



NFU Cymru Response: Welsh Government Consultation Agriculture (Wales) White Paper



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President's Foreword

The past five years has seen Welsh farming deal with unprecedented challenges. Brexit and our future relationship with the EU and the Rest of the World, Political uncertainty, Climate Change, Bovine TB, Nitrate Vulnerable Zones, and for the past twelve months dealing with a global health crisis on a scale not seen in over a century.

Despite all of this I have been immensely proud of the resilience, strength and fortitude shown by Welsh farmers who have continued doing what they do best – keeping the nation fed with safe, high quality, traceable and affordable food.

The sight of empty supermarket shelves at the start of this pandemic and the way that the food supply chain has subsequently worked to ensure that the nation has been fed has taught us the value of short sustainable food supply chains. It has also shown us the value the consumer places on our great tasting, healthy and nutritious food. This is why I am convinced that future policy for Wales must have, at its heart, a focus on securing the continued supply of safe, high quality, traceable and affordable Welsh food for all in society.

A matter of days after the EU Referendum NFU Cymru set out the key principles that should form the foundations of a new domestic agricultural policy to deliver a productive, profitable, and progressive farming industry in Wales. These principles based around high quality food production, rewarding environmental activity, supporting the active farmer, on farm investment, science and evidence-based regulation and fair funding were the foundations for our subsequent vision for a future policy based on three cornerstones of stability, productivity, and the environment. Over the course of these past five years NFU Cymru has engaged with many thousands of farming members and rural businesses and on each and every occasion the principles and vision put forward by NFU Cymru has been overwhelmingly reaffirmed and endorsed.

This White Paper is hugely important to all of us because a future Agriculture (Wales) Bill sets the framework under which policies and regulation impacting farmers in Wales will be delivered not just for our generation but also for those who follow in our footsteps. On our farms each and every one of us strive to leave the land and our business in a better place for the next generation. All of us who care about our food, our farming, our landscape, environment and communities must do the same when it comes to the part we can play in shaping future policy.

I am clear that we should be ambitious in our plans for the future. A plan to sustainably grow the food and farming sector, producing the most climate friendly food in the world against a backdrop of a landscape and environment where our nature is thriving.

An unique opportunity to design, build and implement a comprehensive food and farming policy Made in Wales for the people of Wales. Policies which bring the industry together, from farm to fork, in one overarching strategy with ambitious targets for the sustainable growth of the food and farming sector. A strategy that ensures the £7.5 billion food and drink supply chain that employs over a quarter of a million people continues to grow off the back of the food produced on Welsh farms.

Whilst farm policy has changed out of all recognition since the 1947 Agriculture Act, that Act and our subsequent accession to the EU has ensured that policies have had one common thread; they have helped ensure that consumers have had a stable supply of affordable food. This must remain a core element of a future Agriculture (Wales) Bill, ensuring that the food we produce is available at all price points.

We have a vision for Welsh farmers to be the solution to the global challenges we currently face. Welsh farmers producing high quality, fully traceable food at price points for all in society to access.

Welsh farmers producing the most climate friendly food in the world. Welsh farmers caring for and enhancing our iconic landscape. Welsh farmers maintaining and improving our environment, creating the conditions for nature to thrive. Welsh farming as the backbone of our rural communities. A truly sustainable policy that recognises the economic, environmental, and social pillars of sustainability.

We have welcomed commitments made by both the First Minister and the Minister to maintaining funding levels for Welsh farming. If we are to meet our ambition to deliver further sustainable growth of the food and farming sector in Wales, enhance the farmed environment and to achieve our ambition for net zero agriculture by 2040 we need to secure long term funding arrangements for Welsh farming. We look to both the UK Treasury and the next Welsh Government to provide certainty and clarity.

We are pleased that Welsh Government, through the White Paper, continues to recognise the strong case for supporting farmers in the future. Our analysis of the White Paper does however suggest to us that the current proposals from Welsh Government do not share our ambition and vision for the sustainable growth of the food and farming sector in Wales. Our response therefore focuses on the measures and ideas that we believe are needed to deliver a productive, profitable, and progressive food and farming industry delivering the multiple objectives of high-quality food; supporting Wales green economic recovery; maintaining and enhancing nature and our environment whilst sustaining our rural communities and culture.

In just over a month Wales will be going to the polls. I will be very interested in the coming weeks to hear from politicians of all parties their vision and ambitions for Wales to see how closely they match ours. I look forward to working with the next Welsh Government and Senedd Members, building partnerships with all who care passionately about food, farming and our environment, an opportunity to deliver policies unique to Wales.

J R Davies

John Davies
NFU Cymru President

Contents

President's Foreword.....	1
Introduction.....	4
National Minimum Standards.....	5
Civil Sanctions.....	12
Sustainable Land Management: Future Policy and Support.....	17
Industry and Supply Chain: Future Support.....	38
Collection and Sharing of Data.....	46
Forestry and Woodlands.....	52
Proposals for additional Powers.....	56
Our proposals to replace powers in the UK Agriculture Act.....	66
Sunset Powers – Powers to enable continuity of existing agricultural support.....	67
Powers Which Do Not Expire.....	69
Integrated Impact Assessment.....	71
Welsh Language.....	74
Rural Support.....	75

Introduction

NFU Cymru champions Welsh farming and represents farmers throughout Wales and across all sectors. Our vision is for a productive, profitable and progressive Welsh agricultural industry that delivers jobs, growth and investment for Wales.

The importance of the farming industry in rural Wales cannot be over-stated. Welsh farming businesses are the backbone of the Welsh rural economy, the axis around which rural communities turn. The raw ingredients that we produce are the cornerstone of the £7.5 billion Welsh food and drink supply chain, 229,500 people are employed across the whole food and drink supply chain with 78,800 people employed in the Food and Farming Priority Sector.

We are proud that the Welsh public associate Welsh farmers, first and foremost, with providing safe, high quality and traceable food and at NFU Cymru we want to ensure that consumers in Wales, the UK and further afield can continue to enjoy and choose the top-quality food that we produce here in Wales. Welsh farmers look after over 80% of the land area of Wales, maintaining and enhancing our natural environment – Wales' key asset. Farming activity supports a diverse range of species, habitats, and ecosystems, provides a range of ecosystem services including flood alleviation, carbon sequestration, climate change mitigation; and delivers the significant backdrop for Wales' tourism and recreation sector. Welsh farmers are key promoters and protectors of our culture, heritage, and the Welsh language. The Welsh agricultural industry has the highest proportion of Welsh speakers, more than any other sector.

The legislative framework in Wales enshrined in the Well-Being of Future Generations and Environment Acts provides the architecture for the creation of a new agricultural policy for Wales - a stable and transparent policy that can deliver for the economy, for consumers and for the environment. A policy that recognises and values the full range of goods and services provided by farmers, a policy that provides a secure business environment, fair returns from the marketplace and access to the modern technology required to compete on the global stage.

Overall Welsh farming makes an unparalleled contribution to the economic, environmental, social and cultural well-being of Wales in line with the Well-Being of Future Generations Act summarised in our Welsh Farming: Bringing Wales Together [booklet](#) and [video](#). We have the opportunity through an Agriculture (Wales) Bill to put the framework in place for a new regulatory and policy landscape that supports Welsh farming to continue to deliver and grow our contribution to Welsh society.

This Consultation has been undertaken against a backdrop of a global health pandemic. Welsh farmers, and all those associated with the industry, primary focus has been on looking after their own health and that of their families, coping with lockdown, caring for animals and crops whilst continuing to run a business.

Despite our best efforts to publicise this consultation through our magazine, website, member updates, social media and virtual meetings, our members, and the wider industry, will not have had the opportunity to properly consider this consultation. Against this backdrop it has not been possible to run the extensive member engagement programme that NFU Cymru believe is appropriate for a consultation of this magnitude. We have raised our concerns on this matter to the Minister directly and also in a letter sent to the Minister on 21st January 2021. We do not believe that this White Paper was an essential piece of Government Business at such a time of stress and anxiety for the nation.

That said NFU Cymru has sought to consult and seek member feedback as widely as possible through virtual meetings. NFU Cymru has consulted with all our County Branches, Commodity Boards, Policy Board and Council. This response is based on the feedback and views from the many hundreds of members that have attended these meetings.

National Minimum Standards

Q1. What are your views on:

(a) The proposed approach to the creation of the National Minimum Standards?

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

Please provide comments to support your view e.g. potential benefits and impacts.

Q2. What are your views on:

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

(b) The further considerations needed for advice and guidance?

For example, what form guidance should take, who should provide it, the scope of guidance and how farm advisory services may support farmers.

Please provide comments to support your view, e.g. potential benefits and impacts associated with the considerations.

NFU Cymru has been heavily involved in seeking to shape the regulatory landscape for Welsh farming and over the years we have fed into countless consultations and discussions on the subject based on feedback from our members. We have sought to positively engage in numerous “red tape” reviews undertaken by Welsh Government as well as EU CAP simplification exercises. NFU Cymru recently welcomed the changes introduced as a result of the recent Welsh Government *consultation on proposals to continue and simplify agricultural support for farmers and the rural economy*.

For Welsh farming, much regulation has been derived from our status as an EU Member State, agriculture has probably been more exposed to EU law making over the past four decades than any other sector of the economy. Whilst it is vital that any regulatory reform does not impinge on our ability to access EU markets, there is an opportunity to develop a better regulatory landscape, properly designed and implemented to achieve its aims while allowing Welsh farmers to continue to do what they do best – provide a safe and affordable supply of Welsh food.

NFU Cymru is pleased that the White Paper recognises the important recommendations of the Public Health Wales *Supporting Farming Communities at Times of Uncertainty Report* and the *Working Smarter* report. NFU Cymru was pleased to play an active role in both reports, and we would like to take this opportunity to commend the late Gareth Williams for his vision and leadership with regards to the *Working Smarter* project.

NFU Cymru welcomed the publication of the report and has consistently stressed that delivering the report (recommendations in full) in its entirety would be the key to ensuring that the report had the legacy it deserved. Whilst we are pleased that a number of the recommendations have been implemented to the benefit of both Government and Industry, some remain outstanding or have not been implemented by Government in a manner that ensures their true potential has been realised. On occasion Welsh Government have subsequently gone against recommendations within the report.

NFU Cymru believes that following our departure from the EU and prior to development of proposals for regulatory reform in Wales that this would be an opportune time to revisit and update the *Working Smarter* report alongside ensuring the recommendations within the Public Health Wales report are given due and proper consideration. Whilst we welcome the reference in the White Paper to the Public Health Wales recommendation to revisit the progress made following the *Working Smarter*

report, we would point out that the implementation of this recommendation is in the gift of the Welsh Government. Over 18 months on from the publication of the report we are not aware that this matter has been progressed. Welsh Government must progress this recommendation as a matter of urgency.

If Welsh Government is serious about establishing a new regulatory framework then the first task that must be undertaken is a full-scale review and gap analysis of the current regulatory framework that farmers operate within. The analysis needs to consider the full regulatory regime that farmers currently adhere to, it needs to consider areas of duplication, coherence between different regulations, fields where different regulators operate in the same sphere, it must look at the complexity of regulation and where there is a lack of information and misunderstanding or misinterpretation of regulation.

The majority of farm businesses are small or medium sized enterprises (SMEs), or even micro-businesses, and do not have the same level of capital or resources available to them that larger businesses can employ to ensure compliance with a myriad of legal rules. Welsh Government must consider how it proposes to engage with all farmers and land managers in Wales.

NFU Cymru has previously set out its [vision](#) for a future fit for purpose regulatory framework, a vision for a framework that supports productive agriculture, which maximises our potential for trade, protects the environment and provides confidence to the consumer.

Regulation shapes our day-to-day farming. Legislation, as a government tool employed in controlling, directing, or managing an activity, is used across the economy to protect the environment, human and animal health, and consumers' economic interests. Farming and food production have a potential bearing on all of these aspects and are therefore subject to rules that protect the public interest. The role of regulation is crucial to the success of farm businesses today and their willingness and ability to invest for tomorrow.

Good regulation promotes the fundamental value of an economic activity by setting enabling rules while applying appropriate controls on that activity so that the risk of harm, economic or otherwise, is minimised. While an absence of regulation might lead to a failure to control risky behaviour, poorly drafted or implemented regulation can lead to burdens on business that are disproportionate to the benefit derived. Such rules may restrict businesses from undertaking activities that are valuable to society, create perverse impacts, or fail to provide the protections intended. NFU Cymru wants to see a regulatory environment that encourages sustainable business growth and investment.

Given the extent that regulation influences farm practice, it is not surprising that farmers have had their fair experience of bad regulation NFU Cymru has therefore long campaigned for reform. Often this does not reflect an opposition to regulation per se, but rather a desire to see the details of design and implementation improved. Many potential issues that we come across are a result of poor design or implementation, rather than any inherent failure in the identification of an issue requiring a regulatory solution.

Farmer confidence surveys undertaken by the Union have repeatedly shown most farmers believe that regulation and legislation have a negative effect on their businesses. Poor regulation is characterised by approaches that have not engaged in advance with businesses to consider how regulation is best targeted or implemented. Often it is related to administrative burdens that are disproportionate to the desired outcome, regulation that damages productivity and regulation that often appears to unnecessarily tie up both the farmers and regulators' time in unnecessary work.

NFU Cymru believes that rules should be designed in such a way that reflects how farm businesses operate in practice. Failure to do so can result in issues with compliance or unnecessary artificial changes to farm activity. For example, the Nitrates Directive introduces inflexible 'closed periods'

when application of fertiliser and some manures are banned but that take no account of soil or weather conditions during or after the closed period. Instead, farmers should be encouraged to assess actual conditions and risk at any given time. Such an approach is likely to be increasingly important in the context of a changing climate.

The regulatory framework, in particular the regulatory floor that Welsh agriculture will be operating to will be crucial to determining what can and cannot be eligible for support as part of future domestic agricultural policy. As the White Paper highlights *support will be provided to deliver additionality i.e. outcomes beyond that which could be reasonably expected to be delivered through current regulation alone*. Agricultural policy, support and regulation are completely intertwined and must be considered “in the round”. The introduction of the All Wales NVZ from 1st April 2021 is just one example where this has been ignored resulting in the introduction to the sphere of regulation a number of measures e.g. Nutrient Management Planning that Welsh Government has previously put forward as measures that would form an integral part of their Sustainable Farming Scheme.

Interconnectivity between the regulatory baseline and support through the Sustainable Farming Scheme means that both matters must be considered together, Access reform, the Clean Air Strategy and proposals to introduce a Technical Advice Note for ‘intensive farming’ are just three further examples on top of NVZ regulations where regulation appears to be progressing in ‘silos’.

NFU Cymru notes that Welsh Government through their proposed Sustainable Farming Scheme are very much focussed on outcomes, we would suggest that Welsh Government should consider a similar approach to regulation. NFU Cymru was fortunate enough to participate in a Red Meat Supply Chain study tour to New Zealand organised by the British High Commission and the Ministry for Primary Industries in New Zealand in 2018. NFU Cymru was able to see how New Zealand accesses well over 100 diverse export markets through an outcome-based approach to regulation.

New Zealand’s focus is based on proving regulatory equivalence with the countries that they are seeking to develop good trade relationships. They seek to verify equivalence rather than a ‘copy and paste’ of regulations operating in that country. Government will only introduce regulation when absolutely necessary and only if the ‘outcome’ cannot be achieved by any other means. Government and industry work in partnership, through a Strategic Directions Group, to keep regulatory costs to an absolute minimum, this is essential to be able to compete in far flung markets across the globe. NFU Cymru suggest that a similar approach to regulation should be adopted in Wales.

NFU Cymru strongly believes that regulation and policy decisions should be based on the most robust body of scientific evidence. Risk, science, and evidence must be at the heart of policy and decision making to ensure a regulatory environment that has a long-term vision to provide stability and certainty for farm businesses, rather than decisions being made first and the research then commissioned to justify them. Thorough impact assessments must be carried out. Consideration should always be given to how alternative interventions may amend business behaviours. Such assessment of regulation’s impact should also extend to its effect on the availability of agricultural technologies and innovation toward new solutions.

In principle, the consolidation of existing regulation sounds like a sensible proposal. However, there are considerable concerns about the scope and breadth of the powers that will be available to Welsh Ministers in the provisions of the Bill.

Whilst it is correct to say that a number of cross compliance requirements are underpinned by legislation, this is not the case for a number of the Good Agricultural and Environment Conditions (GAEC).

Cross Compliance is a European Commission regulatory requirement that farmers meet in order to receive the Basic Payment Scheme and Rural Development area-based schemes such as Glastir. It

comprises a mixture of statutory requirements as well as obligations created by the competent authority (Welsh Government).

The statutory requirements are existing requirements which apply to those in receipt of CAP support, and those who do not claim under the CAP. The obligations created by the Welsh Government relate to standards consistent with keeping land in 'Good Agricultural and Environmental Condition' (GAEC), and concern matters such as protecting soils, field margins and restricting hedge cutting. These obligations apply only to those in receipt of CAP payments.

At present, failure to meet any of these cross-compliance requirements could result in a financial penalty, which is often out of proportion to the breach committed, a breach that may not have had any environmental or animal health / welfare impact and is something which is a frequent cause of complaint amongst our members.

We do not believe that the proposed National Minimum Standards (NMS) should be a "copy and paste" of the current cross compliance standards. We believe, for the reasons that we have outlined above that a thorough review and analysis of the current cross compliance regime needs to be undertaken prior to consideration of which elements should be incorporated into National Minimum standards. Welsh Government should work with the industry to devise standards which are relevant to Wales.

The idea that consolidating all the relevant law into one place will be clearer for farmers to understand makes sense in principle. However, given the breadth of the farming industry, and the increasing complexity of regulation and legislation being introduced, there is a risk that the consolidated approach may become so lengthy that its 'ease of use' intention disappears.

The *Working smarter* report of January 2012 states "An assessment of standard rules related information (guidance, forms, record books etc) that could arrive on a farm in a typical year, from all farming regulators amounted to approximately 3,000 pages or twelve paperbacks!" Given the propensity of our Government to regulate and legislate we would suggest that over the past 9 years it is likely that today the number of pages / paperbacks will have only increased!

The White Paper proposes that in future National Minimum Standards will apply to "all farmers". NFU Cymru requests clarity on this issue. For example, the situation currently is that legislative requirements apply to everyone in society e.g. a ewe grazing in a large garden would need to be cared for, managed and identified in the same way as that on a large farm holding. This is important for a number of reasons, not least animal disease control measures, which we will return to later in our response. However, in the case of hedge trimming dates, or field margins the requirements on CAP claimants are entirely different to domestic gardeners or someone with a pony paddock, although arguably a hedge in a garden / paddock may have the same biodiversity benefits as that in a field. Welsh Government need to clarify the definition of "farmer". If the WG definition of farmer places different legislative requirements in relation to animal health and welfare, soils, biodiversity, and food safety on that individual over any other then NFU Cymru would wish for Welsh Government to clarify why that should be the case.

A suitable transition period would be required to allow farm businesses to prepare for the introduction of National Minimum Standards. Whilst a significant proportion of Welsh farmers are already likely to be complying with the existing cross compliance requirements as BPS claimants, there will be farmers who have not claimed BPS who will have to incur the initial costs of becoming compliant with any standards above the existing statutory baseline.

Prior to the introduction of any such standards NFU Cymru would propose the review and gap analysis we have proposed is complete; that the advice and guidance across all the standards proposed is available in format(s) suitable for all and that Welsh Government have adequately

resourced the Farm Liaison Service (FLS) as the conduit between Government and Industry. The measures we will outline in our response to the questions in the next section around a procedural code for inspectors and an appeal process should also be in place.

The White Paper suggests that developing a set of National Minimum Standards would facilitate a level playing field across Wales for all businesses managing agricultural land. The White Paper fails to recognise that for Welsh farmers to be competitive they will be in competition with farmers from across the UK, the EU and Globally. As an example of this 95% of our red meat is consumed outside of Wales. If Wales is subject to different baseline regulations from the rest of the UK, the EU and key Global competitors there is a significant risk that Welsh farming could be less competitive and lose markets as a result of the implementation of the National Minimum Standards.

NFU Cymru would also expect Welsh Government to make firm commitments with regards to the procurement policies of the public sector. We would seek a commitment from Welsh Government that it would put in place measures to ensure that any food procured by the (devolved) public sector from outside Wales is only procured from suppliers who can guarantee that their standards match or exceed the National Minimum Standards that Welsh farmers will be adhering to. Failing to do so would be hypocritical as well as indicating a lack of co-ordination across Welsh Government.

Clarification is required in relation to ascertaining whether those farmers claiming under the new Sustainable Farming Scheme will be at risk of double penalties. It appears that the Scheme will be founded on the NMS with additional requirements. Farmers should not be subject to double penalty for the same breach. Will a farmer who falls foul of NMS prior to joining the SFS be excluded from the scheme in future?

One of the overriding points that raises concern is the intention, aim and extent of NMS. Whilst the provisions of the Bill will require a level of agility in order to progress and react to the ever-changing times, it also needs to provide legal certainty, clarity, conciseness and, above all, be of practical application. We will need to understand much more about the detail of these proposals before we are in a position to understand whether NMS can deliver the stated aim of a simpler and more proportionate regulatory regime.

While it is beneficial that there is an ability to develop and progress the NMS to reflect changes and challenges, there does need to be some level of consistency, stability, and certainty so that farm businesses can understand how and when new regulation will be developed.

The provisions in the Bill should include some specific parameters around how the standards can be created by secondary legislation. For example, there should be a statutory requirement for stakeholder and industry consultation before any new standard is created, a thorough regulatory impact assessment, limits on the number of new standards that can be created in a defined time period, a set date when any new standards are introduced and clear limits on the enforcement and monitoring powers that can be included in the relevant secondary legislation.

The minimal parliamentary scrutiny of secondary legislation does raise concerns about the breadth of powers that will be granted to Welsh Ministers to create and develop NMS in a future Agriculture Wales Bill.

These powers must not be used by Welsh Government as a charter to introduce new regulation on a whim or a knee jerk reaction to a claim by a campaigning organisation or a sensationalist media story. Policy must be driven by the evidence of a quantified public issue concern, rather than decisions being made first and the research then commissioned to justify them.

There needs to be coherence in the development of regulations. It should not be for the farming business to resolve miss-matches between different regulations or policies. For example, Welsh

Government has introduced new All Wales NVZ regulations at the same time as NRW are introducing new guidance on Ammonia that will seriously impact a farming businesses ability to secure planning to make their business compliant with the new rules. We are already aware of several NFU Cymru member cases where a farmer has submitted planning permission to comply with one environmental regulation only for that planning permission to be refused as a result of another.

The White Paper refers on a number of occasions to additional legislation being introduced and the need to incorporate legislation to future proof National Minimum Standards. The proposals very much read that National Minimum Standards will be set of standards that Welsh Government will be constantly adding to and increasing both the amount and complexity of regulation. We would argue that as important will be the flexibility to amend or remove current legislation if it is no longer deemed fit for purpose as a result of the scientific evidence having changed. For example, new research completed, or new technology having deemed the original legislation defunct or outcomes being achieved through non legislative routes. In essence legislation must be flexible and periodically revisited to ensure it is still fit for purpose.

This is also true for the design of the rules and the way regulatory requirements are delivered and enforced on the ground. The benefits of following this approach are that the desired outcomes are achieved; unintended consequences are avoided; the public can have confidence in the regulation; and businesses have the certainty of workable, enabling rules to follow giving them confidence to invest.

