

# **The report of the independent Farming Regulation Task Force**

**Striking a balance:  
reducing burdens; increasing  
responsibility; earning recognition**

**A report on better regulation  
in farming and food businesses**

## **SUMMARY OF RECOMMENDATIONS**

**May 2011**

**PB13528**

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# Letter to Ministers

## **FARMING REGULATION TASK FORCE**

***Chair: Richard Macdonald***

17 May 2011

Rt. Hon. James Paice MP, Minister of State for Agriculture and Food, Defra

Dear Minister,

We have pleasure in attaching for your consideration our independent report on better regulation in farming and food, which you commissioned in July 2010.

In writing this report we have undertaken an extensive consultation with the industry and other interested parties. We have also had a number of thoughts constantly in mind: food and farming businesses must be freed from unnecessary bureaucracy and enabled to be competitive and capable of increasing production; we mustn't compromise our environmental, food safety, animal and human welfare standards; and your expectation that we should be bold!

It is difficult and probably wrong to caricature Government thinking on regulation. However, if we did, it would be that successive administrations have been cautious, prescriptive, fearful of EU infraction, and possessive of implementation. As a result, in many instances we have become slaves to the process of regulation and lost sight of the outcomes we have been trying to achieve. We think we should be just the opposite. If we want economic and production growth in a way that achieves or preserves high standards, Government's role should be to set the strategic overview, but then minimise its involvement.

We should determine regulatory needs on the grounds of impact. We should determine regulatory interventions on the basis of risk and should pull industry into the whole process as partners with Government. We should recognise businesses who earn trust with lighter or no touch, and so encourage excellence. And by doing all this, we will take immense emotional and financial costs off the shoulders of business.

This report is in two parts: first (chapters 2–3), how we establish a new regulatory culture, primarily (but not solely), in Defra, its agencies and delivery partners; second (chapters 4–11), specific recommendations for change. Inevitably and understandably the latter will draw most attention, but without culture change, issues don't get dealt with.

The key strategic message from our report is that Defra and its agencies need to establish an entirely new approach to and culture of regulation; otherwise the frustration that we, farmers and food-processing businesses have felt will continue. The essence of this approach is about strengthening the partnership between Government and the farming and food-processing industries.

Government must trust industry, must involve it in the development of non-regulatory and regulatory solutions, and must set the framework for industry to take responsibility. Where regulation is used to resolve a problem, the department and its agencies must change the focus from process to outcomes – from the 'culture of tick-box regulation' to delivering real results. Government inspection and enforcement must become more efficient

and more effective. The competent authority must remain key, but it must adopt a tighter, risk-based approach to regulation. Critical to this is for Defra and its agencies to establish a system of 'earned recognition' that enables regulators to reward good practice with less frequent inspection.

Against this background, a large number of significant improvements can be made to individual regulatory frameworks. We draw your particular attention to our recommendations on three issues on which you asked for our advice at the start of our review because of the strong concerns that you knew farmers to have.

The livestock movements regime should be simplified in a way that reduces burdens without compromising the risk of animal disease spread. The paperwork burden involved in the 'Nitrates Regulations' should be reduced. Defra should then move towards a catchment-based approach for managing nutrients. Ideally, this would lead to an integration of the aims of the Nitrates Directive with those of the Water Framework Directive in a way that minimises burdens, avoids duplication and improves the chances of a better outcome. Cross-compliance and the Single Payment Scheme should be simplified in a way that ensures a focus on outcomes while making farmers' lives easier.

We also draw your attention to several other key recommendations. These relate to the planning framework and legislation, water management, the regulation of waste and integrated pollution prevention and control, the pesticides regime, and meat hygiene inspections. But these are just headlines to a raft of improvements, short- and long-term, that can be made. In the time available, we have not been able to calculate costs and benefits, but we are sure that our recommendations offer big savings to business; and more streamlined and focused systems are inevitably of less cost to Government. We should also be clear that we have only looked at regulations that are unique to food and farming. Broader issues such as employment rules that are just as constraining for farmers have been left to others to resolve!

By commissioning the Task Force on Farming Regulation, Defra has put itself at the vanguard of the Government's better regulation drive. If you accept our recommendations, you will give the department, its agencies and delivery partners an agenda for change. We strongly commend that Defra be allowed to focus on leading implementation, rather than getting bogged down in a Whitehall exercise on principles when there is a clear better regulation agenda for the Department to implement.

