsh Government and other regulators to progress this. We are also undertaking a review of our farm inspection regime with respect to prioritisation of our limited resource in this respect and look forward to being able to share the results of this review with Welsh Government.

We have begun discussions with assurance bodies (Red Tractor, LEAF) to work with their inspection field staff to help drive compliance with existing legal minimum requirements. The establishment of clear national standards and linkage to Brand Wales would assist the further development of these linkages in a similar manner to the operation of the UK Forestry Standard.

We agree that in the longer term SFS scheme entrants could be eligible for earned recognition from regulators including NRW. The delivery of earned recognition would be shaped in part by the degree to which the farm sustainability advisors were able to assess regulatory compliance (for which we could provide technical support).

NRW believe that self-monitoring and reporting could have a transformative role in achieving environmental outcomes. Working with farmers to gather environmental performance data can in theory reach far beyond the monitoring resource that we and other regulators could ever reasonable have at our disposal. In order to make this work, this could be incentivised through earned recognition (reduced inspection frequency for self-reporters). Quality assurance could be delivered through signing up to an agreement on standards of data recording and potential of spot checks to monitor. Environmental self-monitoring encourages farmers to gather, use and own environmental data in a manner that not only helps maintain compliance, but also becomes part of managing the farm business, driving performance beyond compliance. Self-monitoring is also identified as part of the process in yearly SFS returns in chapter 4.

Proportionate and effective enforcement. NRW recognises the importance of maintaining a credible approach to enforcement in the short term, while working towards a new approach to accompany the proposed move to new minimum legal standards covering all farmers. As with compliance monitoring, from our perspective, resource limitation is a key issue, but we are using our new organisational structure to identify and implement improvements.

NRW welcomes the proposal for future consultation on the deployment of civil sanctions to back up legal minimum standards. We agree with the key benefits of a civil sanctions approach outlined in the consultation document. The proportionate nature of civil sanctions offer the regulator advantages too, in terms of enabling more efficient redeployment of enforcement resource to deliver a better net gain in environmental standards. We have presented evidence to Welsh Government in the past that suggest the advantages of a civil sanction approach extend beyond farming and include much of our present regulatory remit. It is worth reflecting that our present use

of civil sanctions is much more heavily constrained by the enabling legislation than in England. We look forward to working with Welsh Government and other stakeholders to develop this thinking further.

Question 6 - Transition and funding (refer to chapter 8)

What are your views on the purpose and design of a transition period? You may want to consider:

- the proposed principles for transition
- the relative merits of the three transition options
- alternative proposals for transition
- how the CAP can be simplified and improved while it is still in operation

Comments

The current uncertainty around the manner of the UK withdrawal from the European Union and the allocation of budgets in the short and long-term future has resulted in there being a hiatus in funding new agri-environment actions. Therefore, for this scheme transition to be successful, it may be necessary not only to consider the proposed options against the four points raised in the consultation but also the potential impact and safe guarding of actions for the delivery of public goods through the transition period.

The potential issues that could arise during any transition periods due to uncertainty and additional pressures caused by UK withdrawal from the European Union are another key consideration, with subsequent impact on farmers, land management and rural businesses.

For a scheme to be successful, it is recognised in the consultation that sufficient detail and flexibility to cope with the variety and complexity of ecosystems present in Wales is necessary. This will take time to develop and trial. Trials and pilots developed through the transition period could focus on the delivery of an initial tranche of core public goods. This time should be used to learn and evaluate before the end of the transition period.

Options for transition will need to consider the timeframes needed to train advisors to be able to deliver the farm sustainable audits and management plans as well as the development of the supporting evidence and literature. It is not possible at this point in the development of the scheme to be able to undertake analysis to determine the strengths, weaknesses, opportunities and threats that would be associated with each delivery option for transition.

A key entry requirement is regulatory compliance. The transition process could be regarded as opportunity to deliver a step-change in regulatory compliance. NRW believe that the potential to align the push of regulation to the pull of incentives included in this new scheme is fundamental to long term delivery of Sustainable Management of Natural Resources and its contributions to the Well-being goals of Wales. This programme of work would require a concerted effort to make sure that the mechanisms develop in a manner that is mutually supportive. The following elements should pull together to deliver step change in behaviours, informed by behavioural insight work:

- advice and guidance.
- compliance support where appropriate.

- regulatory compliance assessment being integrated into the sustainability assessment of the farm.
- transition periods to deliver regulatory compliance against any new requirements.
- development of a proportionate approach to scheme non-compliance penalties and enforcement
- development of earned recognition approaches.