We would highlight the importance of advice and guidance to help farmers comply during what will be a difficult time for the industry given the fundamental changes being proposed by Government over what will be a relatively short timescale. Over the past twenty years the Farm Liaison Service (FLS) has provided an invaluable service to the industry and the role of the service will be more important than ever during the upcoming period of great uncertainty and change. We would request that Welsh Government ensure that the FLS is well resourced with experienced individuals who have an affinity with the farming community. It is absolutely essential that the trust and excellent working relationships between the FLS and industry is allowed to continue through this period of change.

An excellent initiative borne out of the *Working Smarter* initiative is the co-design between Government and Industry of the “*When the Inspector Calls*” guide. The guide is there to help farmers prepare for an announced or unannounced inspection and sets out the actions needed to take before an inspector calls and explains what an inspector will do during the inspection. The guide also sets out the record keeping requirements associated with CAP schemes. This is a guide and a model of co-design working that should certainly be supported going forward.

There is a need to go much further, *When the Inspector Calls* covers the current CAP schemes, the proposed National Minimum Standards cover an enormous sphere of influence. As has already been highlighted the current guidance that farmers would need to read to ensure that they are compliant runs into thousands of pages, this will only increase with the regulations currently being introduced and proposed. First and foremost, this needs to be considered and rationalised given that this regulation is being targeted at, in the main, small and micro businesses.

Accessing information on regulation and advice and guidance is extremely challenging at present, it requires the ability to navigate a range of different organisations and regulators who all have different ways of presenting information. Both Welsh Government and NRW websites, for example, are notoriously difficult and complex to navigate and search for relevant information. Moving forward a single portal with all information, advice and guidance kept in exactly the same format is paramount. Version Control will also be essential, the most up to date guidance should be readily available, in PDF form with the date of issue clearly shown. All previous versions, in PDF

format, with date of issue should also be maintained and stored and available for use. In recent years we have seen, with Glastir, for example issues and confusion arise where regulators and farmers are operating to different versions of Contracts and Regulations as a result of a failure of Government to have clear and robust procedures in place for version control.

Digital connectivity continues to be source of major frustration in many parts of Wales. There is the potential for farmers, who through no fault of their own have no broadband or limited access, being excluded from the necessary advice and guidance they need to comply with the future regulatory landscape. It is vitally important that Regulators recognise this and that those who are digitally excluded are not excluded from having the information that is required to ensure that they are aware of the new regulatory baseline and kept up to date whenever any changes are made.

Civil Sanctions

Q3. What are your views on the proposals for civil sanctions to enable proportionate enforcement of regulations?

Are there any further considerations which are needed?

Please provide comments to support your view, e.g. potential benefits and impacts associated with the considerations.

We agree that enforcement should be proportionate to the relevant breach, and, in principle, that regulators should have a number of tools available to them in order to address the range of breaches that may occur.

Unfortunately, farmers in Wales have significant experience, through the implementation of CAP schemes in Wales, of an enforcement regime that, in many instances, is not proportionate. Aligned to that a penalty matrix that results in penalties that bear no relation to the nature of the non-compliance. We also have significant experience of penalties being incorrectly applied as evidenced by the number of penalties overturned at appeal. Farmers have very little confidence or trust in the enforcement, penalty, and appeal system currently in operation within Wales.

We note the illustration that Welsh Government have described as “good” at paragraph 2.23 in relation to the introduction of financial penalties for overdue Bovine Tuberculosis (TB) tests in 2015. Whilst we would agree that timely TB testing is a vital part of the TB programme in Wales and powers need to be put in place to penalise those that deliberately flout these testing rules, we would highlight that this is an area where we have seen some of the most unjust penalties applied. We have examples of tests being postponed at late notice due to the sudden illness of the vet / farmer. Examples where animals have not had their test completed as a result of a health and safety matter that occurred on the farm post injection and prior to reading as a result of an incident completely beyond the control of the farmer and the vet. In too many instances’ penalties have been applied without any consideration of the exceptional circumstances involved, even when APHA were aware of the issue prior to the penalty being applied. Whilst we would support the need to ensure TB testing is completed in a timely fashion and accept the role penalties may have played in reducing the number of overdue tests, based on our experiences of the way some financial penalties have been applied, we would certainly not say that this is a “good example”. That said we do recognise that paragraph 2.24 does state that BPS penalties are not always viewed as “proportionate” and there is now an opportunity to address this matter.

As a starting point NFU Cymru would wish for Welsh Government to define what ‘proportionate’ means in the context of an enforcement regime. In the context of a future enforcement regime, we do not want to see small administrative errors by farmers resulting in substantial actions such as penalties which are out of proportion to the seriousness of the error. In many cases, these administrative errors have no detrimental impact on the delivery of outcomes of a scheme, cause any environmental impact or animal health concern.

Equally we would want to see the backdating of penalties for multi-annual arrangements cease going forward, particularly in circumstances where there has been a relatively minor breach. In our view, unless there is evidence that a breach occurred in more than one year, penalties should be confined to the year in which the breach was identified.

These sorts of disproportionate outcomes deter farmers from participating in support schemes, as the impacts of these penalties can be crippling for the farm business and the well-being of farmers. A

fair, yet effective, penalty and enforcement regime is likely to give farmers greater confidence in the system and encourage participation in the schemes. It is also important that where a sanction is imposed, it considers a range of factors, including proportionality.

Turning specifically to civil sanctions, whilst we note that civil sanctions are utilised with varying levels of success by regulatory bodies across the UK, the proposals within the White Paper set out a major change in the enforcement regime for all farmers and land managers in Wales and a potential significant change to the 'regulatory floor' currently operating within Wales. Any changes will need very careful design and development to ensure that it is proportionate, fair, and workable across the differing types of businesses in the agricultural industry. It is encouraging to see that the White Paper acknowledges that *'proposals will need to be developed in collaboration with farmers, land managers and regulators.'* As previously outlined, we believe that prior to embarking on any changes to regulation there needs to be a full-scale review and gap analysis of the current regulatory regime affecting farmers in Wales.

The following points are of particular concern to NFU Cymru:

The importance of the separation of powers between the investigation of a breach, the imposition of a penalty, and any appeals process. It is offensive to natural justice for the functions of inspector, enforcer, determiner, penalty-applier, and costs collector to be embodied in the same agency or, worse, the same department or individual. Contrast this with the criminal justice regime: the inspector is the police; the enforcer is the Crown Prosecution Service; and the determiner, penalty-applier and costs collector is the Court. The consequences for farmers of regulatory breaches can be serious; enforcement should therefore be fair, objective, and independent with clear separation of powers between each stage of the process.

There will need to be transparency around the evidence that is used in determining that a breach has occurred, and a civil sanction should be imposed. It will need to be clear to farmers how and when evidence is collected, what level of evidence is required before a sanction is imposed, and what steps an individual can take in order to refute any evidence presented.

It is not clear from the White Paper which regulatory body will be responsible for the civil sanction regime. It is vital that the relevant staff or inspectors making determinations about whether to impose a civil sanction have sufficient training in the relevant areas. NFU Cymru has significant experience in supporting members through inspection and appeals and is fully aware of the variability in approach to inspection and enforcement taken between different regulators but also between inspectors working for the same regulator.

The enforcement regime should be significantly improved by the adoption of a procedural code that applies across all inspectors and enforcers dealing with the regulation of farms. That code should aim to professionalise the inspection and enforcement regimes, setting standards for investigations and evidence collection, enforcement approach, penalty application and cost collection (if relevant). That code should also provide safeguards for farmers, such as the right for farmers to know the evidence against them and to have a fair opportunity to answer the case against them before any decision to apply a penalty is made. These are basic rights of procedural fairness.

A procedural code would only work if there were clear consequences where the code was not followed, supported by mechanisms for farmers to seek redress where the code was breached. A procedural code would help to establish a more balanced relationship between regulator / inspectorate and farmer.

There must be a coherent and integrated approach to farm inspections. NFU Cymru would suggest that as part of the review of regulatory reform that consideration be given to the establishment of 'a

single field force' to undertake inspections. Such a move could help to ensure efficiency and consistency of inspection and enforcement. The current inspection regime is carried out by a number of different bodies, and the available information is confusing, opaque, and spread across a large number of web pages and associated documentation. A single inspection portal would also help.

We do not underestimate the significant undertaking this proposal would represent. It raises many practical questions, not least the ability to find the multidisciplinary skill base, it would require embedding the schemes and codes from a range of hitherto independent agencies into one field force. Despite these practical issues, we would support further investigation of such a structural reformation. It seems grossly unfair that an individual farmer is expected to be fully conversant in the detailed regulations across a range of diverse areas of competence, navigate around a number of different portals to obtain advice and guidance and yet a wide range of inspectors are required to check on compliance on that individual farm.

There should be a clear 'exceptional circumstances' exemption for certain regulatory breaches. Compliance with regulation, as well as with the requirements of future support schemes, is often heavily dependent on things outside of the farmer's control, such as the weather, so this is a key factor which needs to be considered in the development of force majeure or exceptional circumstances provisions.

Another area where we have concerns relates to the consideration of ill health within a partnership / limited company. Many farm businesses operate as partnerships and limited companies, and our experience to date is that this can make it difficult for ill health of one individual to be considered under the force majeure provisions. The reality is that within each business, various individuals will have their own roles and responsibilities, and some include parents whose practical involvement in the day-to-day farming activities is limited. NFU Cymru would welcome a more pragmatic approach to the consideration of ill health, which recognises the practical reality within the farming business, rather than focusing on a hypothetical assumption that where there is a partnership or limited company it is easy for obligations to be transferred to another individual.

An independent appeals process must be built into any civil sanctions' regime. This appeal process must bear no comparison to the current Independent Appeals Process for CAP related schemes. The current appeals process has very limited jurisdiction with the panel only being able to confirm whether RPW has followed the correct procedures in accordance with the regulations. We believe that any appeal process established under the Civil Sanction regime must have far more wide-ranging powers with the ability to investigate further the detail of the case, mitigating circumstances and whether the sanction applied is proportionate to the breach.

It would be our belief that the appeal procedure, staff and secretariat associated with the appeal process are completely separate and independent of the inspectorate. We would suggest that whilst it is important a number of members of the panel have expertise in agriculture it will be important that there are also members who have legal and / or tribunal expertise. We would strongly recommend that the appeal process must operate to strict time periods. Our current experience is that many appeals within the RPW Independent Appeal process can take years between submission of the Stage 2 Appeal and an Appeal Hearing being undertaken. This is unacceptable, causing great strain and pressure on the appellants as they await the opportunity to put their case before the panel.

The papers states: '*Civil sanctions are not intended to be a direct replacement for BPS penalties and will be separate from sanctions for the new Sustainable Farming Scheme.*' We are particularly concerned that this could result in farmers being penalised twice for the same non-compliance. This would be disproportionate and there should be safeguards within the design of any civil sanctions' regime and the new Sustainable Farming Scheme to ensure that double penalisation is avoided.

Without prejudice to the comment above we can foresee instances where a business may wish to appeal a civil sanction and a penalty / exclusion to the Sustainable Farming Scheme that may relate to the same breach. Consideration will need to be given with regards to the how the Civil Sanction regime will run alongside the inspection, audit and enforcement of future support schemes in Wales.

NFU Cymru supports in principle a broader and more consistently applied 'toolkit' of interventions designed to influence behaviour, with punitive enforcement powers used only as a last resort. Good enforcement starts with advice, guidance, and simple persuasion. It goes without saying that powers should be deployed with discretion, in a proportionate way with the outcome in mind. Added to this is the increased use of data information analysis and other technologies to target and reduce inspections. We will return to this matter later in our submission.

Prior to any civil sanction being imposed on any farmer, first and foremost it is important that everything has been done to seek to rectify the matter without recourse to any sanction. This should start with clear, simple and usable guidance and support being available to avoid problems in the first place. We would also support, where appropriate, the use of early warning letters. The key being to have a swift feedback loop to farmers if there are issues found. Ideally any issues found should be notified and explained verbally and written to the farmer prior to leaving the farm. A specific timescale should be set out for both the provision of the inspection report and the notification of any penalties, with penalties not being possible if these timescales are not met. This approach is consistent with other legal regimes; for example, many criminal offences can only be prosecuted if proceedings are commenced within a set period after the offence occurred. It is essential that farmers have certainty regarding their position, rather than leaving an open-ended period of uncertainty hanging over them.

We are pleased to see the inclusion of 'Compliance Notices' in the proposed civil sanction regime. We believe that if we are to see a fundamental change in culture to regulation, enforcement, and sanctions, then farmers should be allowed to rectify mistakes. Farmers should be provided with advice and guidance on how to correct minor problems or allowed time to remedy errors following an inspection or other identification of a breach. This will build trust between farmers and the relevant regulatory bodies and give farmers the confidence to implement more complex measures on their holding. It will be important that farmers are provided with information about the breach and what is expected in terms of rectification promptly. It will also be important to ensure that the timeframes for rectifying issues are appropriate, considering the seasonal nature of many farming activities.

Farmers who have failed to fully rectify a breach should not automatically be regarded as intentionally failing to comply and receive a more severe penalty simply because of the earlier warning. The full surrounding circumstances should be considered, including the reasons for the original failure and the extent and reasons for the failure to rectify.

With specific regard to future support schemes there should be the ability to request variations to agreements if the original terms cease to be suitable, or if there is a need to revise the specification for some works.

Whilst we respect that having a wide range of civil sanctions could be beneficial in ensuring that the sanction imposed is proportionate to the offence there is a concern that regulators could see these additional powers as a "charter" to significantly increase the number of sanctions imposed. It is for this reason that we are firmly of the view that if civil sanctions are introduced, they could only be introduced alongside a procedural code as set out above.

We are aware that every year a number of vexatious claims are made against farmers, there are a number of reasons why these may occur. We respect this places the regulator in a difficult position in how to deal and respond but it also places the farming family under a lot of strain and pressure. There is a concern that the introduction of an additional sanctions regime may result in certain individuals and organisations seeing this as a further opportunity to make vexatious claims placing

further pressure on farming families. Regulators must have robust procedures in place to ensure that farming families do not become the victims of this type of activity.

Sustainable Land Management: Future Policy and Support

Q4. What are your views on the proposed purposes for funding in support of the delivery of SLM? Are there other purposes which you feel should be considered?

Please provide comments to support your view e.g. potential benefits and impacts.

NFU Cymru welcomes the opportunity to respond to Welsh Government proposals for future policy and support set out in Chapter 3 of the consultation. This has been an area of considerable focus and engagement with our membership over a number of years. We are pleased to restate our policy position below in order to provide context to our detailed response to Welsh Government's proposals.

We are pleased that Welsh Government, through the White Paper, continues to recognise the strong case for supporting farmers in the future.

NFU Cymru key principles for reform

In 2016, following the EU Referendum, NFU Cymru launched the biggest internal consultation in our history. During this period, we formulated a set of key principles to form the foundations of a new domestic agricultural policy that will deliver a productive, profitable and progressive agricultural industry in Wales. These principles, reaffirmed by our membership in the intervening period and set out below, are the principles against which NFU Cymru judges Welsh Government's proposals for future agricultural support measures:

- A policy that underpins and secures the continued support of safe, high quality, traceable, affordable food for our nation, in the context of future global challenges, must be at the heart of any future agricultural policy.
- All farmers must be fairly rewarded for the environmental/public goods they already deliver and will continue to deliver in future for society.
- Policies must be simple to administer, easy to understand and target support at those active farmers who take the financial risks associated with food production.
- Investment measures are required to ensure that farming businesses are well equipped to face the challenges and maximise the opportunities of a post-Brexit marketplace.
- The regulatory regime must be proportionate and evidence-based and policies must be adequately funded to ensure that Welsh farming remains competitive with farmers in the UK, EU and globally.

NFU Cymru vision for a new Welsh agricultural policy

NFU Cymru has long been clear in its vision for a new Welsh agricultural policy. This was launched in 2017 following extensive member consultation in the autumn of 2016. Our vision proposes a single, integrated, flexible framework based around three cornerstones – productivity and environment underpinned by measures to provide stability and address volatility. We expect most farming businesses would look to access support and assistance across a range of measures within the policy framework. All three of these cornerstones are fundamental to the long-term policy framework for agriculture in Wales.



We will briefly highlight the key themes within our vision; the full paper can be accessed [here](#).

- **Stability Measures**

Farmers are subject to significant levels of income volatility driven by environmental, economic and political factors, the majority of these factors are completely outside the control of any farming business. Recent events that include political instability within our major global economies, the rise of protectionism, trade bans and tariffs as well as a number of extreme weather events highlight that volatility/instability is as much an issue today as it has ever been. This volatility weakens the rural economy, threatens the continuity of supply to our food processors and exposes consumers to food price inflation.

A baseline support payment open and accessible to all active farmers that underpins agriculture and food production and the standards required to build trust and integrity in our sustainable production systems must form a key part of a future Welsh agricultural policy. The standards and conditions attached to this support can underpin the development of “Brand Wales”, a concept to help market and promote Wales to the world on the basis of high-quality food production underpinned by a strong natural asset base. The conditions attached to receiving this support could cover a range of environmental, climate change and animal health and welfare measures agreed in a partnership approach between government and industry building on the work that has been done within the Sustainability Brand Values programme.

Measures to support Welsh agriculture deal with crisis and exceptional and emergency events should form a critical component of future agricultural policy. These measures could be required in the event of trade bans, extreme downturns in commodity prices, exceptional weather events and notifiable disease outbreaks. They need to be accessible, adaptable and simple to administer and could involve insurance schemes underwritten by government, private storage aid or tax efficient deposit or loan schemes.

- **Environment Measures**

NFU Cymru proposes a farmed environment scheme that is open and accessible to every farmer that wishes to undertake activities that goes beyond the regulatory baseline. Every farmer in Wales already contributes and has the potential to further contribute to practical environmental farm

management that includes the protection and enhancement of existing features on their farm and the maintenance of actively farmed land to support biodiversity, carbon, soils, water and air quality.

The aim should be to deliver landscape scale sustainable management of natural resources in line with the aspirations of the Environment Act and Natural Resources Policy. This scheme could be points based and delivered multi annually through existing RPW portals.

The ambition would be to have the maximum amount of farmed land under the scheme. The success of the scheme will be dependent on the ability of farmers to understand and want to participate in the scheme. The scheme must be designed in genuine partnership with the farming industry and properly trialled and piloted ahead of rollout.

Complimentary to the farmed environment scheme would be an advanced scheme for farmers who wish to go above and beyond the measures available in the farmed environmental scheme. The scheme would be suited to those farming in designated areas or with designated sites on their farms, those with significant natural constraints on their farms and those who have already been involved in agri-environment schemes for a significant number of years. This option could also have a specific element for organic farmers. The scheme could be a mix of points based and capital measures.

- **Productivity Measures**

Investment measures are required to facilitate the development of farm businesses with funding made available to support investment in modern on-farm infrastructure, the latest technology and innovation. Our vision proposes instruments like capital grants and incentivisation measures. The focus would be on delivering production and resource efficiencies which in turn would also have positive environmental impacts, for example, reduced emissions per unit of production. Investments in infrastructure and equipment will also benefit water and air quality and improve soil health.

Closely linked with the productivity measures and the advanced farmed environment scheme - and based on the concept of supporting and incentivising farmers through an iterative process of measurement, action and review - would be a knowledge exchange and skills element.

Through this measure individual farm businesses would be encouraged to participate in a programme of targeted and integrated knowledge exchange, advice and incentives across a range of specific themes to drive forward measurable improvements in economic and environmental performance. Examples of key themes could include climate change mitigation measures, animal health and welfare, environmental management and enhancement, grassland management, soil and nutrient management and health and safety.

- **An Integrated Sustainable Agriculture Programme**

We believe that our policy based on these three cornerstones combine to give a truly integrated and sustainable agriculture programme that will continue to deliver and enhance our contribution to the well-being goals established in the Future Generations Act and the sustainable management of natural resources enshrined in the Environment Act.

Collectively the three cornerstones deliver more than the sum of their parts, removing one would undermine the effectiveness of the other two. Farming businesses need stability to be able to deliver

environmental outcomes for society and it is only from a position of stability that farming businesses are able to invest in new technology and productivity measures.

Our policy would deliver increased financial resilience; improve environmental performance; safeguard and promote self-sufficiency; support the Welsh food and drink industry - Wales' biggest employer; drive investment, innovation and productivity; promote rural jobs and support social,

cultural, economic and environmental outcomes alongside the continued maintenance and enhancement of our treasured Welsh landscape.

COVID-19 and future farming policy

There can be no doubt that the challenges of the past twelve months provide an entirely new context for future policy development. The coronavirus pandemic is a crisis that has impacted on the everyday lives of every citizen, inflicting lasting damage to many sectors of the Welsh economy and challenging the resilience of many systems required to sustain everyday living.

In June 2020, NFU Cymru published its paper '[COVID-19 and future farming policy](#)'. The paper highlighted that COVID-19 has touched all our lives, empty supermarket shelves and ensuring food is provided to the clinically vulnerable have reminded us of the need for safe, high quality, affordable food as a basic requirement for every citizen. The overnight closure of our cafes, restaurants, pubs and bars have exposed the fragility and inequity in our food supply chains. Parallel to this, the concerns of over a million people over the direction of travel of UK Government trade talks have manifested in the signing of our NFU petition on future standards.

These events highlight that food security and ensuring a stable supply of home produced, high quality food for consumers is most certainly in the nation's interest and should be a priority for governments. People care about the food they eat, how it is produced and where it comes from, people want to see food sustainably produced.

The COVID-19 crisis has also come at a time when farming faces a very uncertain future – as well as uncertainty about the impact of coronavirus on our economy and food supply chains; there is uncertainty in terms of trade deals with countries in the years ahead which will all have significant implications for our trade in food. This is set against a backdrop of much longer-term uncertainty about the impact of climate change on society, on our natural environment and of the role farming will need to play in feeding a growing population with diminishing resources.

NFU Cymru is clear we must take time to reflect and contemplate on the lessons learned from COVID-19 and how these lessons shape our future. There can be no doubt that its impacts call for new and radical thinking on the future food and farming policy in Wales, post the UK's departure from the EU and the Common Agricultural Policy (CAP).

There is a responsibility upon all of us to look afresh at agricultural policy, taking this opportunity to define the pathway to a better, stronger, and greener Wales for farming, for society, our economy and for nature after the crisis. Whilst the White Paper refers to the COVID-19 pandemic and food security, the extent to which Welsh Government addresses many of the issues brought into stark focus as a result of the pandemic through its proposals is disappointing. Welsh Government's White Paper falls well short of an effective food and farming policy for Wales for the next 15 to 20 years.

- **Food security**

We are clear that food security and resilience should be embedded as key objectives in future agricultural policy whilst also securing and enhancing farming's wider contribution to economic, social, cultural and environmental well-being in Wales.

NFU Cymru does not advocate that the UK should be fully self-sufficient. However, we have long held the view that Welsh Government should have higher regard of the contribution that domestic food production has towards our food security. COVID-19 impacts on our food supply chains have served to highlight that it is a matter of strategic national interest to ensure that our country can feed itself and a high level of domestic production in a volatile world is critical aspect of food security.

We believe that, in the context of predicted challenges to our global food production systems, Wales has a social responsibility to contribute to global food security, when food production systems are expected to be more challenged as a result of a changing climate elsewhere.

Resource efficient and resilient domestic food production also plays an important role in limiting our global ecological footprint and displacing the environmental impact of food supply to overseas, where environmental and animal health and welfare and social standards may be lower. This aligns with the duties established in the Well-Being of Future Generations Act and the goal of being a globally responsible Wales.

- **Food, farming and the green economic recovery**

It should also be recognised that COVID-19 has impacted significantly on business and has necessitated government intervention on an unprecedented scale. With no guarantee of quick economic recovery attention has started to shift to supporting longer-term economic recovery.