In signing off, we recognise that implementing this report will not be straightforward. You asked us to be bold; now we ask the same of the Government. Many of our 200 or so recommendations are challenging. But we believe they are all credible. Some can be done immediately; many require renegotiation with the EU, which we accept will not be easy. So our recommendations are a mix of the shorter-term achievable and a longer-term agenda. If the Government accepts most if not all of them, we are confident it will re-set the way that it, farming and food businesses interact, and for the better. If not, nothing much will change. We commend this report to you.

Yours faithfully

Judith Donovan

Richard Percy

William Goodwin

Marion Regan

John Healey

Andy Robertson

Heather Jenkins

Stephen Tapper

Richard Macdonald (chair)

## Executive Summary

“The key strategic message from our report is that Defra, its agencies and delivery partners need to establish an entirely new approach to and culture of regulation; otherwise the frustration that we, farmers and food-processing businesses have felt will continue. The essence of this approach is about strengthening the partnership between Government and the farming and food-processing industries.

Government must trust industry, must involve it in the development of non-regulatory and regulatory solutions, and must set the framework for industry to take responsibility. Where regulation is used to resolve a problem, the Department, its agencies and delivery partners must change the focus from process to outcomes; from the ‘culture of tick-box regulation’ to delivering real results. Government inspection and enforcement must become more efficient and more effective. The competent authority remains key, but it must adopt a tighter, tauter, risk-based approach to regulation. Critical to this is for Defra, its agencies and delivery partners to establish a system of ‘earned recognition’ that enables regulators to reward good practice with less frequent inspection.

Against this background, a large number of significant improvements can be made to individual regulatory frameworks. We draw particular attention to recommendations on three issues on which Ministers asked for our advice at the start of our review because of strong concerns from farmers.

The livestock movements regime should be simplified in a way that reduces burdens without compromising the risk of animal disease spread. The paperwork burden involved in the ‘Nitrates Regulations’ should be reduced. Defra should then move towards a catchment-based approach for managing nutrients. Ideally, this would lead to integration of the aims of the Nitrates Directive with those of the Water Framework Directive in a way that minimises burdens, avoids duplication and improves the chances of a better outcome. Cross-compliance and the Single Payment Scheme should be simplified in a way that ensures a focus on outcomes while making farmers’ lives easier.

We draw attention to several other key recommendations. Planning regulations must be improved to allow farm businesses to adapt, innovate and grow, including through the forthcoming National Planning Policy Framework and improvements to the permitted development and prior notification procedures, as well as the General Permitted Development Order. The forthcoming Water White Paper offers Government the opportunity to say how water can be better managed as a resource for agriculture. The regulation of waste and integrated pollution prevention and control (IPPC) must be streamlined, through tailoring environmental permitting forms and guidance, applying a general licence to waste, introducing a three-tier approach to waste regulations and exemptions, and reducing IPPC inspections and ensuring objective application processes.

The pesticides regulatory regime must be improved through increased support for specific off-label approvals and minor uses (short term) and a move to a risk-based approach (longer term). Consistently competent meat processors should be able to source meat inspection services from accredited private-sector providers within a system managed by the competent authority. Short-term changes can be introduced, but the longer-term goal will be to negotiate in the EU for a risk-based system. “