One of the areas for simplification during the transition period is Environmentally Sensitive Permanent Grassland (ESPG). NRW has a role in terms of maintenance of the data and informing Welsh Government where consent to plough have been granted. Although this can have a localised impact on NRW teams, we would not want to see the conditionality to payments that ESPG offers to Special Sites of Scientific Interest (SSSI) consent process to be lost. Having stated that, it does not necessary mean that NRW would not support a change in methodology. For example, the requirement to obtain SSSI consents and meet the legal obligations in relation to SSSIs could easily be included within the cross-compliance framework. In fact, prior to introduction of ESPG, this is where the requirements sat.

Other areas that may be considered for simplification is the Greening requirements. The net gain for the environment that can be attributed to this undertaking is difficult to quantify. However, removing the greening element seems counter intuitive to the direction of travel which aligns to the development of sustainable land management.

Question 7 - Analytical approach (refer to annex A)

What are your views on the analytical approach set out? You may want to consider:

- the different stages of analysis
- the different tools and techniques which may be necessary for different aspects of the analysis
- the range of impacts which we propose to consider with the Integrated Impact Assessment

Comments

It is important that in understanding the potential post-Brexit economic conditions and spatial modelling (stages 1-3) that an agile framework is developed that allows the rapid assessment of the changing Brexit landscape as it develops. It is a common understanding running through all the assessments of the impact of Brexit on agriculture that the scenarios can only represent a snapshot rather than cover every eventuality⁴⁵⁶⁷.

It is suggested that the policy proposals are assessed against the current system (stage 4) of Basic Payment Scheme (BPS). However, policy proposals in this consultation are not limited to replacing BPS system, but will also replace other funding streams and activities that are currently funded under Pillar 2 (Rural Development Plan Funding) of the Common Agricultural Policy. Therefore, it would be useful to consider including these activities (not only Glastir) and funding streams in the 'before scenario' estimation. For example, potential investment opportunities for diversification (which are currently available through the RDP) will be included in the 'after scenario' but not necessary in the 'before scenario'.

When assessing the scale of opportunities, it may be worth exploring the metadata of spatial datasets developed for Glastir Advanced. These datasets were created as decision support tools to support the delivery of the Glastir Schemes, rather than to identify the scale of opportunities for public goods. The Glastir Advanced spatial datasets included data rules to limit areas to enable Glastir delivery mechanisms to work more efficiently. Consideration of the unprocessed datasets may provide a more reliable estimation to be used in assessing the scale of opportunities than the Glastir spatial dataset themselves.

Additional datasets which may be considered are provided by the SCCAN project. These were developed with the aim of promoting a more holistic management of natural resources through spatial mapping of opportunity areas for land management interventions at a regional scale. The mapping focusses on priorities of the Welsh Government Natural Resources Policy (2017)⁸, which puts an emphasis on taking a place-based approach and delivering nature-based solutions.

The five policy themes, drawn from the NRP, were:

- Ecological Resilience and Connectivity
- Marine and Freshwater Water Quality
- Natural Flood Management
- Woodland Planting (for various objectives)
- Urban and Peri-Urban Green Infrastructure

The maps show modelled opportunity spaces for selected land management interventions; they are intended to be considered as a source of evidence rather than a

⁴ Evidence and Scenarios Roundtable Sub-Working Group, Summary of EU Exit Scenario Planning Workshops.

⁵ Baldock D, Buckwell A, Hart K and Maréchal A (2017) EU referendum and implications for UK agriculture and the environment, report produced for the UK Land Use Policy Group, IEEP London.

⁶ Brexit Impact Calculator. <https://bic.ahdb.org.uk/>

⁷ Davis J, Feng S, Patton M and Binfield J. (2017) Impacts of Alternative Post-Brexit Trade Agreements on UK Agriculture: Sector Analyses using the FAPRI-UK Model

⁸ Welsh Government (2017) The National Natural Resource Policy. <https://gov.wales/natural-resources-policy>

definitive instruction as other policy constraints and land use are not necessarily included.

Other evidence bases which may not normally be taken into account in farming schemes need to be considered to identify the full scale of opportunities. The flood management actions identified in the consultation need to be delivered in a spatially targeted way to deliver flood risk mitigation outcomes. Referencing flood risk maps, plans and programmes to define the opportunity space and to help direct the delivery of these interventions will help reduce flood risk to downstream communities and support Welsh Government's National Flood and Coastal Erosion Risk Management Strategy.