In Wales, Welsh Government's recovery response approach provides the opportunity to build on the foundations of 'Prosperity for All: the Economic Action Plan' and strengthening and maximising the impact of the four foundation sectors: food, tourism, retail and care. These sectors have been identified on the basis of the number employed, the essential goods and services they provide, and their geographic distribution reflecting the fact that these sectors are the backbone of many local economies. Food and farming in Wales offers genuine opportunity for green growth based on circular economy principles.

Employing 60,000 directly, Welsh farming provides the ingredients for the Welsh food and drink sector worth over £7.47bn and employing over 229,000 people – Wales's biggest and growing industry. Policies to support the sustainable recovery and growth of Welsh food and farming will be pivotal in providing the pathway to green economic recovery in Wales as a whole. Future farming and food policies should be united in their ambition and work towards a common goal from farm to fork.

Welsh farmers have the ambition to become leaders in producing the most climate-friendly food in the world recognising our key role as an anchor industry providing a platform for sustainable growth of other sectors such as tourism and Welsh food and drink. There are compelling reasons why future agricultural policy should reflect and provide the framework to deliver on this ambition.

Sustainable Land Management: Future Policy and Support

Policy intent

Firstly, NFU Cymru is pleased that Welsh Government, through the White Paper, continues to recognise the strong case for supporting farmers in the future. However, we would express concern at the lack of clarity provided to our members through the White Paper. We accept that Welsh Government is consulting on the high-level legislative framework for future support for agriculture, however, we have found our engagement with members has been hampered by the lack of detail and meaningful proposals that would aid our members understanding of what scheme participation will look like on the ground. It is a source of significant concern that despite two consultations,

farmers are no clearer with respect to what is set to replace the Basic Payment and Rural Development Schemes with very little idea about what they will be required to do in practice and what level of reward they can expect. The level of uncertainty is a source of great concern and anxiety within the industry as a result.

Whilst Section 3 of the White Paper proposes a policy to deliver change, there is a lack of vision with respect to the extent and nature of that change and what this means for Welsh agriculture.

We note the Agriculture (Wales) White Paper includes no definition of agriculture. This is provided within the Agriculture Act 1947 as follows:

(1) In this Act the expression “agricultural land” means land used for agriculture which is so used for the purposes of a trade or business, or which is designated by the Minister for the purposes of this subsection, and includes any land so designated as land which in the opinion of the Minister ought to be brought into use for agriculture: Provided that no designation under this subsection shall extend—
(a) to land used as pleasure grounds, private gardens or allotment gardens, or
(b) to land kept or preserved mainly or exclusively for the purposes of sport or recreation, except where the Minister is satisfied that its use for agriculture would not be inconsistent with its use for the said purposes and it is so stated in the designation.

Agricultural

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

Good estate management

For the purposes of this Act, an owner of agricultural land shall be deemed to fulfil his responsibilities to manage it in accordance with the rules of good estate management in so far as his management of the land and (so far as it affects the management of that land) of other land managed by him is such as to be reasonably adequate, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce and the quality and quantity thereof.

Good husbandry

(1) For the purposes of this Act, the occupier of an agricultural unit shall be deemed to fulfil his responsibilities to farm it in accordance with the rules of good husbandry in so far as the extent to which and the manner in which the unit is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) is such that, having regard to the character and situation of the unit, the standard of management thereof by the owner and other relevant circumstances, the occupier is maintaining a reasonable standard of efficient production, as respects both the kind of produce and the quality and quantity thereof, while keeping the unit in a condition to enable such a standard to be maintained in the future.

(2) In determining whether the manner in which a unit is being farmed is such as aforesaid, regard shall be had, but without prejudice to the generality of the provisions of the last foregoing subsection, to the extent to which—
(a) permanent pasture is being properly mown or grazed and maintained in a good state of cultivation and fertility and in good condition;

(b) the manner in which arable land is being cropped is such as to maintain that land clean and in a good state of cultivation and fertility and in good condition;

(c) the unit is properly stocked where the system of farming practised requires the keeping of livestock, and an efficient standard of management of livestock is maintained where livestock are kept and of breeding where the breeding of livestock is carried out;

(d) the necessary steps are being taken to secure and maintain crops and livestock free from disease and from infestation by insects and other pests;

(e) the necessary steps are being taken for the protection and preservation of crops harvested or lifted, or in course of being harvested or lifted;

(f) the necessary work of maintenance and repair is being carried out.

We observe the inclusion of this definition would be helpful for framing the context of proposals, NFU Cymru is clear proposals for future support should operate within the Agricultural Act 1947 definitions i.e scheme design should be compatible with the 1947 definition and support should be targeted exclusively to those undertaking agricultural activity as per the Act.

Welsh Government proposals appear to lack clear policy intent (other than the need to address the 'climate emergency' and the 'biodiversity crisis'). The ambiguity is not assisted by Welsh Government's use of language within the consultation which, in places, is contradictory, subjective and in some instances highly emotive.

Paragraph 2.44, for example, refers to the '*impacts of some intensification practices on farmland*'. NFU Cymru asks Welsh Government to define what it means by intensification practices and the extent of such practices in Wales.

NFU Cymru does not accept this as a characterisation of Welsh farming. The report published by Hybu Cig Cymru in 2020, '*The Welsh Way: Towards Global Leadership in Sustainable Lamb and Beef Production*', for example, states:

"Welsh farmers can be proud that we produce high-quality protein on marginal land, which is largely unsuited for arable crops. We do so overwhelmingly in non-intensive systems, using grass and rainwater to rear animals, thereby avoiding contributing to deforestation and unsustainable use of water resources elsewhere in the world".

Paragraph 2.55 refers to farmers '*adopting SLM (supported by advice and funding) to improve the efficiency of their business model whilst operating within the natural capabilities of their land, reducing their reliance on external inputs and accessing the financial support for the delivery of environmental outcomes*'.

Welsh Government has provided no explanation of what it means by 'natural capabilities'. This could be interpreted, by some, as a 'reduction to zero' of external inputs which is clearly not the same as 'reducing reliance'.

If Welsh Government intend reductions to zero, then we believe its emphasis is wrong. The focus of future policy should be to optimise the use of inputs. Nitrogen fertiliser, for example, is a crucial nutrient for good healthy crops and will continue to be needed to ensure that we meet the food needs of our growing population. Most agricultural soils do not contain enough naturally occurring nitrogen to meet crops needs, so supplementary applications using manure or manufactured fertilisers are vital.

NFU Cymru is clear that a policy that pursues 'natural capabilities' of the land at farm level as suggested represents a theoretical 'blind alley' in respect of Wales' contribution as a nation to global sustainability. Such an approach fails to recognise that feed, fodder, livestock have always moved between farms, denoted by the culturally significant practice of the 'hafod a hendre' system of livestock grazing; the procurement of feed and fodder by livestock farmers from arable farms provides uses for co-products and by-products unsuited to human consumption. These are beneficial practices and involve moving of resources beyond farm boundaries. Proponents of 'natural capability' are in effect arguing for a downscaling of 'Welsh Agriculture Plc' with no regard for the economic impact and jobs, and ultimately little regard for the environment given the clear outcome of such an approach will be a decline of Welsh agriculture and an off shoring of production to places where Welsh Government will have little control over the standards and impacts of those production systems. This is neither a sustainable or globally responsible position.

This level of ambiguity and poor use of language is deeply concerning to NFU Cymru, if taken forward into the Agriculture Bill, more extreme interpretations could impact severely on Wales'

productive agricultural capacity. This is unacceptable and likely to be detrimental to the Welsh food and farming sector in Wales.

- Food production

Throughout the White Paper, we identify there is a lack of focus on food production and food security. The emphasis is placed on future policy intervening in the process of food production to maximise the delivery of environmental outcomes. That is not the same as a policy that underpins food production. We are concerned about the lack of safeguards to ensure that levels of food production and food security is maintained and about the impact of policy proposals, specifically their potential to drive land use change, with consequences for Wales' agricultural productive capacity, but also profound impacts for the rural communities affected. There appears to be no objective framework proposed within the White Paper to ensure a balance of objectives is achieved. NFU Cymru remains disappointed with Welsh Government's apparent lack of ambition for the sustainable growth of the Welsh food and farming sector.

We believe this to be an inherently unsustainable position for Welsh Government to adopt. Access to high quality, safe, affordable food is the most basic of requirements for all citizens and it is critical to our well-being.

The evidence clearly shows that food production will be increasingly important in the future. The UK Government's Foresight Report (2011), for example, highlighted that our global food production system will face many challenges in the coming decades. Pressures include:

- Increases to the global population to an estimated 9 billion by 2050.
- Changes in the size and nature of per capita demand including increasing demand for higher quality protein diets as a result of rising wealth.
- Future governance of the food system at both national and international levels including the extent to which governments act collectively or individually to face future challenges.
- Climate change which will interact with the global food production system in two ways. Firstly, growing demand must be met against a backdrop of rising global temperatures and changing patterns of precipitation and secondly, policies for climate change mitigation which have the potential to significantly affect the food system
- Competition for key resources including land for food production, global energy, and water demand.

Wales is fortunate in that it is expected to become an area increasingly favoured for agricultural production in future, when compared to other regions across the world where climate change impacts are expected to be more severe and disruptive. As such, the important contribution to our own and global food security should be recognised and embedded into ambitions for the sector and future agriculture policy.

Mechanisms must be established within the Agriculture (Wales) Bill to ensure food security and agricultural productive capacity are maintained and enhanced.

- Stability and Transition

The White Paper suggests the state of the economic and environmental challenges confronting us, together with the need to act urgently, means that maintaining the status quo for agriculture in Wales is no longer an option.

NFU Cymru does not agree. We are keen to emphasise that we are not protecting the status quo, however, we have genuine concerns that Welsh Government continues to fail to recognise the key

role that the Common Agricultural Policy, particularly Pillar 1, has served in providing stability and underpinning farm business viability in Wales.

We remind Welsh Government that, throughout Europe, the Common Agricultural Policy has been a partnership between agriculture and society with the core aims of:

- Supporting farmers and improving agricultural productivity, so that consumers have a stable supply of affordable food;
- Ensuring that EU farmers can make a reasonable living;
- Helping to tackle climate change and the sustainable management of natural resources;
- Maintaining rural areas and landscapes across the EU;
- Keeping the rural economy alive promoting jobs in farming, agri-food industries and associated sectors.

We identify the objectives of the CAP remain as relevant in Wales today as ever. We are concerned that Welsh Government continues to provide no evidence that the direction of travel it proposes, i.e. a policy that focusses on rewarding the delivery of environmental outcomes, can be effective in providing the same broad range of benefits currently provided by the CAP. We believe Welsh Government's continued failure to acknowledge the need, through policy, to provide stability to Welsh farm businesses imperils individual businesses, sectors, the supply chain and the future of our rural communities.

There is a similar lack of confidence in continued assertions from Welsh Government, again not backed up by evidence, that advisory services can be effective in mitigating for the loss of income stream provided by the Basic Payment Scheme. Throughout the White Paper, Welsh Government demonstrates a complete lack of understanding of the need, through future policy, to address competitiveness and provide a level playing field for farmers in Wales with our counterparts.

The importance of a stable and well-planned transition from the current CAP to a new policy developed, designed and implemented in Wales cannot be overstated. We strongly believe, in the context of profound uncertainty, Welsh Government's aim, through its devolved powers, should be to provide a level of stability and certainty to the food and farming industry for all the benefits it provides.

NFU Cymru does not support the phasing out of the CAP architecture: Basic Payment Scheme and Rural Development measures until there is clear evidence that replacement scheme(s) can deliver at least the same level of stability for farming businesses, the food supply chain and rural communities that is currently delivered. This can only be achieved through comprehensive impact assessments, modelling and piloting of proposed new schemes.

Welsh Government has provided limited information on the transition it proposes to new schemes. We see the design and implementation of a new bespoke policy for Wales occurring through a process of evolution rather than revolution. We reiterate NFU Cymru's long held position that change should be managed, as far as possible, to minimise disruption between individual farm businesses, sectors and regions of Wales.

Overall, NFU Cymru would reiterate our position that the transition to a new policy should not commence until there is clear evidence through impact assessment, modelling and piloting – that replacement scheme(s) can deliver at least the same level of stability for farming businesses, the food supply chain and rural communities. Future policy must secure the maintenance and enhancement of the £1,602million aggregate agricultural output achieved currently or our rural communities will be poorer and our economic position as a nation weakened.

- Funding

NFU Cymru would highlight that in order to meet our ambition to deliver further sustainable growth of the food and farming sector in Wales, to further improve our environmental performance and to achieve our ambition for net zero agriculture by 2040 we need to secure a commitment to a well-funded multi-annual budget for Welsh farming.

We are disappointed that the White Paper provides very little clarity with respect to the funding framework for the proposed agricultural policy. The need for long-term commitment to the delivery of environmental objectives is well evidenced (see for example GMEP). The White Paper refers numerous times that the policy will build economic resilience over the long-term. We note Welsh Government proposals to include a duty on Welsh Ministers to make an annual statement to the Senedd on the budget for direct agricultural support. This suggests the budget could vary on an annual basis which clearly does not align with the long-term commitment needed.

Throughout the White Paper, funding is framed as 'direct agricultural support'. This appears to be incongruous with what Welsh Government actually proposes. The central proposition within the White Paper is one of government procuring a range of environmental outcomes to address the 'climate and ecological emergency'. In this context NFU Cymru believes it is disingenuous to present proposals as agricultural support. If Welsh Government wishes to pursue a policy centred on the delivery of environmental outcomes then the budget should reflect that ambition of government in this regard, this is not reflected in the current narrative.

In addition, whilst we welcome the proposal from Welsh Government that they will move from traditional agri-environment schemes which paid farmers on the basis of compensation for income foregone and additional costs incurred, this will be essential. The lack of information provided on the alternative methodology by which environmental outcomes are to be valued is deeply concerning. At this stage we would suggest there is insufficient information upon which to judge whether Welsh Government proposed direction of travel will, in reality, provide a meaningful income stream to farmers that it asserts. Whilst, we observe the White Paper states the future scheme will improve farm business resilience by providing an income stream not tied to the markets for agricultural products, the extent to which scheme participation will interfere and negatively impact in the quantity and quality of those agricultural impacts also remains far from clear and needs to be considered.

Welsh Government's statement that they '*want farmers to regard their input costs to meet the requirements of the scheme as an investment in order to reap the reward of continued payments for the outcomes they deliver*' is also deeply worrying and demonstrates a real lack of understanding of the underpinning role of BPS to farm business viability currently. Without the BPS or some sort of stability payment then farmers simply will not have the resources at their disposal to fund any input costs and actions. This is likely to impact more severely upon the tenanted sector. Whilst Welsh Government may suggest that farmers should secure borrowing from lenders to cover these costs, the proposition is unlikely to look attractive given that the overall ambition of the scheme appears to place limits on agricultural production and devalue agricultural land. Such losses to the farm balance sheet will need to be reflected in the future scheme payments if it is to represent a realistic proposition. As with current agri-environment schemes, a capital grant element will be essential to fund environmental action on the ground.

The issue for funding was brought into sharp focus in November 2020 as a result of the Comprehensive Spending Review which resulted in significant reduction in funding as the UK Treasury 'netted off' £95m - the value of unspent funds from the RDP 2014-2020 expected to be spent in the 2021/22 financial year. A predicament that Welsh Government could have avoided had it pushed ahead and accelerated the rate of delivery of the RDP 2014-2020 as NFU Cymru asked on many occasions, following the outcome of the EU Referendum in 2016.

UK Treasury also failed to provide £42m Pillar Transfer funds (15%) applied to the 2020 BPS which should have been available for the 2021 'domestic' RDP – the 15% pillar transfer was decided by

Welsh Government without consultation and without impact assessment. The decision is incomprehensible in the context of the level of unspent funds in the RDP 2014-2020 programme at that time.

In addition, at the time of writing, it has not been confirmed whether Welsh Government intend to honour its commitment of domestic co-financing for the 'domestic' RDP valued at £40m per year, representing a further very significant loss of funding from rural areas.

This is deeply disappointing given that during the build up to the EU Referendum and thereafter, we have been consistently told that funding for Welsh farming would be maintained and protected following our departure from the EU. We have been told Welsh farming would not receive a penny less in funding as we move out of the CAP. We have sought but not received urgent clarification from our elected governments as to how they will resolve this funding shortfall.

We have concerns the lack of commitment to adequate funding now sets a dangerous precedent for the future, placing Welsh farming and the rural communities they underpin into jeopardy, also hindering Welsh Government's ambitions for future policy. In terms of future funding, NFU Cymru has long been clear that not a penny less in line with Ministerial commitments means the value of Pillar 1 and Pillar 2 funds including the domestic co-financing obligation upon Welsh Government for rural development. From 2024 we expect this to mean the value of direct payments to farmers (Pillar 1) of approximately £238m on an annual basis as well as rural development payments (Pillar 2) of £119m (including £40m domestic co-financing). We expect over £350m of funding to be available annually to resource the Sustainable Farming Scheme if commitments made by our governments are to be honoured.

However, we are also clear that, if Welsh Government has a genuine ambition for environmental delivery beyond current levels, then this ambition needs to be appropriately and sustainably resourced through the provision of realistic, multi-annual funding commitment commensurate with the scale of ambition.

We do not believe Welsh Government's ambitions can be met by diverting funds currently used to provide stability to farm businesses to the delivery of environmental outcomes. We are clear that Welsh farmers can only be in a position to invest in productivity and deliver environmental outcomes for society from a position of stability. Welsh Government's continued failure to recognise this is a matter of deep concern to us and must be addressed in the future legislative framework.

We are also concerned at references within the White Paper to the replacement of the BPS and EU agri-environment schemes with a single direct support scheme. Welsh Government will be aware that there are other RDP measures, and therefore, budget allocations that farmers are able to access through the current RDP. This includes the Sustainable Production Grant, Farm Business Grant, Farming Connect and the Sustainable Management Scheme, accepting that genuine farmer-led applications have had limited success through the application process which appears to favour eNGOs.

It appears Welsh Government propose to retain many of the measures, for example, advice and guidance, but without the budget for their delivery. This is unacceptable. We reiterate, the budget must reflect the scale of the ambition and at a minimum equate to the current budget position for farming.

- **Sustainable Land Management**

NFU Cymru notes Welsh Government's proposals to establish Sustainable Land Management as the overarching principle for future agricultural policy, including future support. Sustainable Land Management has been defined by Welsh Government as:

“The use of land resources, including soil, 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 environmental benefits”.

As per our response to the Sustainable Farming and our Land consultation, NFU Cymru does not support this definition. We do not believe it recognises adequately the economic, environmental, social and cultural contribution of Welsh farming in line with the Well-Being of Future Generations Act or the need for policy to ensure that the continued delivery of this broad range of outcomes. This includes the production of safe, high quality food and providing stability to Welsh farms.

We are disappointed that Welsh Government appears not to have reflected on this following the Sustainable Farming and our Land consultation and take this opportunity to refer again to the definition for sustainable land management provided by The World Bank which refers to:

“a knowledge-based procedure that helps integrate land, water, biodiversity and environmental management (including input and output externalities) to meet rising food and fibre demands whilst sustaining ecosystem services and livelihoods”.

We believe this definition provides for a framework that is more closely aligned with the legislative framework established by the Well-Being of Future Generations Act and the need for future agricultural policy to ensure the continued delivery of food as well as economic, social, cultural as well as environmental outcomes.

NFU Cymru remains absolutely clear, and COVID-19 has only served to reinforce the fact, that the continued supply of safe, nutritious and sufficient food and the reduction of rural poverty through sustaining farm incomes are equally important policy goals for society. We are concerned that measures that deliver these goals remain largely absent from Welsh Government’s White Paper and assert that should Welsh Government want to progress sustainable land management as the overarching principle for future agricultural policy, including future support, then pursuit of economic, environmental, social and cultural goals should be explicit within the definition.

We are concerned that Welsh Government, as far as we are aware, has not undertaken any objective assessment of the extent to which the application of sustainable land management principle (as currently presented) secures the continued flow of the full range of goods and services currently delivered by Welsh farming.

- **Non-market goods**

NFU Cymru notes the White Paper proposes that the Sustainable Farming Scheme should reward farmers appropriately for the production of non-market goods. Welsh Government have provided no formal definition of what it means by non-market goods which, at this stage, is concerning and undermines the quality of the consultation.

We note the consultation refers to improved soils, clean air, clean water, improved biodiversity and climate change actions. A broader range of goods can be found within the Integrated Impact Assessment. However, NFU Cymru believes the range of goods Welsh Government appear to suggest it will reward (in the absence of a comprehensive definition) is too narrow and constraining. Welsh Government has not provided any explanation or objective methodology by which public goods have been or will be identified. This only intensifies concerns expressed above in relation to the narrow definition of sustainable land management as the overarching principle for future agricultural policy.

NFU Cymru is keen to reiterate we recognise the role we have to play as farmers in delivering a broad range of environmental goods alongside our core role as food producers, which provides the economic, social and cultural underpinning of Wales' rural areas. We remain staunch in the belief this is not an either/or scenario – farming and the environment go hand in hand – the delivery of these outcomes is intrinsically linked.

Similarly, NFU Cymru does not accept, as Welsh Government continues to assert, that goods are, by definition either market or non-market. The Institute of European Environmental Policy (IEEP) rightly recognises that pure public goods are, in fact, rare. We have highlighted in previous consultations that many goods operate across a spectrum of market failure. For example, markets exist for carbon.

IEEP also provide a more comprehensive definition of the public goods arising from farming specific to the UK which includes:

- Agricultural landscapes
- Farmland biodiversity and protection of pollinators
- Water quality and availability
- Soil functionality
- Climate stability (emissions reductions and sequestration)
- Air quality
- Resilience to flooding and fire
- Rural vitality
- Food security
- Farm animal welfare and animal health

NFU Cymru believes this more comprehensive list should be included within the Agriculture Bill. We are disappointed that Welsh Government appears to have undertaken no analysis of the range of goods and services provided by farmers currently. Without this analysis and in proposing a very constrained list of non-market goods there is the significant risk that the benefits appreciated and valued by society currently will be lost through a policy approach that financially rewards the delivery of a very specific suite of outcomes. There is also potential for very significant unintended and adverse consequences.

NFU Cymru remains concerned that, thus far, Welsh Government has failed to set out the methodology by which public goods are to be selected for inclusion in the scheme.

In the development of future policy, Welsh Government continues to pay no attention to the broad range of public benefits provided by farming which deliver important economic, environmental, social and cultural outcomes currently. This is deeply worrying given that there can be no assumption that these goods and services will continue to flow in the future.

We believe the proposed future Act must include a definition of non-market goods that recognises the fact that 'pure' public goods are rare, also specifying comprehensively the full range of public goods arising from agriculture currently in order that their delivery can be supported and secured for the future.

- **Outcomes**

NFU Cymru notes that the White Paper places an emphasis on the delivery of outcomes which are not currently rewarded by the market.

This appears to diverge from proposals contained within the Sustainable Farming and our Land consultation which referred to payment for actions that delivered, mainly environmental, outcomes.

We seek clarification from Welsh Government with respect to this matter. The principle of outcomes and so-called 'results-based approaches' was considered in detail in the NFU Cymru response to the Brexit and our Land consultation.

We are clear that objective analysis of the 'pros and cons' of an outcome-based approach is vital before moving forward. As highlighted previously, results-based approaches are not new *per se*. Funded mainly via the EU Rural Development Programme, farmers have been paid for clearly defined biodiversity and other environmental outcomes for over two decades.