## The Farming Regulation Task Force

1. In June 2010, as part of the Coalition Government's Growth Agenda, James Paice, Minister of State for Agriculture and Food, established the Farming Regulation Task Force. He asked us to advise the Government on a new approach to regulation in England that looks through the eyes of a farmer or food-processor.
2. Our Task Force exists because farming and the food industry matter. Together, they form nearly 7% of the economy. Together, they are a key component of the 'green economy' and of our future economic growth. We need farmers to produce more food, but to do so sustainably. Farmers manage much of the landscape and help look after our renewable natural resources, our farm animals, our landscape and our wildlife.
3. From the very beginning, maintaining outcomes has been a key part of our vision. Our work is not – as one commentator stated – “a bonfire of regulation”. Instead, we are all about *better* regulation. The ability of farming and food-processing businesses to contribute to outcomes is constrained by burdens associated with regulation, particularly in terms of process and paperwork.
4. To identify the most onerous burdens– and to work out how they can be reduced or removed – we have looked at regulation from the point of view of the affected businesses. Conducting extensive consultation with industry and others, we have considered where changes are needed in the 'culture' of regulation in Defra, its agencies and delivery partners. We have identified the regulations that impose a burden but have little positive outcome.
5. In the light of consultees' views, we have focused on over-complex implementation, but have also identified a few instances of unnecessary regulation and gold-plated legislation. We have addressed only those issues identified as a problem by contributors. Only in a very few cases have we made tough choices not to take forward ideas presented to us.
6. We are not the first group to look at regulatory burdens; we follow, most notably, Philip Hampton's 2005 review of inspection and enforcement. But our bottom-up approach is very different to that of previous 'red tape reviews'. These have examined regulation or regulators top-down, and proposed generic principles and specific targets to be achieved by the Government.
7. This fundamental difference, together with the Coalition Government's drivers of the Growth Agenda and better regulation, makes us confident that our report could and should be the stimulus that Ministers need to make real, long-lasting change. Without this change, farming and food-processing businesses will continue to feel frustration at constraints on their ability to deliver the outcomes that we ask of them: producing food, contributing to the economy, and looking after natural resources, farm animals, landscape and wildlife.

## Our report and recommendations

8. Our recommendations for change fall into two groups: first, steps to effect wide regulatory culture change (chapters 2-3); second, proposals for amendments to specific legislative frameworks (chapters 4-11). Throughout we have balanced boldness with credibility. Our recommendations are challenging but deliverable.

9. In **CHAPTER 2**, we address a series of recommendations to both the Government and industry related to **changing the way we work**. The shift, so sorely needed, is from bureaucracy to responsibility and partnership. We make six sets of proposals. First, we identify how to refine the regulatory culture. The starting point must be to ask whether there is a problem to address and then to identify alternatives to regulation. We set out the questions that policy-makers, regulators, industry and others must ask themselves at this first stage. Second, the partnership between Government and industry must be improved and strengthened. We identify ways in which industry can demonstrate responsibility to justify receiving Government's trust, and ways in which the Government can make better use of industry expertise, including through independent regulatory review.
10. Third, we need a new approach to inspection and enforcement that is targeted and fairer. We expand on this in Chapter 3, but here stress that we understand the importance of the competent authority for ensuring effective enforcement. Penalties must be proportionate: stiff punishments for major misdemeanours but a light touch for breaches of process and minor non-compliance.
11. Fourth, we make strategic recommendations for the Government to reduce and reform paperwork and process (and provide further details in Chapter 5). For the Government to deliver excellent customer service, it must make it easier for businesses to operate, for example through general licences and single information points. We set out new principles for Government collection of data. The Government should set a vision of moving more paperwork online, and must promote and make better use of the Farming Theme of Business Link.
12. Fifth, the Government should better understand farming and farmers in order to influence behaviour, agree outcomes, and develop and implement ways of achieving change without recourse to regulation. Finally, the UK's engagement in the European Union (EU) must be greater, earlier and in partnership with industry. The Coalition Government's guiding principles for EU legislation are admirable but can be developed. The Government should lead change in the EU, pressing the European institutions to place the 'end-user' at the centre of EU policy-making and regulation.
13. In **CHAPTER 3** we consider long-standing concerns about the number and type of on-farm **inspections**. Farmers see inspections as time consuming and unnecessarily disruptive to their businesses, and their purpose may not always be clear. There is little benefit in official inspection of low-risk, normally compliant premises. We provide principles to improve the way that inspections are planned and carried out. Inspections must be clearly risk-based, targeted and, where possible, organised so that they work with normal business practice, rather than disrupting it.
14. To achieve this, and to remove duplication, the principle of **earned recognition** must be developed and used. Under this, regulators take account of a wide range of information about the likely risk of each business. This includes membership of an accredited private-sector assurance scheme or other evidence that farmers have chosen to invest in, and which may duplicate official inspection. Local Authorities should not inspect the same requirements that are checked by Defra agencies and delivery partners as part of cross-compliance inspections. Finally, the Government should provide a web-based platform to help farmers and regulators share information to help determine risk and direct inspection efforts.
15. We say to private-sector assurance schemes that the process of culture change is one that should apply across the board. Our recommendations on earned recognition and sharing information will be of little benefit if official inspections are simply replaced by equally bureaucratic and process-driven private sector audits.