Data on important salmonid spawning grounds and from fishery restoration plans that have recently been published (2018/19 or are currently in development) across Wales could include opportunities for action to progress work at the request of the Minister to address land management impacts on economically and socially important salmonids which are a high priority issue.⁹

The scale of opportunity analysis for Sustainable Farming Scheme also needs to consider the need to identify appropriate interventions where they are likely to be successful and provide the most benefit i.e. grassland restoration in key areas with appropriate bedrock and soil profiles to link up existing patches. Any constraints which may develop as part of regulatory framework should be included as controls rather than the use of current 'rule set'.

The payment that is made for environmental outcomes can have a significant impact on the uptake of measures, particularly those that require a significant change in current farming practices.¹⁰¹¹ The consultation references the intent to pay an amount above and beyond the income forgone and costs incurred to deliver environmental outcomes. It also recognises the need to reflect the sensitivities, uncertainties associated with the valuation models. Although these aspirations have good intentions establishing the key worth of a public good may need to include a cost component, a value to society component and a component to deliver significant change to farming systems. Including these in the development of valuation methods will enable relative and compound values to be calculated. It will need to be a key part of transition to address evidence gaps and develop the scheme costings that provide a revenue stream as well as providing value for money. There may be lessons that can be learnt from

⁹ Welsh salmon stocks are generally in a worse condition than those in England. From the latest (2017) assessment of compliance with Conservation Limits, 36% of principal salmon rivers in Wales are projected to be 'at risk' in five years' time and 55% are projected to be 'probably at risk'; i.e. 91% in total in the poorest risk classes.

¹⁰ Lastro-Bravo XB, Hubbard MC, Garrod GD, Tolon-Becerra A. What drives farmers' participation in EU agri-environmental schemes? Results from a qualitative meta-analysis. *Environmental Science & Policy* 2015, 54, 1-9.

¹¹ Brown, C., Kovacs, E.K., Zinngrebe, Y., Albizua, A., Galanaki, A., Grammatikopoulou, I., Herzon, I., Marquardt, D., McCracken, D., Olsson, J., Villamayor-Tomas, S. (2019). Understanding farmer uptake of measures that support biodiversity and ecosystem services in the Common Agricultural Policy (CAP). Report prepared by an EKLIPSE Expert Working Group. Centre for Ecology & Hydrology, Wallingford, United Kingdom

alternative approaches developed for income forgone and costs in uneconomical farming systems.¹²

As well as the possible variations, reflecting differing social value. in payments for environmental outcomes across Wales, it may be worth considering other ways of encouraging activities within different areas of Wales. For examples, facilitating delivery and/or developing an enabling regulatory framework could also encourage outcomes within a spatial context rather than different payment rates.

There are several aspects of the integrated impact assessment (IIA) that are worth considering.

- It is recognised in the analytical approach that the current policies will not be the counterfactual for the analysis of farm businesses and the impact of the 'type of Brexit' will need to be included. It may be worth considering using the same approach for assessing the impact on natural resources as land use and management will not remain the same post-Brexit.
- The analysis of natural resources could also include the impact in relation to the National Resources Policy and the Sustainable Management of Natural Resources Delivery Framework.
- The impact of changes in the regulatory framework as well as the development of the Sustainable Farming Scheme considered in an integrated way.
- Scenarios modelling of the degree of uptake of the new scheme may be required to undertake the IIA.

¹² Barnes, A.P., Schwarz, G., Keenleyside, C., Thomson, S., Waterhouse, T, Polakova, J. and Stewart, S., McCracken, D., (2011). Alternative payment approaches for non-economic farming systems delivering environmental public goods.

Question 8 - Welsh language

We would like to know your views on the effects the proposals in this document would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How any positive effects could be increased, or negative effects be mitigated?

Comments

The consultation (Annex A) recognises that there could be broader impacts on the rural economy and rural communities in terms of intermediate consumption by agriculture and the change in use of contractors. Although it is recognised that there are likely to be adjustments within the economy over the longer term to moderate any initial impacts. It may be worth considering the potential broader impacts on the rural economy, including the changes in regional pattern identified as part of the distributional analysis, in terms of the Welsh language on the wider community as well as that impact associated with land owners and land managers.

Question 9 - Other comments

- If you have any related issues that we have not specifically addressed, please let us know.

Comments

No other comments.