However, it appears that results-based approaches have, thus far, focussed on the delivery of a single priority environmental outcome as opposed to the delivery of multiple public goods. In the European context, results-based approaches have operated within the context of and not as a replacement to the CAP. Farm businesses in receipt of direct Pillar 1 payments are able to engage in the delivery of environmental outcomes from a position of relative stability. This is a very different context to that proposed by Welsh Government within the White Paper.

Overall, we remain concerned that a focus on outcomes will embed an inherent volatility into the key support mechanism that, Welsh Government states, will improve farm business resilience by providing an income stream. Again, we believe this assumption is highly questionable.

We seek clarity with regards to Welsh Government proposals to place a duty on Welsh Ministers, in an annual statement to the Senedd, to include an estimate of the outcomes to be delivered in that year together with a target for the amount of delivery for each outcome. We ask Welsh Government to provide information on the methodology by which these outcomes are going to be determined and seek reassurances around what will happen should that level of outcome not be secured for reasons beyond the control of individual farms.

We are clear the Annual Statement should include agricultural outputs on a sector-by-sector basis and in line with the requirements of a balanced diet together with an assessment of the extent to which food security is being achieved. The Annual Statement should also assess fairness and the ability of Welsh farmers to be competitive within UK, EU and global markets as a result of Welsh Government policies; also providing an assessment of the cost of meeting the National Minimum Standards.

NFU Cymru support the idea that public investment in farming should and can be justified. However, the lack of robust framework within the White Paper to set out objectively how outcomes are to be determined and the scale at which they are to be delivered continues to be a concern. For example, it is not impossible to foresee a scenario whereby the budget allocation is used in full to address climate change through the very restricted parameter of tree planting with dire consequences for rural Wales. The lack of appropriate safeguards to prevent this must be addressed by Welsh Government in the Agriculture Bill. Statements made by Welsh Government such as *'the proposals in this White Paper will result in some visible changes at a landscape scale'* do nothing to allay concerns providing no clarification whatsoever on the extent of the change proposed.

With respect to decarbonisation, NFU Cymru is clear of the role Welsh farming to play in contributing to decarbonisation of the economy, having published our vision for Net Zero Agriculture 2040 last year. We are supportive of measures that facilitate and adequately reward additional woodland planting and ongoing management on farms. It should be noted the [NFU Cymru Vision for Welsh Upland Farming](#) survey undertaken in 2020 of over 700 farmers identified new forestry planting (alongside rewilding, species reintroductions) as a key threat to upland communities. We identify widespread land use change through afforestation at scale is likely to be highly emotive and strongly resisted. We are clear that the burden of decarbonisation must not fall unequally on the farming sector or, indeed, on rural Wales.

Welsh Government must provide clarification on the scale of land use change it anticipates will be delivered through future agricultural policy. NFU Cymru is clear Welsh Government must establish a framework to guide land use change decisions so that it properly considers long-term economic, environmental, social and cultural impacts of policies. This decision-making framework must be included within the Agriculture Bill and ensure Welsh Government pursues a balanced approach and social justice for rural communities.

- **Purposes**

NFU Cymru notes proposals to provide Welsh Ministers with the powers to fund the following purposes in support of the delivery of sustainable land management and we make the following comments, with respect to each purpose:

“To enable and support the development of long-term farm business and primary supply chain resilience arising from increased delivery of outcomes through sustainable land management alongside and through the production of food, including support or collaborative actions between farmers and between farmers and others”.

As highlighted previously, long-term farm business resilience requires a long-term multi-annual commitment to funding, which appears contradictory to the duty to make an annual statement on budget. The extent to which a focus on the delivery of SLM outcomes can secure farm business resilience also requires detailed examination before moving forward.

With respect to collaborative actions, NFU Cymru is clear that collaboration (or the absence of) should not present a barrier to scheme participation.

We do not agree with proposals to provide support for collaborative actions with ‘others’. We are clear, in line with our principles, that support should be targeted at the active farmer taking the risks associated with food production. We identify that ‘others’ whether in the public or third sector have a range of other funding streams available to them and they do not fulfil the same underpinning anchor role that Welsh farm businesses occupy in rural communities.

Further comments relating to eligibility are provided later in this response.

“To improve the delivery of animal health and welfare standards beyond the legal baseline”.

This should be amended to read “maintain and improve”.

“To provide partnership funding for joint working with academia and other stakeholders such as private sector and levy bodies to drive the development and adoption of innovation and knowledge transfer in support of sustainable land management delivery”.

NFU Cymru does not support partnership funding for joint working with academia and other stakeholders as we are clear a range of other funding mechanisms exist at UK level. We are also clear future agricultural policy should not result in the duplication of levy funded activity.

“To provide necessary advice, training and continuing professional development to farmers in pursuit of the delivery of sustainable land management”

Comments relating to advice and guidance will be provided in a later section of this response. We do not agree with the proposition that advice, training and continuing professional development should be limited to the delivery of sustainable land management given its very restricted definition.

“To enable and support the decarbonisation of the Wales agricultural sector to meet the Welsh Government’s net zero by 2050 ambition. To include measures to support adaptive actions enabling farmers and land managers to improve climate change resilience”.

NFU Cymru’s Net Zero Agriculture 2040 Vision was published in 2020. This recognises the role we have to play in building a zero-carbon economy. We are clear there are ‘no silver’ bullet solutions to achieving ‘net zero’ agriculture. Action to tackle climate change in our sector requires a portfolio of different policies and practices focussed on three key themes:

- 1 Improving farming’s productive efficiency, to reduce our GHG emissions;
- 2 Farmland carbon storage in soil and vegetation recognising that farming is already responsible for critical carbon resource in soils, wooded landscape and semi-natural habitat which should be conserved and enhanced; and
- 3 Boosting renewable energy and the bio-economy, to displace GHG emissions from fossil fuels, and to create GHG removal through photosynthesis and carbon capture.

Delivery of our Net Zero Agriculture 2040 ambition will require a long-term commitment from government through policy and funding. We welcome the inclusion of this purpose, but we are clear that achievement of net zero cannot be accomplished through a reduction of agricultural output in Wales, food production or our ability to respond to markets. This would be to simply export the impact of food production of other parts of the world which would be inherently unsustainable. The Agriculture Act will need to incorporate mechanisms to ensure decarbonisation is not achieved through offshoring. We identify this is a significant gap in proposals currently.

“To increase levels of carbon sequestration through land management, (including woodland creation and management, the introduction of agro-forestry, the restoration of peat bog, salt marsh restoration and increasing levels of soil organic matter in improved agricultural land) to help achieve the requirements of Welsh Ministers with regard to the delivery of Welsh Government’s ‘net zero by 2050’ ambition”.

As per comments above, we are concerned at the lack of overarching strategy/framework by which levels of each outcome can be objectively determined with appropriate checks and balances to ensure the full range of benefits provided by Welsh farming can continue to be delivered.

In addition, the role of grassland in carbon sequestration should be included.

“To significantly reduce or eliminate ammonia and any other losses from farms to air and water which are harmful to public health and/or injurious to riparian and other sensitive habitats”.

Remove ‘eliminate’ as it is impossible to reduce to zero ammonia from some livestock farming systems. An extreme interpretation to achieve the goal of eliminating ammonia could result in widespread ‘de-stocking’ which NFU Cymru would not support. ‘Other losses’ need to be specified within the purpose.

“To increase levels of farm biodiversity and wider habitat and ecosystem resilience associated with agriculture and agricultural practice including through the sustained improvement of soil health”.

This should be amended to read “maintain and improve” else it will not be possible to pay for the ongoing management of habitats in good condition leading to their deterioration.

This purpose needs to include reference to the role of native breeds of livestock in line with AICHI target 13 which affords protection for the genetic diversity of our farmed livestock. This purpose should also include reference to pollinators.

“To support appropriate public access to farm land for leisure or educational purposes”.

NFU Cymru would place on record that it does not support Welsh Government proposals to increase levels of public access currently being pursued via the Access Reform Group. Where increased access is provided this should be permissive and rewarded through the future agricultural policy with appropriate levels of capital funding made available for infrastructure.

NFU Cymru does not believe the purposes proposed within the White Paper is comprehensive. The following additional purposes should be included:

- *To enable and support the maintenance and enhancement of Wales’ agricultural productive capacity and food security to provide a stable supply of safe affordable food;*

This will be vital in the context of the predicted challenges to our global food production system over the next 15 to 20 years.

- *To enable and support improvements in agricultural productivity;*

We observe this has been de-emphasised within the White Paper when compared to previous consultations. We strongly believe this should be explicit within the Act and it is not sufficiently addressed within any of Welsh Government proposed purposes currently.

- *To enable and support improvements to the competitiveness of agriculture;*
- *Future policy must not further undermine the competitiveness of Welsh farming.*
- *To enable and support farmers to make a reasonable living to underpin the rural economy and employment, rural vitality, culture and the Welsh language;*

This is needed to address the economic, social and cultural contribution of farming which is underplayed through Welsh Government’s proposed sustainable land management definition. Future policy also needs to reflect the need to provide fairness in the supply chain and a level playing field (support and regulatory) for Welsh farmers within the UK and EU markets where farmers will continue to be supported by the CAP.

- *To enable and support the maintenance of the Welsh landscape.*

NFU Cymru identify that lack of support through policy proposals for the maintenance of our iconic Welsh landscape is a significant gap. We emphasise the Welsh landscape, managed by farmers, underpins much of the Welsh tourism sector currently. COVID-19 has served to reinforce the value people place on Welsh landscapes and their contribution to health and well-being. This is a public good valued by society that should be rewarded through a future scheme.

- *To enable and support resilience to flooding and fire.*

These are clear public goods with benefits to society and so, we believe, should be included as a purpose within the Agriculture Bill.

NFU Cymru believes the inclusion of the above purposes addresses the gaps in the proposed purposes put forward by Welsh Government and would ensure the continued delivery of an important range of societal benefits.

- **Delivery mechanisms**

NFU Cymru notes the White Paper refers ‘to support taking many forms including the provision of an income stream, investment in infrastructure, advice, skills development and training, research and market development’. We further note Welsh Government propose to replace BPS and other EU agri-environment schemes with a single direct support scheme which will provide advice and support for farmers and farm businesses and reward farmers for the production of non-market goods.

We observe within the White Paper a strong emphasis on the provision of advice and guidance. This, Welsh Government identify, will be on a two-pronged approach which provides farmers with an initial assessment of current sustainability and also builds on best practice from existing advisory services such as Farming Connect to provide a comprehensive long-term service to farmers.

Firstly, with respect to the initial assessment of sustainability required, as we understand it, is mandatory for entry to the future Sustainable Farming Scheme, NFU Cymru would reiterate that we fundamentally disagree with this approach. It does not align with our key principle of a policy that is easy to administer and it will add cost and complexity and divert significant resources away from action on the ground. We continue to believe the implementation of the Farm Sustainability Review undertaken by an adviser as pre-condition of entry to the SFS will, in the end, be found to be extremely impractical on the scale required introducing significant operational challenge and delays to scheme implementation.

Welsh Government has not addressed concerns raised previously by NFU Cymru with respect to advisors and their ability to provide a proper, balanced assessment of sustainability and how advisor bias will be addressed within the process. There is also the issue of liability and where responsibility and accountability will lie when advice provided through the Farm Sustainability Review impacts adversely on the economic performance or the capital value of the land.

Welsh Government continues to provide no assessment of the cost-benefit of its proposed approach, nor does it have appeared to consider a range of options to enable scheme access. This is deeply concerning given the issues highlighted previously.

NFU Cymru remains clear that the most effective approach to provide access to the proposed Sustainable Farming Scheme would be through the modification of the existing RPW online portal. This is familiar to farmers and has been subject to significant investment of public funds and is operating effectively at the moment. We believe that through a process of adaptation the RPW online function could be amended to capture information on an annual basis on a range of goods/outcomes Welsh Government is seeking to procure through the future scheme.

For example, through the online Single Application Form (SAF) currently, comprehensive information is provided through mapping and measuring on the extent of woodland, hedges, trees as well as cropping on Welsh farms. From that it should be relatively straight forward for the RPW online system to be developed to determine carbon sequestration at Wales and farm level. RPW online could be further adapted to gather information relating to livestock and their management, nutrient status and application and without too much effort it would be possible to understand the carbon position of every farm in Wales on an annual basis. This is likely to prove more cost effective, comparable and less bureaucratic route to carbon audit than each farmer undertaking this process individually given the broad range of carbon audit tools available many of which do not bear direct comparison.

A similar approach, where delivery of a specific public good is embedded into the RPW system, could be developed for the full range of goods with information and progress provided by the farmer through the submission of an annual online application form, for which farmers would receive payment.

NFU Cymru recognises the importance of good quality advice and guidance, particularly in the area of the environment, however, we are clear this advice should be reserved for the development and implementation of bespoke contracts delivering higher level outcomes, for example, specific to species and habitats. Investment in advice and facilitation is also likely to be important and prioritised where collaborative efforts are being supported.

In terms of advice relating to the Sustainable Farming Scheme, we take this opportunity to highlight the importance of the Farm Liaison Service in providing valuable advice to farmers on the various Welsh Government schemes and regulations currently. Our members very much appreciate the invaluable service provided by the FLS team with many trusted relationships established with farmers across Wales. NFU Cymru is clear that the FLS should be retained to provide support to farmers accessing the Sustainable Farming Scheme via the online portal. We reiterate additional technical advice for scheme participation should be focussed on supporting the development and implementation of fewer, individual bespoke contracts for specialist outcomes.

Turning to the long-term advice and guidance service to farmers proposed within the White Paper. NFU Cymru observes a shift in emphasis away from advice and guidance to support productivity and the development of farm businesses towards advice and guidance to enable delivery of sustainable land management outcomes.

NFU Cymru is concerned by this proposed change of emphasis and what it will mean in practice. NFU Cymru is concerned at the lack of emphasis on productivity within the White Paper. This change further reinforces the impression that the future policy is entirely focussed on the delivery of environmental outcomes with little to support the development and sustainable growth of the food and farming sector in Wales. Time and again the White Paper seeks, through future policy, to place constraints on farm businesses with advice, guidance, all policy effort aligned for the delivery of SLM – even support for farm diversification is to be limited to the extent to which it delivers sustainable land management. Welsh Government's laissez faire approach to everything else provided by agriculture including the continued production of high-quality food, vibrant rural economies, our landscapes, communities, culture and language would seem astonishing and foolhardy.

Equally concerning is Welsh Government's continuing exaggeration of the contribution that advice and guidance can play in securing farm viability in the absence of the direct support. Welsh Government continues to provide no evidence to demonstrate this will be the case. Farming Connect, for example, has been the subject of significant investment of public funds for twenty years with little evidence as to its effectiveness or the value for money it provides. Whilst many farmers will recognise the positive contribution the programme has made, its failure to innovate is a source of considerable frustration within the industry.

We also observe that the implementation of the RDP 2014-2020 has been very poor, characterised by lack of ambition for transformational change despite the controversial maximum pillar transfer decision in late 2013 which places Welsh farmers at a direct disadvantage compared to UK and EU counterparts.

Welsh Government will be aware that early in the programming period, industry stakeholders agreed key principles for RDP implementation and worked with government on the development of strategic initiatives – overarching frameworks working across RDP measures – to enable farmers to engage in an evidence-led approach to farm business development that fully incorporated advice, guidance, appropriate incentives and investment support. This approach was thwarted by Welsh Government at every opportunity, with the result that this RDP has delivered just 'more of the same' greatly reducing its potential impact. We continue to believe that it is vital that lessons are learned and embedded into future policy through a full independent review of the current RDP before moving forward.

Whilst we are clear that productivity measures will be insufficient to mitigate for the phasing out of BPS, particularly where direct support will continue to be a characteristic of agriculture support elsewhere, we continue to believe productivity measures are going to be a vitally important component of future policy in line with our vision for the sustainable growth of the sector. We are disappointed at the lack of focus on productivity measures within the White Paper and highlight, in addition to advice and guidance, investment support in the form of well-resourced capital grant schemes that are easy to apply for will be needed to facilitate the development of farm businesses – this will be vital to deliver improvements in economic and environmental performance at farm level.

We further note that the White Paper provides no information whatsoever of the actions farmers will be expected to undertake or how the outcomes achieved through the delivery of those actions are to be valued. From the information provided NFU Cymru is unable to assess the extent to which the proposed Sustainable Farming Scheme will provide an income stream and the extent to which it will properly replace the BPS and agri-environment scheme participation currently.

Whilst we are pleased that Welsh Government commit to continue to engage with stakeholders for the future, we note the White Paper again refers to business advice being '*seen as an investment in the capacity of farmers rather than a cost to the scheme*'. Again, repeating Welsh Government's false narrative that farmers in Wales have a low skills base currently. We again ask Welsh Government to provide the evidence that this is the case. We do not agree that farmers have under-invested in professional development and observe many of our members are educated to degree standard and above. We recognise that CPD is an important component of farm business development, however, Welsh Government must recognise that many farmers are well qualified and certainly, in many instances, better qualified and experienced than the advisers sent out by government programmes to advise them. Welsh Government's perception that farming is a low skilled industry is out of touch and outdated with the reality on the ground.

- Sustainable Farming Scheme – further comments

The Welsh Government White Paper provides information on its proposed high-level framework for supporting farmers in the future through the concept of sustainable land management. NFU Cymru's comments relating to the proposed framework are detailed above, however, there remain a number of key areas where insufficient or no information has been provided which require urgent clarification.

The first relates to scheme eligibility. Whilst the White Paper proposes a direct support scheme (the Sustainable Farming Scheme) for farming, the scheme proposes to reward farmers for the production of non-market goods through the management of land in a sustainable way. The lack of clarity around actions to deliver SLM outcomes means that it is unclear of the extent to which eligibility will be restricted to active farmers, in line with the NFU Cymru key principle.

The consultation, for example, refers to rewarding farmers for the delivery of societal outcomes alongside, and as a consequence of food production. It is unclear whether food production will be a pre-requisite to scheme participation. There are multiple references to changes to land use and increasing the size of the carbon sink which imply this will not be the case. NFU Cymru strongly rejects any proposal to extend eligibility for the future scheme to a much larger broader cohort of potential beneficiaries including foresters, micro holdings and other land managers such as eNGOs. The evidence base for this fundamental shift or indeed the benefits and consequences has not been considered or presented. NFU Cymru strongly believe the future scheme should be targeted at those farmers taking the risks associated with food production for the multiple benefits they provide and recognising the anchor role farming plays in Wales' rural economy.

A policy that intends to drive changes to current land use will, of course, have inevitable consequences for some farm businesses. The impact will likely be felt most strongly within the

tenanted sector. NFU Cymru concerns relating to the tenanted sector in the context of the future scheme have been set out in previous consultation responses 'Brexit and our Land' and 'Sustainable Farming and our Land'. We also responded to the Welsh Government Agricultural Tenancy Reform in 2019 and remain clear that the proposals within that consultation do not adequately address the issues likely to arise for farm tenants accessing the future Sustainable Farming Scheme.

Participation in the scheme is likely to rely on securing Landlord's permission. This is unlikely to be secured where participation results in significant change in the use or condition of the land. The extent to which the Sustainable Farming Scheme would be classified as agricultural or non-agricultural remains unclear. Environmental options underpinning scheme participation may not align with the 1947 Agricultural Act. Given the average length of tenancy is less than five years, the ability of many tenants to secure multi-annual contracts may also be limited.

There also appear to be insufficient safeguards to ensure that the landlord does not seek to secure the Sustainable Farming Scheme payment whilst passing on the contractual obligations to the tenant, whilst also expecting a rent to be paid for the land. It is also not impossible to foresee landlords with FBT tenants issuing notices to quit so they can enter the Sustainable Farming Scheme themselves, for example, planting trees on a large area of the farm in return for payment. This is a deeply concerning prospect that Welsh Government must address through the development of future policy.

Overall, we would highlight that over 25% of Welsh agricultural land is farmed under one form of tenancy or another ranging from short term lets, rolling FBT, fixed term FBT to AHA tenancies and the issue of how the funding available can be targeted at the active farmer remains unaddressed by Welsh Government. It is important to recognise that the vast majority of CAP support is currently deployed via the BPS which requires management control on the 15th May only. The failure of Welsh Government to recognise the need for some form of annual stability payment to underpin food production is likely to result in harmful impacts that will be felt most strongly within the tenanted sector, also reducing opportunities for the next generation of farmers. We are clear, as currently presented, proposals represent a threat to the future of tenant farming in Wales and will result in less opportunities of land to rent for young farmers and new entrants and not more.

It is vital that tenant farmers are able to access the future Sustainable Farming Scheme on the same terms as other farmers. This matter remains largely unaddressed, as does the issue of farmers with common land. We know that eligible area provided by common land currently forms a critical component of BPS claims on many Welsh farms. The future scheme needs to enable these farmers to secure equivalent levels of payments. We believe it will be insufficient to address support for commons based on the Glastir Commons model which, perversely, has resulted in significant funds being paid to non-active graziers to effectively 'buy' their support for scheme participation with none of the costs, risks or effort. This is unacceptable.

In seeking to address the issues of eligibility, NFU Cymru continues to believe that the development of the scheme to incorporate an annual base payment received for the delivery of a suite of sustainable agriculture measures common to all farm businesses, with information provided via the RPW online portal provides the fairest and most robust basis upon which to move forward if equality of access is to be secured for all farmers in Wales irrespective of land tenure. NFU Cymru would be very pleased to work with government to this end.

Industry and Supply Chain: Future Support

Q5. What are your views on the proposed priorities for industry and supply chain support?

Please provide comments to support your view e.g potential benefits and impacts.

NFU Cymru welcomes Welsh Government's proposal that the majority of financial support will be directed at farmers. This commitment is welcome and the ring-fencing of funding received from the UK Government is one that has been made repeatedly by the First Minister and Minister for Environment, Energy and Rural Affairs providing much needed reassurance to farmers at this time.

Before moving to the specific proposals, we would make the following points:

- Funding – the White Paper again refers to the majority of the financial support (i.e replacement of the BPS and current agri-environment schemes) should be directed at farmers through the proposed Sustainable Farming Scheme. We want to be clear that currently farmers and wider supply chain are funded through Pillar 1 and Pillar 2 (funding from the RDP available to farming goes beyond the agri-environment scheme element), NFU Cymru expects replacement funds described earlier in this response in full. We do not accept that wider rural development goals should be delivered via the budget currently allocated to the BPS and agri-environment scheme.
- Interim 'domestic' RDP – Welsh Government will be aware that interim RDP arrangements were the subject of consultation during 2020. NFU Cymru observes the 'domestic' RDP appears to have been de-emphasised following the Comprehensive Spending Review late last year which resulted in a significant funding shortfall. We are yet to receive clarification from either the UK Government or Welsh Government as to how this shortfall is to be addressed. We are clear the BPS must be maintained at current levels and interim 'domestic' RDP arrangements and appropriate levels of funding will be needed for the period 2021-2024 until new schemes are in place. There should be no 'cliff edge' of environmental delivery across Welsh farms and all Glastir contract holders must have the option to extend beyond December 2021 until new schemes are fully operational. There is also a need for properly resourced investment support – for example, Welsh Government's own Regulatory Impact Assessment identified £360m upfront costs to meet the costs of NVZ regulations. The £11.5m currently committed by this government can only be described as woefully inadequate.
- **Support for wider industry and supply chain**

The White Paper identifies that a thriving Welsh food and drink industry can create demand for Welsh primary produce. As a result, Welsh Government proposes to provide support to the wider industry and supply chain if it supports the continued delivery of SLM outcomes and benefits Welsh farmers.