16. In **CHAPTER 4** we consider the key points of regulation that affect **farms as businesses**. Planning is a substantial barrier for development. It is vital that current regulations are changed to allow farm businesses to adapt, innovate and grow. The forthcoming National Planning Policy Framework must explicitly support sustainable and productive farming and must promote sustainable intensification. Current regulations on permitted development and the prior notification procedure should be amended so that thresholds for agricultural developments are increased. Polytunnels and other horticultural support structures should be added to the General Permitted Development Order, under specific conditions.
17. Ensuring an adequate supply of seasonal labour is critical, particularly for horticulture. We suggest how the horticultural industry should encourage EU citizens to take its employment opportunities. This must be complemented by a new Seasonal Agricultural Workers Scheme. Amendments should be made to the gangmasters licensing system that are designed to improve farmers' and growers' perception of the system, and make inspections more targeted while still protecting workers. We also make recommendations on transport and health and safety.
18. In **CHAPTER 5**, we present proposals on **paperwork**. We set out the principles which Defra, its agencies and delivery partners should adopt when considering forms, data collection, online tools and guidance. We draw together the numerous changes to paperwork, record-keeping and process that are needed to simplify specific regulatory frameworks, notably for livestock movements, Nitrate Vulnerable Zones, the Single Payment Scheme, environmental permitting and food chain information. (We cover these in detail in the respective chapters.) Finally, in our digital age, Defra must move to collecting data required for agricultural surveys completely online.
19. In **CHAPTER 6** we consider key aspects of **environmental legislation** that impact farmers. We identify how to reduce burdens of process without compromising environmental protection. Diffuse pollution from agriculture, including nitrates, must be addressed, but the current 'Nitrate Regulations'<sup>1</sup> are a blunt, inflexible and, arguably, an ineffective instrument. The system is overly focused on process at the expense of achieving crucial environmental outcomes. In the short term, and as part of the upcoming review of the Regulations, there must be a significant reduction in the paperwork and calculations required in proving compliance. Longer term, there must be a more holistic approach to managing nitrates, through a catchment-based approach to nutrient management.
20. We address problems with water availability and supply. The Water White Paper should recognise the importance of a sustainable water supply to the farming sector. Water must be better managed as a resource for agriculture; lifting specific burdens relating to private water supplies, water fittings regulations and abstraction licences is important.
21. The regulation of waste and integrated pollution prevention and control (IPPC) must be made as light touch as possible. Environmental permitting forms and guidance should be tailored to the agricultural sector. The need for farmer registration could be reduced by applying a general licence to some negligible risk waste activities. A three-tier approach to waste regulations and exemptions should be adopted. We suggest ways of reducing IPPC inspections, ensuring objective application and complaints processes, and removing controls if possible. Farmers should be able to seek permission to dispose of fly-tipped material at council waste sites. The Government should ensure greater consistency across its policies relating to renewable energy in the farming sector, and make specific recommendations for individual regimes.
22. In **CHAPTER 7**, we focus on the **Common Agricultural Policy (CAP), the Single Payment Scheme (SPS) and cross-compliance**. Defra's negotiating position for the CAP 2014–20 should include a focus on the need for simplicity and resist mechanisms such as capping and quotas that would introduce unnecessary

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<sup>1</sup> We refer to the Nitrate Pollution Prevention Regulations 2008 as the 'Nitrates Regulations' throughout this report.



complexity. When it comes to the regulations associated with the revised regime Defra should focus on outcomes rather than process, and apply our approach to better use of risk-assessment for inspections.

23. To improve the SPS, the mapping system must be simplified, payments made only to holdings with 5 hectares of 'actively managed' land excluding hard surfaces and other ineligible areas; entitlements should be abolished. Those who claim SPS should be those managing the land, as they produce food and contribute to good environmental outcomes. A series of improvements would collectively reduce SPS administrative burdens: making greater use of pre-populated forms, maximising the use of online facilities for the application process, removing crop codes, and ensuring that cross-compliance conditions are focused on outcomes rather than process. Commoners should claim SPS as a group through their Commoners Association. Under cross-compliance, all but four Good Agricultural and Environmental Condition requirements (GAECs) and two Statutory Management Responsibilities (SMRs) should be retained, with these four being amended, refocused or removed in ways that do not adversely affect environmental outcomes.

24. In considering **Farmed Animals (CHAPTER 8)** our major effort has been on the related issues of animal identification and movement control. The present arrangements, including the six-day movement restriction, are intended to minimise disease spread. It is important that these controls are easily understood and complied with, so that they protect the livestock industry. Unfortunately, the current rules are criticised as complex and obstructive to livestock production, and this has led to relatively high levels of non-compliance.

25. This system must be replaced by a new package of measures that balances the relative risk of disease spread and the need of businesses for a simpler system that takes account of the seasonal nature of livestock production. The key elements of this new approach should comprise: rapid adoption of electronic reporting of animal movements, introduction of a single, distance-limited CPH designation (replacing Sole Occupancy Authorities and Cattle Tracing Scheme Links) that will allow farm-to-farm movement of animals without record keeping, and free movement of animals between individual farms without triggering a six-day standstill. Approved separation facilities within a CPH to hold bought-in animals without a standstill on the rest of the holding should also be allowed, thereby allowing producers to make maximum use of limited market opportunities.

26. In **CHAPTER 9**, we focus on regulatory issues specific to the **horticulture and arable sectors**. The EU Fruit and Vegetable Scheme and its application in England have been dysfunctional. The recent issuance of guidance will hopefully usher in a new era of co-operation between industry and the Government. The review of compliance should be swiftly executed to bring much-needed clarity that benefits all those involved in the scheme and its reputation.

27. The pesticides regulatory regime must be improved. In the short term, there should be increased support for specific off-label approvals and minor uses. In the longer term, the regulatory framework for pesticides must be risk-based, and Government should push for further harmonisation at a European level, to give growers access to the most effective pesticides. Finally, the Government must act immediately to amend the Misuse of Drugs Act so that industrial hemp growers stop being subject to a dual licensing regime in blatant denial of the Government's own better regulation principles.

28. Ministers asked us to consider **Meat hygiene controls** as an example of burdensome official inspection, and we address this in **CHAPTER 10**. Consistently competent meat processors should be able to source meat inspection services from accredited private-sector providers within a system managed by the competent authority. The longer-term goal of a risk-based system requires change to EU rules; the Government should take the lead in piloting innovative inspection processes and making recommendations

to the European Commission. In the short term, changes that do not require changes to EU rules should be introduced, including the greater use of 'cold inspection' in small processors with appropriate facilities. The Government should make maximum use of derogations in EU law controlling TSEs and support proportionate, risk-based changes, including the TSE roadmap, to these rules and implement changes without delay once they are agreed.

29. In this chapter, we also identify ways to reduce regulatory burdens on the **food-processing industry**. In comparison to farming, we received little evidence of such burdens. Nevertheless, in the light of concerns expressed, we propose revisiting the interpretation of legislation relating to antibiotic failures in milk and removing the Beef Labelling Scheme. Defra and the Food Standards Agency should engage constructively with the current reviews on the sampling of veterinary residues and trichinella controls. Earned recognition should be used to help reduce paperwork arising from food chain information requirements and to reduce inspections of poultry and egg producers.

## Conclusion

30. Taken together, we have about 215 recommendations that represent a challenging programme of change. We recognise that this cannot be achieved overnight. But, from our discussions with Defra, its agencies and delivery partners, with industry and with NGOs, we are confident that it is achievable. Our thinking accords with the direction of travel that Defra and regulators are embarking on in order to modernise public services and devolve power. We have also been impressed by the willingness of trade associations, businesses and individuals to take on more responsibility.

31. So the question should not be 'if' Government should do this, but 'by when?'. In many cases, we offer recommendations on two timescales. We make short-term proposals on the current process (e.g. for change over the next year or two). We often complement these with an alternative medium-term vision that takes into account the difficulties and timescales involved in EU negotiations. These may take many years to achieve, but unless they are pressed for now, they will remain forever.