NFU Cymru recognises that the current RDP includes investment support in the wider supply chain through mechanisms such as the Food Business Investment Grant Scheme and Cywain. We identify that the extent to which the current offer is effective and ultimately benefits primary producers in Wales requires greater evaluation and cost-benefit analysis. NFU Cymru would certainly advocate a far stronger emphasis on utilising Welsh primary produce as a prerequisite for such funding. However, we do recognise that the lack of local and regional processing capacity is a challenge within Wales for some sectors, and government investment in processing capacity would appear logical as a result.

In terms of support for the wider industry and supply chain we note that Welsh Government acknowledges the need to retain flexibility to ensure future support can be adapted to reflect new

challenges, changing trends and emerging government priorities. We would agree, and respectfully suggest that the same level of flexibility is required in respect of Sustainable Farming Scheme proposals where ideas appear far more fixed and where the sole focus of the future direction of travel is to address the climate and nature emergencies, irrespective of the consequences.

We note Welsh Government's proposal that investment in the wider industry and supply chain should enable the continued delivery of SLM and would again challenge this in the context of the current definition which pursues environmental goals above all other. How the environmental purpose of SLM can be reconciled with economic activity within the supply chain remains unexplained. Will milk processors, for example, only be able to procure milk from certain farms deemed by Welsh Government to be delivering SLM if they wish to receive Welsh Government support? Would wider industry and supply chain support be restricted to the sectors Welsh Government believe to be achieving SLM, precluding others? We identify these are likely to be highly subjective, value judgements open to challenge.

In terms of Welsh Government's proposed priorities for industry and supply chain support, NFU Cymru would make the following comments:

- *Improving the promotion offer for farmers' produce by effectively evidencing SLM*

Welsh Government will be aware that NFU Cymru has long supported the development of the Sustainable Brand Values concept – one that seeks to embed sustainability as Wales' unique selling point and showcase and build market awareness around the very high standards to which Welsh farmers operate. We have long been clear that this approach requires full integration of Welsh Food and Drink and agricultural policy. NFU Cymru has described earlier in this response the evolution of RPW online as the mechanism by which farmers could provide information on an annual basis on a range of outcomes Welsh Government could then reward through a future scheme via an annual payment. We believe that such outcomes should be aligned to those required to build the Brand Wales concept – as such we see no need to invest in this priority separately. Further NFU Cymru does not support expenditure of the agricultural budget for promotional campaigns for Welsh produce domestically or overseas that are currently paid for via other Welsh Government mechanisms. Many sectors fund promotional campaigns via their levy already, NFU Cymru does not support the duplication of this activity.

- *Encouraging greater market alignment by supporting farmers in understanding and producing what consumers and the supply chain want to buy*

NFU Cymru does not support the funding of this priority which will directly replicate the work of the levy boards.

- *Identifying and overcoming barriers in the supply chain by supporting farmers to increase the amount and value of Welsh products in the supply chain both in Wales and beyond*

NFU Cymru does not see this as a priority that requires a funding commitment *per se*, rather, a commitment is required from government to deliver fairer, more transparent supply chains and leadership with respect to public procurement. Welsh Government must do far more to positively influence fairer, more transparent supply chains and take a leading role in encouraging the public sector including local authorities, schools, hospitals, prisons and the MOD to buy Welsh produce. Welsh farmers would be most encouraged to see the Welsh Government making a stronger commitment towards Welsh food in the public sector. This would have benefits in terms of reducing food miles, job creation and ensuring that the value added further down the supply chain is retained in Wales.

We identify there is a significant opportunity for growth on our own doorstep and we would urge Welsh Government to use this opportunity to ensure that the public sector places greater emphasis on value rather than cost, recognising the quality, tradition, provenance associated with food produced in Wales and by making sure Welsh food is readily available in all public sector establishments. We would also refer Welsh Government to our earlier comments on the sourcing of food by the public sector in relation to National Minimum Standards.

NFU Cymru would highlight that we have long championed the need for farmers in Wales to operate in a supply chain which is fair, transparent, responsive and equitable. There is no one 'silver bullet' to tackle fairness in the supply chain, however, improving relationships and transparency across the supply chain is a key priority for NFU Cymru and we return to this issue later in our response.

The most useful support that Welsh Government can provide to the wider supply chain are policies that sustain levels of production of the primary produce that the supply chain beyond the farm gate needs to run efficient and profitable businesses. Throughput and regular supplies of produce such as Welsh Beef, Lamb and Milk is the most critical factor for sustaining the wider supply chain going forward. The location of major food processing facilities in Wales is directly linked to the levels of agricultural production within easy travelling distances of these facilities. If future policy does not deliver the critical mass required to keep these facilities operating at maximum efficiency, then they will simply close and move to other countries where they can secure the critical mass required to meet their customers' requirements. This would have major impacts in terms of direct and indirect employment and the wider economy.

- *Shortening supply chains for Welsh products by supporting the creation of local supply chains that can retain the value of products within Wales*

NFU Cymru would support investment that enables farmers to do more processing and manufacturing at farm or farmer groups level. To be successful, this is likely to require support for capital investment at the appropriate scale.

- *Provision for market intervention measures to help farming businesses cope with exceptional market volatility or failure should it arise.*

Extreme price volatility weighs heavily on farm businesses, it impacts on farm profitability, squeezes cash flow and this, in turn, impacts on investment, whether that is investment in productivity or environmental measures. Short-term impacts on cash flow can place significant pressure on otherwise profitable businesses which significantly impacts on farmer confidence. As the UK looks to develop international trade relationships there is significant potential for volatility to increase as markets are increasingly exposed to global factors such as weather, pests, disease, and trade relations.

Whilst we respect that there are some exporting nations who provide minimal support to their farmers to manage volatility, these countries have sought to support farmers in other ways, for example, through generous fiscal measures or a low cost enabling regulatory framework.

Through the CAP, direct support under the Basic Payment Scheme (BPS) has been a tool for managing volatility. We remain highly concerned that Welsh Government propose the complete withdrawal of the BPS without providing alternative proposals as to how government intends to address the role that it can play in risk management and business resilience.

NFU Cymru firmly believe that a form of stability measures, as is currently provided by the BPS must form part of a long-term agricultural policy framework for Wales. The form that this payment takes has been the subject of significant change over the course of this century. As we have set out earlier

in this response. NFU Cymru is not against further evolution of direct payments to ensure that they deliver for active farmers and secure the continued supply of safe, quality, traceable and affordable food alongside the wider benefits for the people of Wales.

In addition, NFU Cymru supports provisions for market intervention measures to help farming businesses cope with exceptional market volatility or failure. We identify measures to support Welsh agriculture deal with crises and exceptional and emergency events should form a critical component of future agricultural policy.

As a Union, we have committed significant resource to investigate how a range of potential risk management and volatility measures could work for UK agriculture and we refer you to the NFU paper '[Empowering farms to manage price volatility](#)'. We believe there are a number of key principles that need to be considered when developing new volatility measures:

- The measures must be appropriate for the specific issues faced by farm businesses. They should be able to effectively counteract the cash flow pressures encountered by the full spectrum of farming sectors. For some sectors sustained market downturns may be more commonplace and thus measures to address income resilience may be more relevant than those that help manage short-term market fluctuations. This would be particularly relevant to the red meat industry.
 - Secondly measures must be able to respond quickly to the market situation and deliver relief in a timely manner. All measures must target the active farmer and be accessible to those they are seeking to assist. Whilst sophisticated schemes can in some cases better target funding, measures must not be prohibitively complex for farmers to access.
 - The design of market linked mechanisms must be transparent. If reference data is to be used as a basis for payment, such data should be independently sourced and publicly available.
 - Transaction costs associated with support mechanisms must be kept to a minimum in order to ensure funds are effectively directed to address their intended cause. There is a concern that sophisticated insurance mechanisms may carry a significant administrative burden for all parties involved. This diverts crucial funds away from the final beneficiary. It is important to ensure that the delivery process is designed to minimise transaction costs for the government, for private sector partners and for the farmers as the final users.
- **Wider rural development support (post 2024)**

NFU Cymru notes Welsh Government will continue to consider the case for providing support to other sectors if it helps to deliver SLM, in particular, forestry and wider food industry support. We understand this to mean support post 2024 and identify that significant ambiguity remains around future rural development policy and how it is to be funded post 2024. It is possible, but far from clear at this stage, that the UK Shared Prosperity Fund will include a rural development focus and funding for rural Wales. Levels of uncertainty are further compounded by the Managing Authority whose attention and focus appears to have shifted away from the operational delivery of the RDP 2014-2020, to the interim 'domestic' RDP and more recently (post CSR) onto rural development policy post 2024.

The approach of the Managing Authority is somewhat peculiar given levels of spend of the current RDP stands at just 56% (competent and effective delivery of the current RDP should be the focus), together with the fact that the White Paper, currently the subject of consultation, includes specific proposals for the future of rural development.

The statement from the Minister of Environment, Energy and Rural Affairs of 23rd February 2021 which included reference to a further consultation on the future of rural development this summer has exacerbated levels of confusion given this is already the subject of consultation in this White Paper.

We seek urgent clarification from Welsh Government and action to address what, at best, can be described 'siloed' working.

In the meantime, we take this opportunity to provide feedback on the proposals relating to the future of rural development policy contained within the White Paper.

Firstly, NFU Cymru welcomes Welsh Government's commitment, through the consultation, to deliver a custom framework for rural support in Wales. The inclusion of a wider rural development remit would appear logical within the proposed Agriculture Bill, however, there is a need to properly understand its scope and extent beyond the measures proposed within the Sustainable Farming Scheme and the wider industry and supply chain measures. Proposals for rural development measures must also be taken forward in the context of the Shared Prosperity Fund and its potential role in Wales' rural areas as well as regional economic development and wider economic policy interventions with an overarching requirement for alignment and reinforcing actions rather than duplication of effort.

We would highlight that measures to support rural development have a significant contribution to make to the vitality of Welsh farm businesses which are the backbone of our rural communities and key to delivering the environmental objectives of Welsh Government. Adequate multi-annual funding in addition to the funding required to deliver the Sustainable Farming Scheme must be secured for effective rural development delivery. Support must be targeted at Wales' rural areas; we observe the blurring of the lines between what is urban and what is rural in the current RDP is very unfortunate and reflects a lack of understanding of the needs and unique challenges faced in Wales' rural areas.

- Rural development objectives

NFU Cymru notes the objectives of rural development support proposed by Welsh Government Section 4 of the White Paper.

NFU Cymru would highlight that, within the framework of the CAP, the RDP aims to:

- improve the competitiveness of agriculture;
- ensure the sustainable management of natural resources and climate action;
- achieve balanced development of rural economies and communities, including the creation and maintenance of employment.

Crucially the European Commission, through these aims, recognises that rural development is vitally important to improve the economic, environmental and social situation of rural areas. Rural development rightly contributes to environmental goals, but it also has other important objectives vital to improving the lives of people living and working in rural areas. Agriculture is explicitly referenced within objectives reflecting its significance as a key economic activity in rural areas.

We identify measures to support the competitiveness of agriculture are underplayed within proposals for the Sustainable Farming Scheme currently. It is absent in Welsh Government's rural development objectives. NFU Cymru believes this should be added to the objectives proposed for rural development support given the importance of farm businesses in underpinning rural economies and communities across Wales.

- Rural development framework and principles

NFU Cymru comments relating to support to the wider industry and supply chain have been made earlier in this response. We note Welsh Government will also continue to consider the case for providing support to other sectors if it helps deliver SLM, in particular forestry and wider food industry support. We will not restate comments relating to SLM here, however, would comment on Welsh Government's proposed framework and principles (described in paragraph 2.87).

Firstly, we highlight that NFU Cymru comments and concerns relating to the strategic oversight and implementation of the current programme have been well documented, see for example, the NFU Cymru response to 'Brexit and our Land' and 'Sustainable Farming and our Land'. We also refer Welsh Government to our response to the CAP simplification consultation of 2020 which included proposals for a 'domestic' RDP for the interim period to 2024.

We do not believe the level of ambition for the current RDP aligns with the decision to opt for the maximum rate of pillar transfer; the implementation of the RDP has been slow and disjointed; application windows have been sporadic and often poorly resourced for the farming sector; we have observed questionable funding decisions without consideration of success; as well as a reluctance to innovate on the part of Welsh Government.

As a result, NFU Cymru continues to call for a comprehensive independent review of RDP implementation to include governance and strategic oversight and an assessment of the effectiveness and value for money of measures. We strongly believe there are opportunities for Welsh Government to learn lessons as it takes forward proposals for the interim 'domestic' RDP 2021-2024, the proposed 'Sustainable Farming Scheme' and the proposals for rural development in the longer term (post 2024).

NFU Cymru is reassured by Welsh Government commitments with respect to value for money and the delivery of outcomes within the consultation. Similarly, we are pleased to see commitments relating to robust evaluation including value for money and applying learning from past evaluation and experience. However, the consultation lacks clear proposals on how this will operate in practice. As above, we believe this should start by learning the lessons from the implementation of the current RDP through comprehensive independent review.

We would also highlight that effective monitoring and evaluation of measures and schemes against agreed objectives established in the Rural Development Programme has been central to rural development policy across Europe. Currently the Managing Authority and PMC have a shared responsibility for the effectiveness of RDP implementation, funding decisions made by the Managing Authority should align to the RDP and reflect lessons learned through evaluation at programme, measure and scheme level.

Critical to that will be the requirement to establish a Programme Monitoring Committee (PMC) of external stakeholders with the role of monitoring rural development delivery against a co-designed, evidence based rural development programme with agreed objectives and funding allocations. Welsh Government will be aware of NFU Cymru concerns in relation to the current PMC. Strategic oversight by the PMC must be vastly improved through the future 'domestic' rural development approaches.

NFU Cymru also welcomes the commitment from government that stakeholder input will be involved in policy development and design stages. We are clear that the development of future rural development policy should be the result of co-design with the agricultural industry. NFU Cymru has repeatedly asked for closer collaboration and engagement with Welsh Government on the development and implementation of the current RDP (2014-2020) and its schemes and measures. We regret that no platform exists to facilitate this currently. We have observed a lack of transparency as to why and how rural development priorities have changed or an opportunity to engage in discussions around this. These concerns must be addressed moving forward.

NFU Cymru also believes that rural development delivery must be a focussed around a co-designed plan developed with appropriate targets, measures and funding. We observe that there are a number of critical aspects of rural development planning on which the consultation is silent and which need to be included as a basis of effective rural development policy in Wales moving forward. This

includes a commitment from Welsh Government to produce a 'plan' setting out rural development activity for the period. Without a plan, NFU Cymru would highlight the domestic RDP will lack the required level of strategic oversight and focus. Welsh Government will be aware that within the CAP, the development of Rural Development Programmes across Member States is a detailed and comprehensive process. There is a requirement to undertake a SWOT analysis and identification of need, establish targets, the measures that will be used and allocate financial resources. Rural development policy also allows for specific needs/conditions to be considered. A comprehensive Rural Development Programme will include situational analysis, a description of measures, evaluation plan, financing plan, indicator plan, a management and control structure, monitoring and evaluation procedures including the Programme Monitoring Committee (PMC), information on programme publication and selection criteria. This process must be undertaken in partnership with industry.

We also note Welsh Government's commitment to be open and transparent in the grant awarding process to ensure fair access to funding. Again, Welsh Government provides no detail on how this will operate in practice and we identify that significant work needs to be done to restore trust following the investigation carried out by Wales Audit into direct applications in 2020 which resulted in disallowance from the Commission.

Fair access to funding also requires a focus on communication. We highlight that throughout the programming period for RDP 2014-2020, we have observed the Managing Authority and Wales Rural Network have been very slow to provide information on the opportunities available to farmers. The publication of a forward schedule of windows for schemes did not take place until the second half of 2016, for example. We are also concerned by the lack of windows for certain schemes without sufficient explanation. The decision not to open a window for Glastir Entry, for example, has led to significant uncertainty for some farming businesses whose five-year contracts have come to an end. This decision was poorly communicated to the industry and hindered forward business planning. Given that participation in entry level agri-environment was portrayed as a replacement to the Tir Mynydd Scheme, the decision to de-emphasise it represents an unacceptable 'u-turn' in policy and also undermines the best available evidence which suggests that the delivery of environmental objectives requires sustained effort over the longer term.

The need for improved communication with the farming industry cannot be over-emphasised. NFU Cymru is clear that Welsh Government must develop an effective communication strategy for the 'domestic RDP' that provides clear and timely communication to the farming sector. This must provide a forward plan of application windows across schemes to allow for forward business planning. Welsh Government, through the communication plan, must include a strategy to address 'hard to reach' and digitally excluded farmers.

There is also a need to address complexity within the application process which had added significant cost within the current RDP schemes. The application process needs to be clear and straightforward, with an appeal process available to applicants who wish to challenge funding decisions.

- RDP proposals

Turning to the specific proposals for rural development within the White Paper.

NFU Cymru broadly supports proposals to 'provide Welsh Ministers with powers to create, administer and close domestic scheme or schemes in relation to rural development and the wider agri-food supply chain which enable and support the continued delivery of SLM', subject to the revised, broader, definition of SLM provided by NFU Cymru earlier in this response and to appropriate levels of funding in addition to funding for the Sustainable Farming Scheme being available.

With respect to duties on Welsh Ministers to make an annual statement to the Senedd on budget, again we would express concern in relation to the short-term commitment to funding when multi-annual funding commitments will be required to make meaningful impact. We identify that rural development outcomes are not specified within the consultation and we believe these should be determined through the development of a co-designed rural development plan.

Whilst we welcome the principle of transparency and the legitimate role of the Senedd in scrutinising the activity of Welsh Government, we believe this should be reinforced by through the establishment of a Programme Monitoring Committee (PMC) of stakeholders.

Collection and Sharing of Data

Q6. What are your views on the proposed purposes for collecting, sharing and linking data?

Please provide comments to support your view e.g. potential benefits and impacts.

Q7. What are your views on the establishment of a national database for farms and livestock?

Please provide comments to support your view e.g. potential benefits and impacts.

Thinking about the SFS:

Q8. In terms of the future scheme, what are your views on the proposals to enable the data we collect on a farm to be used by farmers to track progress and demonstrate their sustainability credentials?

Please provide comments to support your view e.g. potential benefits and impacts.

Thinking about regulatory compliance:

Q9. What are your views on the proposals for improving the monitoring of regulatory compliance?

Please provide comments to support your view e.g. potential benefits and impacts.

Q10. What do you think needs to be considered in future to enable regulators to effectively monitor regulations?

Whilst, in principle, NFU Cymru would support proposals to streamline the collection and processing of data, there are a number of important considerations and matters NFU Cymru believe need to be considered in relation to the powers proposed within this White Paper for collecting and sharing data on all farms and businesses in the supply chain in Wales.

NFU Cymru has for many years highlighted examples where the same data is collected from farming businesses by different government agencies, the proposal to reduce the administrative burdens on farmers is therefore, in principle, to be welcomed.

It will be necessary to ensure that any data collection is absolutely necessary and proportionate to the purposes for which the data is required. Thought should be given to the burden placed on farm businesses to provide the data. Where this data has value to Government, for example, in helping Government prove that it is meeting national and international obligations NFU Cymru is clear that supplying this data should have a value attached to it.

It is encouraging to see that Welsh Government has recognised the importance of compliance with the relevant data protection legislation, and this is something that should be explicitly set out in the provisions of the Bill.

Farmers need access to robust market data, which the proposed purposes would deliver. Clear market signals on price and volumes traded can improve responsiveness to demand, allowing farmers to adjust output accordingly. Furthermore, greater market transparency is required for better uptake and use of risk management tools that can help to tackle market volatility.

However, as proposed, we are concerned that the purposes for which data could be collected, shared and linked go well beyond what is needed for these purposes. This could impose huge burdens on those involved in the agri-food supply chain, allowing for information to be collected for a

very wide number of reasons, many of which are not directly connected with promoting transparency or fairness in the supply chain; this should be the primary purpose for collecting this information.

We would therefore like to see these purposes drafted in a more focused way to ensure that they achieve the legitimate aims of improving transparency and managing volatility.

Consideration should also be given to the data collected by other countries. The consultation refers to the powers to collect data currently being scattered across numerous pieces of EU and domestic legislation. Having consistency in data collection and analysis across a range of countries can be useful to help benchmark against other countries and measure competitiveness e.g. Farm Business Income. Without that consistency or at the very least a critical analysis of how various indicators are measured it can be very easy to come to the wrong conclusion when seeking to compare the relative performance of agriculture in different countries. Supply chains also operate across borders, therefore any efforts to improve transparency will require collection and sharing of data across borders.

The purposes relating to the monitoring and evaluation of financial assistance schemes and the enabling of targeted and risk-based monitoring of regulatory compliance should be contained in separate parts of the Bill relating to those specific areas. Any new data collection powers included in the Bill should be proportionate and focused, with a clear link to the underlying scheme or regulations.

The White Paper refers to the range of information that is currently held about farms or farmers who currently claim BPS payments or are a part of an agri-environment scheme. This data is provided by farmers to Government as part of a scheme requirement and in return for providing this information (amongst other outcomes) the farmer receives a payment e.g. BPS or Glastir. We do not accept that the information that is currently supplied as part of these contracts should in future become mandatory for all farms and farmers. The collection and sharing of data for the monitoring of financial assistance schemes should be kept separate and dealt differently to the collection and sharing of data for the other purposes mentioned in this consultation.

The consultation refers to information that is currently collected by surveys e.g. Farm Business Survey (FBS). We would highlight that this information is provided to the FBS and in return the FBS provides detailed costings and margins data to that farming business. Participation in the survey provides an outcome that is of value to that farming business.

The focus on collection and sharing of data within the bill raises the possibility that regulatory bodies may see these powers as an opportunity to vastly increase the amount and range of data that they may wish to collect. NFU Cymru is clear that this Bill must be used as an opportunity to reduce the burden on farming and agri-food businesses and not increase the burden. The range of organisations highlighted at para 2.98 sets out the challenge faced with so many organisations involved in setting the regulatory baseline in Wales, undertaking compliance and enforcement, and potentially requiring data from farmers and the supply chain.

Paragraph 2.99 states that there remain barriers preventing some of the recommendations with regards to data sharing contained in the Working Smarter report being implemented. It is disappointing that nearly 10 years on from publication of the report that these issues have not been addressed. We would suggest that these matters need to be urgently resolved and would highlight that consideration of a single inspection agency that NFU Cymru have suggested earlier in our response could help address this matter.

Paragraphs 2.100 and 2.101 refer to data currently captured under CAP schemes, the proposals appear to be suggesting that this data capture be expanded to include all farmers and land managers. NFU Cymru would question why this is needed, the data collected around land use and

land management is specific to the requirements of financial assistance schemes and we question why Welsh Government would require this level of data for anyone outside of a financial assistance scheme.

We are unclear of the reason for the question posed with regards to the establishment of a national database for farms and livestock, this is not explained in the consultation. There are currently national databases for cattle, sheep and pigs and work is ongoing to bring these together through EID Cymru. NFU Cymru is a member of the Welsh Government Livestock Identification Advisory Group (LIDAG) and through this group and various consultations we have fed in our views on identification and livestock databases. Fundamentally we believe that livestock databases need to carry out their primary function of helping to control and prevent the spread of notifiable disease. Given the level of trade within the UK, databases across the UK must be able to share data seamlessly so preventing any barriers to the legal and timely movement of livestock across national borders. There is the potential to expand the information held on livestock databases to cover disease factors e.g. TB testing date.

The current land-based database within RPW is related to a financial assistance scheme. The establishment of a national database for farms and livestock could therefore involve combining data that needs to be collected for a financial assistance scheme with data that needs to be collected to monitor regulatory compliance. We are concerned as to the confusion and lack of clarity that this may cause and also the range of organisations who may require access to regulatory data around livestock movements but who should not be allowed to see data related to financial assistance schemes. The wide range of data potentially stored within this one database poses concerns for us over the security of this data, in particular who would have access to that data.

That said, we respect that many farmers currently need to provide data as part of the requirements of membership of a land-based scheme e.g. BPS and similar data as part of their requirements to record the location of their livestock to livestock databases. In these instances, it makes sense to avoid duplication in the information supplied. We would welcome the chance to understand in some more detail Welsh Government thinking on this matter.

With regards to the proposals to enable the data collected on a farm to be used to track progress and demonstrate sustainability credentials NFU Cymru is clear that this should only be undertaken as part of receiving support through a financial assistance scheme.

NFU Cymru's views on an integrated Sustainable Agriculture Programme are well known to Welsh Government having previously been presented to Government on a number of occasions including within our responses to the *Brexit and Our Land* and *Sustainable Farming and Our Land* Consultations; it is also articulated elsewhere within this consultation response. Our proposals based around three cornerstones of productivity, the environment and stability propose farmers being incentivised to supply data to Government covering a range of sustainability measures relating to climate change, the environment and animal health and welfare. The provision of this data is of value to Government in helping to prove it is meeting climate change and environmental obligations.

We respect that some of this information would also be of value in supporting farmers on an iterative process of measurement, action and review; signposting farmers to areas that they need to focus upon to improve their sustainability credentials. It would, in addition, be important for Government to understand where its focus for investment, knowledge exchange and skills should be targeted.

Much of the data that would be required is already supplied by farmers as part of the requirements of receiving support under current CAP programmes. This information is provided through the RPW online portal. As we have set out in our responses to previous consultations, we would see the provision of this data as an evolution of the current RPW Online portal, building on the data currently provided through applications such as the Single Application Form. Data no longer deemed

necessary on the SAF could be removed and data that Government and Industry believe is an important element of a future scheme could be included. It may, for example, be that some of the key performance indicators identified in the recent HCC sustainability report “*The Welsh Way*” could be deemed appropriate.

The ease with which significant amounts of data is currently collected through RPW online is a good example of co-design. Government (RPW) working in partnership with Industry (via RPW stakeholder and user groups) to design and implement a user-friendly interface for farmers. We hope that these groups will continue to help ensure that future application processes and data portals are fit for purpose.

Whilst we accept, in principle, that data could be collected to track progress of the sustainability credentials of Welsh agriculture NFU Cymru is absolutely clear that the provision of this data should only be provided in return for payment under a future sustainable agriculture programme. We believe there may be an opportunity to use some of this data to underpin the development of Brand Wales, but this would be a joint decision for Government and Industry to make. It is important that we carefully consider how data that may be collected for the purposes of monitoring compliance with a financial assistance scheme could then be used to demonstrate sustainability to customers e.g. a major retailer.

Careful consideration needs to be given to the range of data being considered for collection, some may be considered essential for compliance with a financial assistance scheme; some valuable for Government to meet its obligations; some to support a farming business improve productivity and profitability and some to help market and promote Wales and its diverse range of produce to the World.

There will be instances where the requirements of a financial assistance scheme are entirely separate from the commercial considerations of a farm, and similarly care should be taken not to end up with a situation where a financial assistance scheme effectively becomes another assurance scheme for customers (e.g. retailers).

NFU Cymru would agree that where possible it makes sense to make the monitoring of regulatory compliance and the monitoring of the SFS more efficient and to reduce the burden on farming businesses.

Some technologically advanced farming business may already utilise software to record specific data. It will be vital to ensure that any data collection systems set up by Government are compatible with those private software programmes currently in existence to avoid farming businesses having to input the same information to Government and their own software provider. Government should have early discussions with all the key providers of agriculture software in the UK.

NFU Cymru believes that future IT solutions should be used where they are proven to operate in real world situations and the findings are considered robust. This could include satellite imagery to check compliance. Also live online accessibility to inspection report findings as they become finalised and the opportunity to interact online to provide information / evidence that an issue is or has been rectified. This could really help to speed up the process between inspection and verification of a claim.

Whilst better use of technology offers opportunities to increase efficiencies it also needs to be considered whether there is suitable infrastructure in place for farmers to be able to input the relevant data, for example:

- internet speeds in rural communities for uploading sizable data; and
- the IT systems that farmers may have in place.

It will be vitally important that there are alternative procedures in place and available to cope with the issues of connectivity that affect so many parts of Wales.

It will be important also to ensure that there is the ability for issues that may have arisen through technology to be overridden where necessary. For example, satellite technology does not always accurately reflect the position that is on the ground, issues around tree canopies from hedgerows overhanging into fields and reducing the BPS eligible area is a good example where technology is flawed. The importance of on-site inspections and the ability of the farmer to be able to provide clarification prior to an inspection being completed / penalties being applied is absolutely crucial. Emphasis must also be placed on the support available to farmers who may feel like they get lost in the array of technological devices monitoring their land. Quite often a simple telephone conversation and face to face support is vital to maintain the trust and cooperation of farmers. The Farm Liaison Service and Customer Contact Centre will remain a key communication conduit between Government and Industry.

In principle, we support more targeted and risk-based inspections, provided there is transparency regarding the criteria used to assess risk. We believe it is important that the risk-based approach takes account of a broad range of risk factors, resulting in a fair and balanced approach to risk-based inspections. Care should be taken to ensure that the risk selection criteria does not result in a small sub-group of farmers being repeatedly targeted, due to one single, easy to identify, risk factor.

We note that the consultation refers to the use of other types of data collected by farmers, including farm assurance schemes being used to support efficient monitoring and that consideration is also being given to how farmers could gain 'earned recognition' for regulatory compliance.

NFU Cymru has long argued that frequency of regulatory inspection should acknowledge relevant requirements that membership of farm assurance schemes requires. Earned recognition is about using membership of third-party schemes to assess risk and therefore the need and frequency for the state or its agencies to inspect. We are therefore pleased to see this issue in the consultation and look forward to working with Government and private assurance bodies to consider how this issue can be progressed.

NFU Cymru is fully supportive of such systems that reward good practice, with verified adherence to given farm assured standards leading to less frequent statutory inspection. This helps to ensure that low risk farms are not targeted on multiple occasions, allowing regulators to focus their resources on those more likely to be non-compliant. It is an approach that has already been successfully implemented to reduce inspection burdens for both farmers and administrators in Feed and Food Hygiene inspections and with regards to Dairy Hygiene Inspections.

Farmers that demonstrate they present a low risk of infringing on rules, and those that go further through voluntary schemes should have this effort recognised when compliance with regulation is being assessed. Earned recognition should therefore feature in the design and implementation of future regulation. Greater data and information sharing between regulators and third-party voluntary schemes will enable regulators to identify and focus their efforts where there is greatest risk of non-compliance.

Whilst we recognise the potential complementarity of farm assurance to some regulatory activity whether in direct place or as a risk indicator, we would not accept Government seeking to promote participation of voluntary commercial schemes as the only vehicle for monitoring regulatory compliance. Ultimately membership of a private assurance scheme is a decision of the farming business based on a value of assurance to that business. Government's position on earned recognition could however be one of the factors in helping a farming business consider the benefit of membership.

We do not agree that Welsh Government should be considering the data collected within the scheme to underpin assurance schemes. Government should decide the data required to meet regulatory baselines and the data required to meet objectives of the financial assistance schemes it proposes to introduce. Some of these may be the same as those required by assurance schemes, some may differ, but it is important to note that the purposes of regulation, policy and private assurance are not one and the same. Where the data required by assurance and Government may overlap then there may be opportunity to reduce the burden on farm businesses through the concept of earned recognition but fundamentally businesses choose to follow assurance scheme standards as a commercial decision to secure a premium in the market rather than to prove compliance with a Government run financial assistance scheme or a regulatory requirement.

It is also important to remember that there are a wide range of private assurance schemes and not all farmers are members of an assurance scheme. We also could not support a right for regulators to accredit schemes or set minimum standards as it is for those schemes themselves to determine their own commercial purpose, business relevance and orientation in the marketplace which standards are included in their schemes. However, we support the principle that data can be shared or exchanged to reduce inspection burden on farm where that is undertaken with the consent of participating farm businesses. This should not include commercially confidential information.

Welsh Government needs to consider the challenges and concerns associated with data collection. It is interesting to note the *Which Report – Consumers in Wales 21* published earlier this month highlights data security as the most common concern for consumers in Wales (66%). 41% of consumers have reliability problems with their broadband and that only a third of connected households are able to download at 300Mbps/s, way below the figures seen in other parts of the UK.

Welsh Government need to take seriously these concerns and be transparent and open in what data is collected and why it needs to be collected. Welsh Government needs to be clear with whom data collected will be shared and for what purpose. The data required to prove compliance with regulation and that required as part of a financial assistance scheme must not be confused and we fundamentally disagree that Welsh Government should have the powers to mandate data required as part of a scheme requirement from non-scheme participants.

It must be possible for farming businesses and the supply chain to be able to review and correct any errors in data provided. Welsh Government or its regulatory partners must not use additional powers as an excuse to collect an increasing array of data. Wherever possible data collection should be streamlined, duplication avoided and used to develop a smart, proportionate and risk-based approach to an inspection, audit and enforcement regime for monitoring compliance with regulation and financial assistance schemes. Welsh Government must recognise the challenges of data collection that lack of connectivity and IT skills may provide going forward.

Forestry and Woodlands

Q11. What are your views on the proposed amendments to forestry legislation?

Please provide comments to support your view e.g. potential benefits and impacts

Q12. What are your views on how the Welsh Government can support landowners in Wales to benefit from carbon markets for planting trees?

- Woodland Creation

Farmers across Wales recognise the role we have to play in building a zero-carbon economy. We are committed to reducing emissions from food production, and we recognise we have a special role in creating balancing 'negative emissions' from the land. In 2019, NFU Cymru announced its ambition for Net Zero Agriculture by 2040. Evidence shows that, in 2016, agriculture accounted for 12% of total emissions in Wales. Welsh Government, through 'Prosperity for All – A low carbon Wales' establishes a target of 28% reduction from agriculture from the 1990 baseline by 2030.

In terms of meeting our ambition for a net zero contribution to climate change across the whole of agricultural production by 2040, we are clear that there are no single 'silver bullet' solutions. Action to tackle climate change in our sector requires a portfolio of different policies and practices focussed in the key areas of improving farming's productive efficiency; enhancing farmland carbon storage in soils and vegetation; and boosting renewable energy and the bio-economy.

In line with the Paris Climate Agreement which recognises the importance of safeguarding food security, NFU Cymru is clear that the path for farming to achieve net zero emissions by 2040, should not be at the expense of food production in Wales and displacing our GHG emissions to other countries.

NFU Cymru recognises that increased woodland creation has a role to play in meeting our net zero ambition. The White Paper refers to a target for increasing woodland by at least 2,000 hectares per year, rising to 4,000 hectares a year as soon as possible. The White Paper does not describe how this will be achieved however, we note Welsh Government's 'Low Carbon Pathway' consultation in 2018 included proposals for doubling the emissions sink arising from forestry by 2050, delivered largely through afforestation (90%) with some contribution from agro-forestry (10%). This equates to approximately 66,000 hectares of new planting. To put this scale of land use change into context, we understand that the Welsh Government Woodland Estate is 126,000 hectares. The average farm size in Wales is 48 hectares. To achieve afforestation on the scale proposed will require the complete afforestation of some 1400 farms in Wales. NFU Cymru does not believe land use change on this scale is acceptable or desirable. We categorically reject the notion that the objective of future agricultural policy should be to drive land use change.

We identify that Welsh Government has provided no assessment of the impact to farming families, rural communities, the rural economy, or indeed food as one of Wales' foundation sectors, the Welsh language or the environment of such a significant change. Change of this scale is likely to be highly emotive. We are clear that the burden of decarbonisation must not fall unequally on the farming sector, or indeed, rural Wales.

The extent to which land ownership/tenure would have to change to achieve these planting targets also needs to be understood. For example, it is our understanding that much of the afforestation in the private sector currently is driven by external investment from outside Wales. Future policy must

not be the mechanism by which the business model is created which sees farming families removed from the land and replaced by landowners in the private or third sector.

That said, NFU Cymru is clear of the role that Welsh farmers have to play in decarbonising the Welsh economy and is supportive of measures that facilitate and adequately reward farmers for additional woodland planting and ongoing management. It is right that Welsh Government recognise the low levels of new woodland planting currently and we note the barriers identified by Welsh Government in the White Paper. In addition, we identify that devaluation of the land which is the key capital asset in many farm businesses is a key barrier as is the permanency of the change in land use.

Whilst the great majority of farmers are likely to reject planting at farm scale, many are prepared to consider farm woodland at an appropriate scale including small scale shelter belts, field corners and parcels with a mixture of deciduous and evergreen species of both trees and shrubs together with hedgerows, streamside corridors, parkland trees and orchards. Future policy should facilitate this. Such an approach through a properly resourced and simple to apply for scheme could make a significant contribution to Wales' tree planting targets. Recent work undertaken by the Wales Land Management Forum Task & Finish Group on Woodland Creation identified that planting 1.73 hectares on the average-sized Welsh farm holding would meet Welsh Government's lower woodlands creation target of 2,000 hectares per year.

With respect to agroforestry approaches these appear less popular and recognised than the more traditional approaches described above possibly due to the significant increased management on that land and poorer grass utilisation on those areas.

We emphasise that whilst new woodland has a role to play in meeting climate change targets for Wales, Welsh Government must not overlook other important carbon sinks such as peatlands and grassland. We also highlight that the sequestration potential of hedgerows is significant with an estimated 106,000km of hedgerows in Wales currently.

We note Welsh Government identify that many of the changes needed to enable increased levels of woodland creation relate to the process rather than the need for legislative change. Our members identify the current application process for Glastir Woodland Creation is complex, particularly for taking forward 'manageable' small scale planting projects on an annual basis. The recent work of the WLMF Task and Finish Group on Woodland Creation may provide useful insight and NFU Cymru would be pleased to work with Welsh Government on the development of an approach that better enables farm businesses to be involved.

We note work is underway to update and improve the Woodland Opportunities Map. This map aims to provide guidance on which areas are low sensitivity for woodland planting from an environmental perspective. As set out in our response to proposals for the Sustainable Farming Scheme, NFU Cymru believes Welsh Government must establish a decision-making framework to inform land use changes that properly considers economic, social, cultural and environmental impacts to ensure a just transition. We further identify that ambitious targets for planting are unlikely to be achieved without active consideration of semi-natural land, including that under designation. Farmers, in the main, will always be reluctant to plant their best land irrespective of the rewards.

The White Paper refers to moving to a system of earned recognition that recognises the past performance of woodland planners. We seek clarification on this proposal and would express the view that applications for woodland creation should be determined on the basis of the site and the specific proposals rather than simply the track record of the planner.

Finally, with respect to bringing woodland into management we seek clarification and a clearer definition about what this means in practice.

Turning to the specific proposals for woodland creation, the White Paper refers to including powers within the Bill to ensure the Welsh Ministers retain the power to review and amend EIA thresholds. We note any changes will be subject to consultation and secondary legislation.

NFU Cymru would emphasise that through the regulatory framework the aim should be to achieve a level playing field across sectors. We observe that thresholds for EIA (Agriculture) and EIA (Forestry) do not align currently and ask if Welsh Government propose to include similar powers in the Bill to review and amend EIA (Agriculture) thresholds as well to put the sectors on a level footing.

- Licensing tree felling and penalties

We note Welsh Government propose to include provisions within the Bill to amend the Forestry Act 1967 to allow Welsh Ministers to add conditions to felling licences, allowing licences to be amended, suspended or revoked after they have been granted. Whilst Welsh Government has provided little evidence, through the White Paper, to show the proposed changes are needed, we do identify an unlevel playing field exists currently across farming and forestry with farmers prevented from undertaking any tree-felling between 1 March and 31 August as part of Cross Compliance GAEC 7. The environmental justification for distinct approaches across sectors is not clear. Welsh Government must understand the possible impact of long non-felling periods in the context of its ambition to improve the management of existing woodlands and it may be more appropriate to consider this on a case-by-case basis.

We further note that provisions are proposed that will allow NRW to charge for felling licences in the future if this would improve delivery. NFU Cymru does not support the introduction of charges for felling licences. Such charges are likely to impact disproportionately on farmers seeking to progress relatively modest tree felling activities and are likely to deter them from proactively engaging in woodland management activities so working against Welsh Government's ambition of more woodland in active management. If Welsh Government seeks to advance this provision, then farm woodland activities which are largely uncommercial should be exempted from the charging regime.

In the context of felling licences, whilst the role of NRW is clear less clarity exists with respect to National Park Authorities who have some responsibility currently in these designated areas of Wales.

With respect to proposals to include provisions to enable Welsh Ministers to issue civil sanctions for offences related to felling licences described in paragraph 2.143, we seek clarification that Welsh Government's proposed regime will replicate the proposals for agriculture described on pages 24-30 of the White Paper. Our views on civil sanctions are articulated elsewhere in this response.

In terms of including civil sanctions for cases of illegal felling of ancient woodlands, we identify that clarity on where ancient woodlands are located in Wales would be helpful.

NFU Cymru notes comments relating to ash dieback which is an increasing concern for farmers with proposals to include an exemption from the need for a felling licence in the case of an ash tree in a location which could pose a danger if affected with ash dieback. NFU Cymru identifies a lack of support from Welsh Government with respect to the issue of ash dieback. We are aware of instances where our members have incurred high costs removing diseased trees from roadside locations. Given that farmers manage 80% of Welsh land they are disproportionately burdened by ash dieback, there is a need for Welsh Government and NRW to recognise the significant costs and burdens this places on farming and put in place an appropriate programme to support proactive felling and management.

- Future funding of woodland creation and management

As above, NFU Cymru is pleased that Welsh Government propose to provide payments to farmers who deliver positive benefits from planting and managing woodland on their farms. In developing their approach, we ask Welsh Government to recognise that farm woodlands are typically located in difficult to access locations and levels of support need to reflect this.

We note proposals to support woodland whose principle purpose is carbon sequestration, habitat resilience, provision of amenity together with the creation of woodland to intercept ammonia emissions. NFU Cymru would highlight that tree planting also needs to be better recognised in the planning system through the provision of appropriate guidance to local planning authorities. Developers are prepared to plant trees but planning authorities appear not to fully recognise the benefits of such practices to ammonia mitigation and the removal of particulates currently.

With respect to proposals to provide support for woodlands not on farms, Welsh Government has provided no evidence of the benefits of extending funding for farming to a much broader cohort of beneficiaries including forestry. There is a lack of clarity in proposals around what woodlands Welsh Government is specifically referring to. Two thirds of Wales' woodland, for example, is in public ownership and managed by NRW who receive very significant grant in aid for its forestry operations already.

We further highlight the significant differences that exist between farm woodland and commercial woodland and the need to reflect this within the payment regime.

With respect to attracting funding from the private sector to drive investment in forestry, NFU Cymru would emphasise that we have long supported the concept of payments for ecosystem services including carbon sequestration as a means of rewarding farmers for the environmental outcomes they deliver for society. In the context of carbon and developing markets it is possible to foresee farmers and land managers selling carbon units to a broad range of individuals and organisations wishing to offset their own emissions or investing in decarbonisation. Whilst this could present a valuable income stream for farmers in the future and be instrumental in driving the levels of tree planting required to support Welsh Government in meeting climate change targets, it is not without risks and consequences.

For example, woodland establishment is not straightforward, at scale there are a range of reasons why a percentage of trees fail to establish not least damage by pests such as squirrels. We are concerned that farmers may be induced to enter agreements to deliver carbon units which in the end are not delivered at the scale expected due to partial failure of the crop. The risks and liabilities on individual farmers are potentially very significant.

There are also bigger moral/ethical questions around making land available for tree planting which inevitably will bring economic, social and cultural as well as environmental consequences for the surrounding community through off-setting approaches that are effectively 'greenwash' allowing the companies to continue business as usual.

As highlighted earlier in this response, we are also concerned that future policy will lead to fewer opportunities in the tenanted sector but also farms being bought by investors external to Wales with the inevitable impacts on the communities concerned. It is for this reason that we believe a decision-making framework to inform land use change decisions should be established and whilst, of course, we want farmers to benefit from new carbon markets as they develop in the coming years, we also welcome Welsh Government's commitment to further consultation on this issue to ensure that farmers and our rural communities are safeguarded.

Proposals for additional Powers

Prior to making comments on the following Section NFU Cymru would highlight that we question the appropriateness of including a number of the proposals in this section in a consultation that has, to all intents and purposes, been promoted as consultation on a regulatory and policy framework to replace the current CAP architecture. We would contend that a number of the proposals for additional powers are worthy of a specific consultation in their own right.

We are concerned that individuals and organisations with a specific interest in some of these matters will be unaware that these proposals are contained within the White Paper. We note that neither the press notice nor overview of the White Paper makes specific reference to a number of these proposals.

Without prejudice to the above, our comments on this section are set out over the following pages.

Agricultural Tenancies

Q13. Do you think the dispute resolution procedures described in the proposals should be extended to FBTs?

Please provide additional evidence to support your view e.g. the extent to which this is a problem currently, the likely benefits and impacts.

Q14. Do you think there will be instances where landlords may require the same access to dispute resolution as described above?

Please provide additional evidence to support your view e.g. the extent to which this is a problem currently, the likely benefits and impacts.

Q15. Do you think it would be appropriate to allow joint landlord/tenant SLM scheme agreements?

Please provide additional evidence to support your views e.g. the extent of the need, the likely benefits, drawbacks and impacts.

Welsh Government will be aware that NFU Cymru has long expressed concern for the tenanted sector and farm businesses who do not own the land that they farm in the development of new policy. Concerns for the tenanted sector can be summarised as follows:

- Improving productivity – Measures to improve productivity require capital investment in infrastructure and new technology. The matter of capital investment often raises issues within landlord-tenant relations. At the centre is the fundamental question of who makes the investment. Landlords are often reluctant to carry out repairs let alone make investments. Where investment does occur there are implications on rent.
- Levering capital through lending is often an issue for tenant farmers and new entrants. Banks often will not lend larger amounts due to lack of security. Confidence to make investments in productivity can also be undermined particularly where the length of the tenancy is relatively short – the average length of tenancy is 4.48 years with some significantly shorter than this – the potential for realising a return on investment is limited. Where such investment support is secured through a competitive process we would express concern that farm tenants may find themselves in an unfavourable position compared to their counterparts.
- Diversification – the contribution of diversification activities in underpinning farm business resilience is understood. However, this is an area of business development that can prove particularly difficult for tenant farmers. It is important to recognise that landlords consent is a

key requirement and some landlords may not be willing to give their consent for a range of reasons including inheritance tax implications.

- The tenancy may also restrict the use of the holding for a specific use only, or may specifically prohibit non-agricultural activity as defined in the Agriculture Act 1947. Breaches to the definition of 'agricultural land' within the Agriculture Act 1947 could result in breach of the terms of the tenancy agreement. Where the landlord does give consent for the tenant to make investments, they may demand a proportion of the income in return for consent. This can undermine the business case for taking forward such a diversification project.
- With respect to Welsh Government's proposed approach to reward the delivery of SLM outcomes – the fundamental question of who – the person who owns the land or the person who farms the land – will receive the payment remains unresolved. Where the delivery of environmental outcomes is not linked specifically to agricultural activity, either party could potentially be eligible to receive the funding with the result that tenant farmers would be disadvantaged by future schemes compared to owner/occupier farmers. It cannot be assumed that where the landlord receives the payment for the delivery of environmental outcomes, there will be a corresponding reduction in rental figures. Nor can it be assumed that with the prospect of participating in the Sustainable Farming Scheme themselves, landlords won't issue tenants with notice to quit.
- It is also important to recognise that tenants participation in the Sustainable Farming Scheme is likely to rely on securing landlord's permission. It is possible to foresee that many landlords will not be prepared to grant permission where the contract results in change in the use or condition of that land which could result in significant devaluation of the asset. The extent to which the Sustainable Farming Scheme would be classified as agricultural or non-agricultural remains unclear and likely to be subject to dispute and challenge. It is possible that environmental options underpinning a contract may not align with Agricultural Act 1947 definitions of good estate management and good husbandry which is required in most tenancy agreements. It needs to be understood that a breach of the terms in tenancy could lead to notice to quit the land.
- Given the average length of tenancy is less than five years, the ability of many tenants to secure multi-year contracts may be hampered, even where transferability of contracts to the landlord or an incoming tenant is built in. Whilst this is not a new issue within agri-environment schemes *per se*, it is important to recognise that the vast majority of CAP support is currently deployed via the BPS which requires management control on the 15th May only.

Turning to the specific proposals of the consultation, we note Welsh Government proposes to take forward powers in the Agriculture (Wales) Bill to enable tenants to refer to arbitration or third-party determination requests for landlord's consent to activities that are restricted under the terms of their tenancy agreement or requests for a variation of tenancy terms, for the purpose of enabling the tenant to access Welsh Government financial assistance. This is intended for tenants of Agricultural Holding Act (1986) tenancies.

Firstly, we recognise this proposal may be helpful for AHA tenants seeking access to the future scheme. NFU Cymru is also clear that this proposal should not be seen as absolving Welsh Government of its responsibility to design a future scheme that provides equality of access for all active farming businesses in Wales, irrespective of land tenure. Whilst providing AHA tenants with the ability to refer to arbitration or third-party determination, the outcome of that process for individual tenant farmers cannot be predicted. The costs and timeframe associated with the process is also not clear and could be prohibitive and lead to possible delays in accessing support. As a result, we believe it is important that Welsh Government recognise this is an action of last resort for tenant farmers.

We remain clear that tenant farmers must be able to enter the scheme on an equal footing to their owner occupier counterparts, irrespective of their tenancy type or duration. We do not believe this is

the case with proposals as they currently stand and the position of tenant farmers likely to be significantly weakened when compared to their current position as recipients of the BPS.

Overall, Welsh Government must recognise the inherent tensions that exist between the need to provide equal access to the scheme for the tenanted sector, and the objectives of government which are predominantly environmental and, therefore, do not necessarily align with the definitions provided through the Agriculture Act (1947). We identify that this remains a key unresolved issue within the White Paper. We emphasise with over a quarter of land in Wales under some form of tenancy agreement equality of access is not only important for the individual farm businesses affected but involving tenanted land is also likely to be central to the delivery of Welsh Government's environmental outcomes as well.

Welsh Government invites views on whether the same powers of arbitration or third-party determination should be applied to FBT tenants. Whilst Welsh Government identify that FBT tenants do not face restrictions in the same way, NFU Cymru is of the view that FBT tenants should be provided with the same access to arbitration or third-party determination as AHA tenants. In reality, whilst Welsh Government suggest that FBTs provide *"tenants with the opportunity to renegotiate their terms of contract if they feel it necessary"*, this is far from the lived experience of many tenant farmers on the ground who often have very limited power/influence in negotiations. We are concerned that the consequences for FBT tenants are equally if not more serious. They will not be negotiating for permission to enter the Sustainable Farming Scheme from a position of strength and will often have limited security of tenure.

We note Welsh Government seeks views on whether to allow joint landlord/tenant SLM scheme agreements. NFU Cymru does not support this proposal as it does not align with our key principle that support should be targeted at the active farmer taking the risks associated with food production.

NFU Cymru has already expressed concerns around the lack of safeguards in proposals to prevent landlords entering Sustainable Farming Scheme contracts and simply passing on the contractual obligations to their tenants. It is also possible to foresee a scenario where tenant farmers lose their holdings as landlords take their farms back in hand. We believe design of the future scheme should be focussed on providing support to the active farmer whether they own their land or whether they are tenants.

The Management of Common Land

NFU Cymru would support the proposal to take powers to revise the consenting regime to include the definition of restricted works, exemptions and where duplication exists with the requirement to obtain consent under planning legislation. Defining restricted works will provide clarity and remove the element of doubt as to what is covered. We would request consultation on this matter prior to revision taking place and that agricultural operations routinely carried out on common land by rights holders or someone acting on their behalf should be excluded from the need for consent.

NFU Cymru would support new powers to allow Welsh Ministers to revise the enforcement responsibility and function on common land in response to breaches of the consenting process where restricted works have been undertaken without permission. Welsh Government need to take responsibility for enforcement, relying on Local Authorities has not proved effective with huge variation in priorities that each Local Authority or National Park give to Common land in their area, often dependent on budgetary and staffing constraints.

Currently there is no actual obligation to act so, in the main, the current system will never work. As a result, some individuals have carried out restricted works to the detriment of other commoners knowing full well that they are unlikely to face legal action. However, Government needs to take a pragmatic approach and look at each case on their merit.

We note that Welsh Government propose expanding the functions and powers of Commons Councils to manage the common and improve their ability to contribute to the social, economic, and environmental objectives of the sustainable land management policy framework.

It is important to consider the role that Commons Councils are intended to be under the Commons Act 2006. Commons Councils are statutory organisations established under the Commons Act 2006 to enable the better agricultural management of commons. As a legal entity they can act against those that compromise agreements or the rights of commoners. They cannot be imposed; they can only be established where there is substantial support amongst commoners. In reality it is unlikely that individual commons particularly the smaller ones have the resources required to set up and run a Commons Council so effectively if they are set up it will be a number of commons coming together to form one Council.

The cost of running a commons council is often stated as its main disadvantage. We understand the need to keep costs to a minimum. We believe that key to keeping the costs down will be to ensure that the Council does not duplicate or interfere with the good work of local commons associations as whilst this provides economies of scale unless properly set up it could remove the ability to allow local decisions to be taken which are very often vital when it comes to common land.

It is useful to consider the benefits the current SI allows in relation to Commons Councils in the 2006 Act

1. A mechanism to overcome disputes and resolve long standing obstacles associated with land management.
2. Enables majority voting making it easier to reach agreement as the power of veto is removed.
3. Protects and supports active commoners and sustainable use of commons land.
4. As a statutory body it must be consulted about proposals that affect the commons.
5. It could maintain a live register which may be useful in the forthcoming Sustainable Farming Scheme (SFS)
6. Addresses disease control and stock welfare through clearance of sheep for a given period.
7. Facilitates the process of applying for SFS and ensuring compliance with the scheme.
8. Can lease, license and transfer rights of common.
9. Provides a stronger voice for commoners.

These are already extensive and wide-reaching areas of work and any further expansion would be undesirable. Commons Councils functions quite rightly focus on protecting the rights of common rights holders with the necessary protection it gives to individuals to exercise those rights for their businesses and the wider benefits this can bring the environment.

Expanding this role could bring in other parties who could have undue influence on the running of the common and for this reason we would not support this proposal. We do not believe it would necessarily provide a stronger voice for common right holders particularly those that are active users of their rights. Furthermore, it would be detrimental to those Commons who, for whatever reason, chose not to be part of a Commons Council the set-up of which is voluntary.

Animal Health and Welfare

Q16. *What are your views on the proposals for additional powers for Welsh Ministers to:*

a) Establish Movement Control Zones to control the movement of animals, semen, embryos, animal products, animal by-products and/or other things that can spread infection e.g. equipment and

utensils, in the event of a significant, new animal disease threat, where there is currently no or limited power to do this?

b) Specify 'animal', 'farmed animal', 'livestock', 'pet animal' and 'animals intended for agricultural purposes', beyond the current rigid traditional definitions to ensure animal disease control measures can be applied appropriately and flexibly to any species of kept animal where there is a potential disease risk?

Please provide comments to support your view e.g. potential benefits and impacts.

With regards to the establishment of disease control zones NFU Cymru agree with this as a general concept for notifiable disease control. Movement Control Zones are important and have been shown to be effective, but they have to be proportionate and relevant to the disease being tackled. The nature of restrictions in the control zone will determine the nature of any licensing arrangements needed to be put in place for the essential movement of people and goods to ensure that the health and welfare of animals in these zones is not unduly compromised.

For any new powers granted Welsh Government need to be confident that attached to this they also have the resources in place to be able to deal in a timely fashion with the licensing regime that will be needed. Welsh Government also need to consider trade implications once zones are in place, particularly the impact on export markets. These implications will often impact beyond the Movement Control Zone. We presume that in an instance where Movement Control Zones are introduced then WG will also have international obligations e.g. to the OIE in terms of surveillance and data sharing.

We note that the White Paper also proposes that Welsh Ministers have powers to declare exceptional market conditions and to intervene in agricultural markets where there is severe market disturbance or the threat of severe market disturbance. We would highlight that the imposition of disease control zones is an event that could cause severe market disturbance and therefore it is essential that if Welsh Ministers are to use powers to establish disease control zones they must also be prepared to use powers to intervene in agricultural markets, if markets are impacted by the imposition of these zones.

In principle NFU Cymru would support Welsh Ministers introducing powers to specify 'animal', 'farmed animal', 'livestock', 'pet animal' and 'animals intended for agricultural purposes', beyond the current rigid traditional definitions. These powers will ensure animal disease control measures can be applied appropriately and flexibly to any species of kept animal where there is a potential disease risk. We are aware that in any notifiable disease outbreak the lifting of restrictions is quite often delayed as a result of issues arising from animals kept on unregistered holdings and even as family pets. This causes huge problems for Local Authorities and APHA in terms of tracing these animals and confirming their health status or the possibility that they could even be the source of the outbreak e.g. from the illegal feeding of waste food. It is also a major concern for bona fide farmers in the area as the longer restrictions are in place the greater the impact on the holding. Even more damaging, for certain notifiable diseases, nationwide trade bans remain in place for specified time periods after Movement Control Zones are lifted, this highlights the need for accurate information on all keepers of 'animal', 'farmed animal', 'livestock', 'pet animal' and 'animals intended for agricultural purposes'. We would support powers that supports Government and its agencies to ensure that all of these animals are registered. It is for this reason that we strongly support a poultry register for all poultry keepers, not just those with over 50 head which is the current limit.

This section also refers to the proposals to introduce a system of civil sanctions for non-compliance with specific animal disease controls and animal welfare standards. Our comments on civil sanctions, how they interact with the Sustainable Farming Scheme, the inspection and enforcement regime, and our aspiration for the Sustainable Farming Scheme to incentivise and reward high health and welfare

standards are covered comprehensively in other areas of our response to the White Paper and will not be repeated here.

In the context of Animal Welfare issues, we think it is important to highlight that a number of welfare issues can be highly subjective and so we do question the appropriateness of these being included as National Minimum Standards / civil sanctions, in particular if the intention is to further increase the regulatory baseline. Our issues about the inspectorate having the appropriate qualifications, experience, training and consistency and the need for a procedural code for regulatory bodies are particularly relevant for animal welfare standards.

Earlier in our response we have also sought clarity on who Welsh Government define as being “all farmers” in the context of National Minimum Standards. If National Minimum Standards and civil sanctions are to be introduced then they must also be used to deal with breaches that occur for all the keepers of animals that Welsh Government propose to include in their definitions of ‘animal’, ‘farmed animal’, ‘livestock’, ‘pet animal’ and ‘animals intended for agricultural purposes’. We seek clarification from Welsh Government on this matter.

NFU Cymru welcome the commitment to detailed consultation and review to shape and inform the introduction of any changes.

Regulating the use of Snares

Q17. What are your views on the proposal for a power to enable increased controls covering such matters as the manufacture, sale and use of snares? Do you think such a power is required? If not, why not? If so, what matters do you think the power should be used to address?

NFU Cymru is not convinced that this topic fits in with the intended purpose of the White Paper and the subsequent Agriculture (Wales) Bill that will emanate from it.

Snares are a method of restraining an animal for human dispatch or release. They provide an essential tool for farmers and land managers for control of certain pest species which is necessary for the protection of livestock and crops. Snares are a valuable conservation method and are also used regularly by scientists as a method of restraining animals for tagging purposes.

In many situations’ snares are the most humane method of pest control for farmers and land managers, and the banning of snares would reduce the options available to protect livestock and crops. In addition, the banning of snares could result in a loss of biodiversity as well as harming food production levels. The only alternatives to snares for the main target species are rifle shooting – which is not always safe or practical, and cage trapping – which can have a high non-target capture rate.

NFU Cymru believes that the use of snares for fox and rabbit control is an essential part of wildlife and conservation management, and that in certain situations they can be the most humane method of pest control. They are a wildlife management tool utilised by farmers for the protection of livestock (for example, lambs and chickens) from foxes, and also as a means to minimise damage to crops from species such as rabbits. All modern snares are used to hold the target animal fast without harming it. Ordinarily when the predatory animal is caught it can be removed and killed humanely. Non-targets can be released unharmed.

NFU Cymru has worked with other key organisations to promote the responsible use of snares and was instrumental in helping to establish the Welsh Government’s ‘Code of best practice on the use of snares in fox control’. This document sets stringent standards for snare design and gives detailed instructions on the setting of snares to minimise stress. This code has been circulated widely.

We take our responsibility seriously and have actively encouraged members to follow the code of practice, and the code is kept up to date to ensure that it covers the latest standards. We encourage members to always consider non-lethal and other lethal methods of solving a pest problem. In addition, NFU Cymru recommends the use of snares only if other alternatives, such as shooting, are impractical, prohibitively expensive, or would not be effective. Without the option of snares for pest control, alternatives may have to be used, otherwise pest populations could cause irreversible damage to livestock, crops, local wildlife, and conservation areas. It is therefore essential on both welfare and conservation grounds, that they remain an option without further unnecessary regulation.

Snares are designed to restrain an animal until the animal can be humanely dispatched. There is little risk of strangulation or harm to the animal if the snare is set correctly. The majority of snares are suspended as an open loop from a 'tealer' along an area known to have the target species passing through. As the animal passes through the loop it closes, holding the animal.

Snares must be 'free-running' meaning that the snare relaxes as the animal stops pulling. These are opposed to the previous (now illegal) 'self-locking' types of snares which do not loosen but remain tight, often resulting in unnecessary injuries to the trapped animal. Snares must be checked at least once every 24 hours, although it is good practice to check the traps in both the morning and the afternoon.

In addition to basic legal requirements, best practice codes advocate a number of further technical specifications to improve humaneness. These include wire thickness and breaking strains, in-line swivels, fixed stops to limit closure, non-movable anchors, and purposely weak break-away points to allow the self-release of non-target animals.

NFU Cymru was instrumental in the production of the 'Code of best practice on the use of snares in fox control' for Wales. This code gives advice on both snare design and usage to ensure that users remain well within legal requirements for animal welfare and avoiding non-target species.

It is our firm belief that the Code of Practice has resulted in better compliance in that it is clear and specific to those setting snares as to what they should and should not do. We are not aware of evidence to the contrary. All snares sold now are code compliant so much so that the term snares is now misleading, they are now effectively restrainers.

All the points listed below are covered in existing legislation:-

1. Snares must be inspected at least once a day while set.
2. It is illegal to use a 'self-locking' snare.
3. It is an offence for a person to cause unnecessary suffering to an animal under their control (this applies to animals whilst held in snares and the means by which they are killed).
4. It is an offence to cause unnecessary suffering to a domestic animal.
5. It is illegal to set in position any trap or snare calculated to cause bodily injury to any deer coming into contact with it.
6. It is illegal to set in position any trap or snare calculated to cause bodily injury to any wild animal included in schedule 6 of the Wildlife and Countryside Act 1981 (currently including badger, polecat, otter, red squirrel, hedgehog and pine marten).
7. If a species given protection under Schedule 6 to the 1981 Act is caught unintentionally and has to be killed on grounds of humaneness because it is badly injured, the burden of proof is on the person who killed the animal to justify their action.
8. Under section 14 of the Wildlife & Countryside Act 1981 it is an offence to release or allow to escape into the wild any animal which is of a kind not ordinarily resident in GB in a wild state or

included in Part 1 of Schedule 9 to the Act. These animals, which include the grey squirrel and American mink, should be killed in a quick and humane manner.

9. You must dispose of carcasses safely, so they do not cause harm to human health or pollution of the environment.

For all the reasons set out above we do not believe it necessary to extend the powers to create a broad power for the Welsh Ministers to regulate Snares. We do not see that these powers would add to the powers already available under existing legislation.

Sustainable agricultural business practice

The Covid-19 pandemic has served as a stark reminder of the fundamental importance of access to safe, high quality, affordable food at the most basic right for all in society. The resilience of many systems required to sustain everyday living has been challenged and the food supply chain, like so many other aspects of “normal” life has had to adapt and respond.

The overnight closure of the food service sector – our hotels, restaurants, cafes and hospitality venues - which led to the instantaneous loss of key markets for many Welsh products has brought into sharp focus the fragility and inequity that exists within some of our food supply chains. This became particularly evident within the dairy sector in Spring 2020 resulting in severe hardship for a significant number of dairy producers in Wales.

It is also important to highlight the excellent examples of the supply chain in the UK coming together to ensure that the nation could continue to be fed during a global wide pandemic. The industry from farm to fork, farmers, processors, retailers (independent and multiples) and levy bodies working together to ensure that supermarket shelves were stocked, campaigns to support the consumer adapt and new and innovative ways of ensuring that the consumer had access to healthy and nutritious domestically produced food. The importance of short sustainable supply chains came to the fore.

NFU Cymru would continue to maintain the that the key role for Welsh Government in seeking to support primary producers to deal with the issues of market volatility will be to design a future agricultural policy with stability as a cornerstone. This measure included as a key part of both UK and subsequent EU policies since 1947 has been crucial to ensure that the nation has been fed throughout times of crisis and this most recent crisis has shown that the value of stability measures within agricultural policy is as important as it has ever been.

As previously highlighted if Welsh Government is serious about supporting sustainable business practice then we would fully expect our Government to make firm commitments to the procurement policies of the public sector. We would expect Government to put in place measures to ensure that any food procured by the public sector from outside Wales is only procured from suppliers who can demonstrate equivalence with Welsh standards of production.

We welcome the recognition that the consultation gives to the efforts of industry to tackle fairness and transparency in the dairy supply chain through the 2012 Voluntary Code which was brokered at the NFU Cymru Headquarters in July 2012. Whilst a step forward, ultimately the voluntary code did not deliver the changes that we wished to see from all players in the supply chain. We therefore welcomed the UK wide consultation on Dairy Contracts last Summer and the subsequent agreement of the UK Farming Ministers to take forward the key proposals in the consultation. We look forward to working with Government and partners in the dairy supply chain to take this work forward. Ultimately, we see no reason why the principles established within this work could not be taken forward across the agri-food supply chain.

We seek clarification from Welsh Government by what they mean to be '*variable farm businesses*'? We think Welsh Government should be seeking to address the deficiencies mentioned to support progressive, productive and profitable farm businesses.

NFU Cymru would support a provision to give Welsh Ministers the powers to ensure farmers in Wales, and others in the Welsh agriculture and food supply chain, operate in an efficient, transparent and on a fair basis. We would refer Welsh Government to our response to the Dairy Contracts consultation to highlight how we see this working in practice. We would also highlight that whilst we support Welsh Ministers holding these powers, the supply chain operates beyond the borders of our nation. We therefore believe that similar powers and legislation need to be replicated across the UK and wherever possible legislation relating to the operation of the supply chain should be taken forward jointly across the UK.

If Welsh Government, remain intent, against the advice of industry, on moving forward with SLM proposals that do not provide any measures to provide stability and underpin high quality food production then the powers that Welsh Government propose to include around an efficient, transparent and fair agriculture and food supply chain will be absolutely crucial in determining whether farming businesses will continue to have the confidence to invest in food production within Wales.

Agricultural Minimum Wage

The need to set wage rates for agricultural workers in Wales through a separate piece of legislation solely for agricultural workers is no longer required given that the National Minimum Wage, National Living Wage and Working time regulations are in operation to cover all employees including agricultural workers. Agriculture is a highly skilled profession and farmer employers fully recognise the importance of their employees to the success of their farming business and the need to ensure that they receive a competitive salary.

It is clear from the ongoing difficulties Welsh Government have to annually implement the Order in a timely fashion, as well as the need to ensure that the Order is updated to reflect modern working arrangements and amendments to the NMW and NLW that the cost to WG in terms of internal resource and the employment of external lawyers to advise WG is significant. We question at a time where public finances are tight and staff resource within Welsh Government under pressure whether the Order is good value for money.

Without prejudice to the above comments if WG continues to believe that separate legislation is required in Wales then NFU Cymru is committed to continue to work in a positive and proactive manner with the panel. NFU Cymru working alongside FUW have demonstrated our ability to show leadership and direction within the panel through proposals submitted for a modern and relevant grading structure. We are pleased that our proposals with the subsequent support of the Chair and panel members will now form the basis of a new grading structure from April 1st (WG resources permitting).

NFU Cymru has been disappointed that in many ways the panel has sought to replicate the old ways of working of the Agricultural Wages Board. Too much emphasis is on an adversarial relationship rather than partnership working. These are issues we have raised with Welsh Government on many occasions. In our response to the Welsh Government Consultation on the operation and effectiveness of the Order and its future in 2017 we set out a number of measures that we believed Welsh Government could implement to make the Order and the workings of the panel more effective.

As an example, we have suggested, as a first step Welsh Government commission independent evidence on market conditions, to advise on what the industry can afford to pay and pay levels and deals in comparable sectors to help inform discussions for future wages Orders. The current system

based on a submission from the employer and employee representatives, followed by claim and counter claim with input from independent members is not conducive to positive and constructive panel working.

We would like to commend the work and diligence of the Chairman and the Secretariat, although we would suggest that the team is under resourced, and this impacts on the timeliness of information being provided to industry. We have however been disappointed by the lack of engagement from Welsh Government with the panel. We find this surprising given how high-profile Welsh Government was in seeking to continue with the Panel in Wales and how important and key the White Paper notes the legislation is.

If the powers being proposed by Welsh Government are seeking to address some of the long running concerns that we have highlighted, then we can see that they may have some merit, but we continue to contend that wider employment legislation makes the requirement for legislation specific to agricultural workers superfluous.

Our proposals to replace powers in the UK Agriculture Act

Although the third chapter of the White Paper does not ask any specific questions of consultees, NFU Cymru would like to make some general points in relation to the proposals.

Proposals to replace powers in the UK Agriculture Act

NFU Cymru understands why the Welsh Government chose to take certain powers in the UK Government's Agriculture Act, and we are pleased that these powers have allowed for the continued operation of existing farming support beyond 2020. This has provided and continues to provide the sector with much needed certainty and stability during a period of volatility and change.

We have also been clear that any substantive legislative provisions made in relation to a devolved subject matter, including agriculture ought to be made at the Welsh Parliament, under the scrutiny of Members of the Senedd, and with an opportunity for relevant Welsh stakeholders to properly contribute and input into that process.

Although NFU Cymru supports the idea of legislation relating to agriculture being made at the Senedd, we do wish to make the point that this support is not unqualified. We would for example have reservations about the introduction of a framework type bill which might amongst other things confer extensive powers on Welsh Ministers to make future regulation and regulatory changes, whilst providing little in the way of clear detail, setting few parameters on executive action, and placing few actual duties on Welsh Ministers.

We also believe there must be a meaningful role for the Senedd in scrutinising Welsh Government actions with regard to agricultural support, and a duty placed on Welsh Ministers in any future Agriculture (Wales) Bill to consult before introducing regulations. We would not want to see an Agriculture (Wales) Bill that is so lacking in detail that it is largely reliant on being fleshed out via secondary legislation or confers extensive discretions on Welsh Ministers.

Any future Agriculture (Wales) Bill should therefore be about the carving out of appropriate and proportionate executive powers for Welsh Government, whilst also allowing for the meaningful scrutiny of executive action by the Welsh Parliament and relevant stakeholders. The need to get the Bill right is particularly acute given current Welsh Government's intention that the Bill will provide for Welsh agricultural policy for 15-20 years.

Sunset Powers – Powers to enable continuity of existing agricultural support

The Agriculture Act's provisions allow for the continued operation of the Basic Payment Scheme in Wales until the end of 2024. This does give Welsh Government some space in terms of devising and operationalising new support schemes, in the knowledge that the industry will continue to be able to access CAP legacy schemes in the interim, something which offers the sector much needed stability.

Welsh Ministers indicate their desire to replace certain powers in the UK Agriculture Act, with powers in a Welsh Agriculture Act, including those powers which 'sunset' on 31st December 2024. NFU Cymru believes that if Welsh Ministers are contemplating introducing new dates on which powers to operate CAP legacy schemes cease to have effect then they need to carve out sufficient space to ensure that any successor schemes have been fully piloted, and it is apparent that these schemes will deliver the same or better outcomes for the sector as predecessor schemes.

We would therefore urge Welsh Ministers not to tie their hands by setting an overly ambitious date at which their power to continue to operate CAP legacy schemes expire. Instead, NFU Cymru would advocate that Welsh Government creates sufficient space for itself to allow for the development and testing of new schemes with the industry. This would mean not fixing a date at which CAP legacy schemes cease to operate, and instead retaining the flexibility to continue to operate CAP legacy schemes on an open-ended basis.

There will also need to be provision for a managed transition away from CAP legacy schemes towards new schemes to allow the sector to adjust, and for any fine tuning and finessing of future support arrangements to take place. We would also suggest that Welsh Ministers should make provision for the pausing of transition, if for example there are difficulties or issues emerging.

Powers to declare exceptional market conditions and intervene in agricultural markets and public intervention and private storage aid.

NFU Cymru welcomes the fact that Welsh Ministers propose to take powers to declare exceptional market conditions, something which has the potential to provide farmers with a vital safety net at times of crisis.

There is no avoiding the fact that food production and supply chains across the UK and particularly between Wales and England are very highly integrated. Furthermore, as part of the same land mass and geo-political entity Wales and England are likely to be similarly impacted by climactic events, outbreaks of animal, plant, and human diseases as well geo-political factors.

All of these factors strongly imply the need for regular dialogue and at least some degree of co-ordination of approach between all the UK Devolved Administrations when exceptional market conditions pertain, it is NFU Cymru's view that any decision relating to exceptional market conditions, affecting the competitive position of primary production in any one of the UK home nations is never truly taken in isolation, rather its effects and impacts will ripple out and be felt, to a greater or lesser extent, across all the UK home nations.

We are therefore pleased that a UK Agriculture Market Monitoring Group has been set up as part of the Common Framework process, in order to provide information and analysis as well as co-ordination across the four UK Governments of market impacts. NFU Cymru very much hopes that this will enable a co-ordinated approach across the UK home nations. As a Union we also very much see a role for expert stakeholders such as ourselves in informing the work of the Market Monitoring Group.

Powers for Welsh Ministers to declare exceptional market conditions in Wales of course currently reside in the UK Agriculture Act and are identical to the powers conferred on Defra Ministers with respect to England. It is our view that when Welsh Ministers come to setting out powers for themselves to declare exceptional market conditions, they should ensure that the powers they take, do as a minimum match the powers they currently enjoy through the UK Agriculture Act.

NFU Cymru also believes that there are lessons to be learnt from the deployment of support for agriculture under the COVID 19 pandemic. The dairy hardship scheme at the beginning of the Coronavirus pandemic, which although welcome, was overly prescriptive and rigid in its application with some farmers who had incurred substantial losses narrowly missing out on support.

NFU Cymru welcomes the fact that Welsh Ministers intend to retain the option to be able to offer Public Intervention and Private Storage Aid schemes to support agricultural producers, again NFU Cymru is of the view that there needs to be a degree of co-ordination with other UK Ministers when such provisions are being contemplated or deployed.

Marketing Standards and Carcass Classification

NFU Cymru, like Welsh Government is proud of the high standards to which Welsh agri-food products are produced. As we have said previously though the food production and supply chain of the UK, and GB in particular, is very highly integrated. This inevitably means that decisions affecting production systems, methods, and standards in any one of the UK home nations is never truly taken in isolation, rather such a decision will impact (positively or negatively) on the competitive position of primary production in that territory as compared to primary producers elsewhere in the UK.

Potentially adverse impacts on competitiveness are only amplified by the provisions of the UK's Internal Market Act 2020, and the market access principles expounded in it. We know that under the Act's provisions, goods produced according to methods permitted in any one part of the UK, enter into free circulation by virtue of the market access principles of mutual recognition and non-discrimination. This of course means that although Welsh Government may be able to demand higher standards of production from Welsh primary producers, it would not be able to prevent similar goods produced to lower standards elsewhere in the UK being marketed in Wales, neither would Welsh Government be able to insist on such goods for example being labelled differently, and so were Welsh producers obliged to operate to higher standards, then they would effectively be disadvantaged in their own marketplace.

Welsh Government needs to be particularly mindful of how any decisions around primary production standards will impact the competitive position of Welsh farmers (particularly if these cannot be properly rewarded by the marketplace) and maintain a broadly level playing field in terms of production standards applicable in Wales *vis a vis* our largest, nearest competitors.

Welsh Government will of course also need to be fully mindful of how any legislative changes relating to marketing standards will intersect with the UK's international obligations, including those deriving from trade agreements.

In relation to carcass classification, NFU Cymru is broadly supportive of Welsh Ministers taking powers which would allow them to keep pace in terms of carcass classification as technology improves and ways of doing business change, subject to Welsh farmers not being competitively disadvantaged.

Powers Which Do Not Expire

NFU Cymru wishes to make some general observations in relation to powers in the UK Agriculture Act which do not expire.

The Welsh market for fertiliser is small compared to that in England, and NFU Cymru's members need to be able to continue to access fertilisers on the same basis as other farmers throughout the UK. NFU Cymru is broadly supportive of provisions for Wales, however, there does need to be a high degree of co-ordination between the Governments of the home nations when it comes to the regulation of fertilisers. The risk with a divergent approach (whether in relation to the function and content of fertilisers or matters such as the storage and use of fertilisers) is that some smaller markets may end up becoming more expensive or even uneconomical to supply meaning additional costs are incurred within the supply chain, with the likelihood that these costs end up being passed on to the primary producer, damaging their competitive position.

Similarly, with proposals around the identification and traceability of animals, we point once again to the fact that supply chains within GB are highly integrated, with livestock crossing borders frequently for a range of reasons, and as we know borders are not recognised by animal diseases. As far as NFU Cymru is concerned, whatever system or arrangement the Welsh Government opts for with regard to the identification and tracing of animals, it needs to be fully compatible with systems in the other UK home nations and function seamlessly, and so a high degree of joint working and co-ordination with the other UK home nations will almost certainly be needed.

The proposals in relation to both bovines and ovines set out at paragraph at 3.22 are wide ranging and far reaching and should not be taken forward without full and proper consultation and regulatory impact assessment. Livestock movement and reporting rules have been and remain extremely contentious issues for our members and the proposals around changing reporting windows, pre movement reporting, mandatory online registers and mandatory online movement reporting represent potentially significant changes to livestock keepers. Historically keepers have been frustrated at the way, it is often felt that, the UK has gold plated EU legislation with regards to livestock movements e.g. 3 day reporting for Cattle. Keepers have also noted that many non-EU countries have identification and reporting regimes vastly different to EU rules but can continue to access EU markets. NFU Cymru support robust and proportionate identification and movement rules to minimise the risk of disease spread but these rules must strike a balance and also allow livestock keepers to trade.

The issue of the identification and traceability of animals is also intrinsically linked to the inspection, enforcement, and penalty regime (our views on those issues are covered elsewhere in this response) given the vast number of disproportionate penalties NFU Cymru has seen applied to keepers for minor errors in tagging, recording and movement rules. NFU Cymru would suggest that any changes to identification and traceability of animals need to be considered 'in the round' with proper consideration of all the above matters alongside potential changes to the current movement standstill rules if matters such as pre movement and real time movement recording were to be progressed.

Finally, in relation to organic production, whilst we recognise the devolved nature of the subject area and the desire of Welsh Government to make the relevant legislation in Wales, including in relation to the setting of standards, we would make the point that Wales is an exporting nation in relation to organic produce, being reliant on the markets of the other UK home nations and the EU27. It is vital that we do not do anything which might prejudice the equivalence which allows to enjoy access to these markets, and that Welsh Government co-ordinates closely with the governments of the other UK home nations when it comes to setting standards for organic production.

UK Common Frameworks

With our departure from the European Union's single market, and the regulatory convergence it imposes, there is genuine potential for new barriers to intra-UK trade to arise as a result of diverging regulation in each of the UK's home nations, as areas previously occupied by Community law revert to the competence of London, Cardiff, Edinburgh, and Belfast.

It is very important to Wales' farmers that the same basic regulatory requirements are in place in each of the home nations so that we have a level playing field and fair competition for the agricultural sector across the UK. There are around 575 farm businesses operating across GB's internal borders for whom regulatory divergence would pose a particular and unique challenge.

We must also avoid regulatory divergence creating new barriers and frictions to intra-UK trade, and our members must be able to continue to access vital markets in the rest of GB on the same basis as they did before our departure from the EU.

We see the Common Frameworks programme as integral to the twin objectives of maintaining a level playing field for farmers across the home nations and avoiding creating any new frictions to trade. Although we support the development of the Common Frameworks programme, this support has always been and remains predicated on Common Frameworks being agreed through mutual consent rather than imposition from the centre.

The UK Farming Unions (including NFU Cymru) meet regularly to ensure that farms in all parts of the UK have a common voice as the UK leaves the EU's single market and forges its own agriculture and trade policies. The Unions have agreed the following principles, mindful of the Northern Ireland protocol, that should guide policy development and implementation following the UK's departure from the single market:

1. The current devolution settlement of policy and regulation to the constituent parts of the United Kingdom should be respected and maintained.
2. The UK's various Governments, Parliaments and regulators should take every step to retain and protect a well-functioning single market for food, agricultural commodities, part/processed agricultural products, live animals and breeding material, and plant and plant products throughout the UK.
3. In developing distinct agricultural policies to replace the Common Agricultural Policy, Farming Ministers across the UK should ensure that the funding, design, and application of their agricultural policy should not adversely impact the functioning of the UK single market.
4. The impact of future trade policy, which is a reserved matter for the UK government, should be considered by UK farming ministers in determining these future agriculture policies.
5. Farming Ministers and agricultural departments across the UK must establish and maintain regular, formal, and cooperative arrangements to manage policy, legislation, and delivery of regulation across the UK economic area. A guiding principle should be that no single country determines or curtails UK policy in the rest of the UK.
6. No part of the UK should be able to act, or avoid action, that threatens to curtail access for other parts of the UK to third country markets, or that question the UK's adherence to its international agreements.
7. The UK Government should retain its commitment to provide in the long term at least the same level of public investment and distribution in agriculture across the UK.

Over recent months NFU Cymru has met with both Welsh Government and Defra on the issue of the Common Frameworks programme and the groups which sit underneath them, and we have been encouraged by the work which has been done and the collaborative approach taken by those who have been involved. We would re-iterate the importance of UK Governments seeking the

involvement and input of stakeholders such as ourselves in the common framework process where appropriate.

Integrated Impact Assessment

Q18. What are your views on the impacts we have identified in the integrated impact assessment. Are there any further impacts that should be considered?

NFU Cymru notes Welsh Government has published an Integrated Impact Assessment alongside the White Paper which establishes the legislative framework from which to develop proposals for future land management policy in Wales. This includes proposals to establish a farm support scheme to replace EU schemes; provision of support to the wider industry and supply chain; new National Minimum Standards and enforcement regime; as well as additional proposals around improving animal health and welfare, support for forestry and woodland management, and regulating the use of snares. We note that costs and savings associated with the proposals will be assessed as part of a cost benefit analysis and Regulatory Impact Assessment which is to be published alongside the Agriculture (Wales) Bill.

The importance of comprehensive and effective impact assessment within the policy development framework cannot be over-stated. It is vital that costs, impacts and benefits of policy and regulatory proposals are properly understood through the process of regulatory impact assessment (RIA). NFU Cymru is clear an RIA should contain a comprehensive and detailed analysis of the cost benefit of proposals and should specifically consider the financial and practical impacts on farm businesses, sectors, regions and Welsh farming and the supply chain.

With respect to the Integrated Impact Assessment (IIA) published alongside the White Paper we would make the following comments:

- Social Well-Being

Landscape – proposals provide regulatory protection of the landscape, the IIA fails to assess the costs associated with its ongoing maintenance and how this is to be achieved if landscape is not included as a public good (as NFU Cymru proposes) in the absence of direct support provided currently through the BPS.

Farm Safety – we note this is referenced within the IIA but is absent from any proposals within the White Paper.

Farmers well-being – the IIA refers to research which identifies the positive benefits to well-being resulting from agri-environment scheme participation. The research cited refers to the Burren Project in Eire where, it should be noted that, participants also continue to be in receipt of direct payments. We identify the impacts to mental health arising from the loss of the BPS is likely to greatly negate any positive benefits from agri-environment scheme participation where farm businesses are rendered unviable. Further we do not agree proposals for National Minimum Standards will contribute to reduced uncertainty surrounding future regulation. Welsh Government incorrectly assumes the cross-compliance regime is easy to understand and that the costs of meeting those standards can simply be absorbed by farm businesses. Levels of anxiety will be compounded by significant change to agricultural policy and learning the requirements of a new scheme at the same time. The rate of change needs to be manageable for farmers.

Succession planning – whilst Welsh Government indicate there is no evidence the wider proposals will impact negatively on farm succession planning; we identify that anything that undermines the productive capacity of Welsh farms will reduce opportunities for young farmers and new entrants.

Enforcement – the IIA correctly recognises the threat of enforcement can have an adverse effect on farmers’ mental health and well-being. Whilst proposals seek to avoid criminalisation, we identify that breaches of cross compliance are the cause of very significant distress currently. There is a need for Welsh Government to recognise that as well as the enforcement regime, it is the complex nature of the regulations and the fear of getting it wrong the is a key driver of stress and anxiety.

Ammonia – the IIA inaccurately refers to ammonia as directly harmful to human health.

- Cultural Well-Being

Culture and heritage – Welsh Government confirms that proposals for the future scheme do not target culture and heritage, though the intrinsic links to agriculture are recognised. The direct impacts on landscape, heritage, culture and Welsh language as a result of the loss of the BPS and replacement by the Sustainable Farming Scheme needs to be assessed, as should the ability of farmers to afford the cost of NMS.

Resilience – Welsh Government expect the Sustainable Farming Scheme to support the resilience of farm businesses. We seek clarification with respect to this conclusion given that Welsh Government has published no assessment of the impact of the withdrawal of the BPS; Welsh Government has provided no information on the costs to farm businesses of participating in the future scheme, predicted impacts to agricultural output or the rewards scheme participants can expect.

- Economic Well-Being

National Minimum Standards – the IIA states that NMS should not require farmers to expend significantly more money to be compliant. The costs and burdens of meeting cross compliance standards currently should be assessed.

Supporting secure and stable employment – Welsh Government must directly assess the impact of the withdrawal of the BPS and replacement with SFS on direct and indirect employment. This assessment must show the future scheme can secure at least the same number of jobs before moving forward.

- Environmental Well-Being

Place-based approach – The IIA states Welsh Government will take into account a range of evidence including SoNaRR and Area Statements to identify local priorities and support collaboration. The Area Statement process remains highly conceptual, their application and relevance not yet clear. NFU Cymru would not support Area Statements having any influence on scheme design and we identify they are no more than the ‘wish lists’ of environmental groups with farmers who own and manage the land largely ignored through the process. NFU Cymru is concerned about a ‘post code’ lottery of support and lack of equal access which will likely be subject to challenge.

Decline in biodiversity – the IIA should also assess the costs of managing the maintenance of what is there. Many of our valued habitats are not natural *per se* and are the result of ongoing management by farmers.

SLM Framework – Welsh Government refer to this being an internationally recognised framework. We ask Welsh Government to provide examples of countries where this is the operational framework for agricultural policy functioning successfully in the absence of any form of direct support.

Overall, NFU Cymru does not support the conclusions drawn from the IIA and we remain unclear on what basis Welsh Government is able to make those conclusions as the evidence has not been presented. Nor do we believe White Paper proposals contain sufficient safeguards to ensure the full

range of goods and services provided by Welsh farming are secured into the future. Throughout the consultation response, NFU Cymru has highlighted the shortcomings that exist and put forward proposals to address these. We hope our feedback will be properly reflected in the development of the Agriculture Bill moving forward.

Welsh Language

Q19. We would like to know your views on the effects that the White Paper proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Q20. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

NFU Cymru would express serious concerns about the impact of proposals on the Welsh language. Firstly, we would highlight that the Well-Being of Future Generations Act places a duty on public bodies to work to enhance economic, environmental, social and cultural well-being in Wales. This includes working towards seven key well-being goals which includes 'A Wales of vibrant culture and a thriving Welsh language'.

The Welsh Government Strategy 'Cymraeg 2050 - A million Welsh speakers' – a strategy document for the promotion and facilitation of the use of the Welsh language identifies the Welsh language as 'one of the treasures of Wales' and establishes a vision for 2050 of a Welsh language that is thriving, where the number of Welsh speakers has reached a million and where there is recognition by all of its contribution to the culture, society and economy of Wales. In that context we would refer to evidence that recognises the role of Welsh farmers as key promoters and protectors of our culture, heritage and the Welsh language.

The Welsh Government Agriculture in Wales document from 2019 provides a summary of the number of Welsh speakers based on 2011 census results. Overall, 43% of workers in Agriculture, Forestry and Fisheries speak Welsh compared to an average of 17% across all workers in Wales. This figure is the highest percentage of any sector. 4 of the top 6 counties in terms of the proportion of Welsh speakers are also 4 of the top 6 counties in terms of the population employed in Agriculture, Forestry and Fisheries (Gwynedd, Anglesey, Ceredigion, Carmarthenshire).

The evidence is useful in highlighting the role of farming within our communities in terms of the preservation of the Welsh language. Given the concerns expressed throughout this consultation response about the potential impacts of proposals on farm viability and the subsequent impacts to rural businesses and rural communities, we believe that a full impact assessment should be undertaken to understand specifically the impact to the Welsh language before moving forward. Overall, it is our strong view that a thriving Welsh language in rural areas is underpinned by thriving Welsh farms; any proposals that weakens the farming sector will ultimately weaken our Welsh language and what defines us as a people and a nation.

Rural Support

Q21. *We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them;*

NFU Cymru is acutely aware that at a time of significant change for the farming industry concerns over new policies, regulations, markets and finances can be a cause for concern. This situation made worse by COVID 19, the loss of loved ones, concerns for the health of family members and the strains brought about by being apart from friends and family. Whilst farmers take great care looking after their livestock and their land they can sometimes overlook the importance of looking after themselves.

NFU Cymru is a partner of the Wales Farm Safety partnership and supports the work of the Farm Safety Foundation which seeks to tackle the stigma around mental health issues with campaigns like #MindYourHead. We are grateful for charities such as RABI, Tir Dewi, the DPJ Foundation, FCN and Addington Fund for the support that they give to individuals and farming families. Problems can arise from financial and emotional pressures, mental or physical health concerns, along with the added worries associated with weather extremes and disease outbreaks such as a TB herd breakdown.

Farmers often tend to keep their worries and concerns to themselves and some still perceive a stigma attached to mental health matters. This can hinder the ability to seek help when it is most needed. It is also a concern to us that there will be a percentage of farming families who do not engage with any public bodies, organisations, or stakeholder groups and who may live in relative isolation. These families may not realise that there are charitable bodies that may be able to assist them in times of need. These families may possibly require a robust support system more than any other. NFU Cymru staff have undertaken mental health training with the DPJ Foundation. This included a day's training for the NFU Cymru Head Office staff as well as training for the wider network of Group Secretaries located throughout Wales.

At a time of such upheaval, we need to work together collectively to make sure that our farmers and their families know that they are not alone and that there is help and support available. The agricultural industry already has a high suicide rate with one farmer a week in the UK taking their own life. This alarming statistic must be halted and reversed. Political, medical and social policies focussed on farming families need to be developed to address any increased vulnerability resulting from these issues.

The Welsh Government has shown their support for charities related to farming through financial help. We also welcome Government recognition of the seriousness of the issue through providing a Minister with specific responsibility for Mental Health. In 2018, NFU Cymru participated in a Red Meat Supply Chain visit to New Zealand, whilst there we heard about the impact of major agricultural reform on the New Zealand agricultural industry, it was reported that a number of farmers did suffer mental health issues as a result of the change and that counselling and support was required. This has subsequently developed in New Zealand into a comprehensive network of Rural Support Trusts who receive some government funding to help with their work.

We need to consider in Wales how the industry and government can work with farming charities to understand risks and impacts of policy and wider changes and to ensure that there is a comprehensive support network in Wales and that farming families know where to turn to for help. The FCN FarmWell initiative may be the opportunity to achieve this but will only work if there is a collective will by everyone to work together.

In 2019, Public Health Wales and the Mental Health Foundation published their report 'Supporting farming communities at times of uncertainty' – an action framework to support the mental health and

well-being of farmers and their families. The report identifies that improving the mental health and well-being of farmers and their families is of considerable importance. The benefits of a resilient farming sector can extend beyond the farmers themselves, contributing towards the health and well-being of rural communities, local economies and Welsh culture.

The report identifies that 'periods of uncertainty can increase anxiety and have a detrimental impact on mental health and well-being'. Dealing with uncertainty can increase anxiety and have a detrimental impact on mental well-being, amongst farmers, their families and rural communities. Farmers experience high levels of stress and anxiety due to a lower sense of control over farming sector processes (competition, regulation and price margins) and the wider environment effecting farming practice. Farmers are at increased risk of feeling at times that life is not worth living, having a lack of social support and have been identified as an occupational group at increased risk of suicide. Family members, whilst often a source of support, can also suffer mental ill-health and be in need of support.

Whilst a number of recommendations were framed in the context of the Brexit Political uncertainty at the time the report remains extremely relevant and pertinent today.

In the context of the developing future policy actions include the need to co-produce a long-term vision for farming in Wales that demonstrates the value of farming as a social, economic, environmental and cultural asset for Wales and addressing the financial instability and achieving a fair price including a co-production approach to the development of future financial models (e.g. levels of funding, implementation, timeliness and creating opportunities for farmers to gain greater price control). The importance of co-producing future policy decisions with the farming community was emphasised to ensure solutions can sustain a viable farming business and be implemented effectively rather than taking a top-down approach without practical consideration.

We recognise that the White Paper refers to the Public Health Wales report in the context of improving the experience of regulation, that is to be welcomed, we need to ensure that the mental health and well-being of farmers is considered as the Agriculture (Wales) Bill is introduced and the resulting secondary legislation and scheme(s) are developed and the transition away from current support begins.

****END****