32. The time is right to make change happen. The onus will be on Ministers to lead from the top. During our work, we often heard that our recommendations would contravene EU law or would be difficult to implement. From our perspective, this is over cautious and evasive. To really make progress, to set and lead the agenda, you will need to break a few eggs. The attitude must be 'can do, will do', not 'can't, won't'. Ministers asked us to be bold. With this report, we now offer them and all those others involved the same advice.

## Chapter 2 Changing the way we work: from bureaucracy to responsibility and partnership

We direct the following outline recommendations both to Government (notably Defra family) and to the farming and food-processing industries (notably trade associations).

***Revisit and refine the regulation culture*** (paragraphs 2.06–09)

The starting point must be to ask whether there is a problem to address and then to identify alternatives to regulation. We set out a series of critical questions that policy-makers, regulators, industry and others must ask themselves at the outset. We endorse the Coalition Government's approach to better regulation, which sets the parameters for making a real difference.

***Cultivate and celebrate partnership*** (paragraphs 2.10–20)

Trust and responsibility, a two-sided coin, is the basis of the strengthened partnership that we envisage between Government and industry. Government and industry must share and own the problem, the science, the desired outcome and the solution. Defra should use independent industry expertise to shape the regulatory future. Government must strengthen its engagement with industry during the pre-consultation phase of developing (or co-designing) legislation. This includes inviting industry to take a leading role in drafting what would ideally be jointly owned guidance on implementation of regulation. Industry and Government should co-operate to strengthen Government's agricultural expertise.

***Develop and demonstrate a new targeted and fairer approach to inspection and enforcement*** (paragraphs 2.21–28)

A risk-based approach to inspection is needed. To make this happen, it is critical to develop a system of 'earned recognition'. We give more detail in Chapter 3. Notwithstanding the need for 'small Government', the role of the competent authority is still key to ensuring effective enforcement. Penalties must be proportionate. Enforcement agencies will need to impose stiff punishments for major misdemeanours; these should be civil sanctions as well as criminal penalties, but a light touch for breaches of process and minor non-compliance. Where Defra cannot do this because of EU rules, it should lobby European institutions to change EU legislation.

***Reduce and reform paperwork and process*** (paragraphs 2.29–43)

As part of continuous improvement and making it easier for businesses to operate, Government should: make greater use of general licences; commit to maximum response times and fixed decision points; and establish single sources of information. . We set out strategic recommendations for reducing paperwork (and discuss them further in Chapter 5). Guidance documents should be as short as possible and, where appropriate, provide a clear and succinct overview of how rules have changed. We need new principles for collecting data that make efficient use of industry and Government time. We need to move from paperwork to 'digital by default', and to make better use of, and more clearly signpost the Farming

**Theme of Business Link.** To wrap up all these recommendations, Defra, its agencies and delivery partners should, within six months, produce a plan for reducing process and paperwork in their various interfaces with the farming and food-processing industries.

*Explore and embrace tools to influence farmer behaviour* (paragraphs 2.44–47)

Influencing behaviour, rather than mandating it through legislation, can be more successful. This can involve working to encourage existing behaviour as well as changing it. It is important for Government and trade associations to understand farmers better in order to influence behaviour, to agree outcomes, and develop and implement ways of achieving change without recourse to regulation.

*Engaging in Europe: more, earlier and in partnership* (paragraphs 2.48–53)

The UK's engagement in the EU should be greater, earlier and in partnership with industry. The Coalition Government's guiding principles for EU legislation are admirable, but could be developed further. The Government should use the European Commission's *Communication on smart regulation* to lead change. Government should press the European institutions to place the 'end-user' (e.g. those directly affected by regulation) at the centre of EU policy-making and regulation. The European Commission could improve compliance by Member States and the end-users of regulation by working with industry to draft guidance on implementing Community law. It could also encourage wider use of 'compliance promotion initiatives'. Finally, we make recommendations for improving inspections required by EU law.

## Revisit and refine the regulation culture

### Start by asking whether there is a problem to address – and then identify alternatives to regulation

2.06 Once a problem has been identified, we recommend that Defra's starting point – for addressing wholly domestic problems and when negotiating in the European Union (EU) – should be non-regulatory solutions.

2.07 We recommend that policy-makers, regulators, industry and others start by asking themselves a series of questions:

- what's the problem? Do we need to address it at all?
- what's the desired outcome? How is existing action (including regulation) contributing to this outcome?
- does *Government* need to do this? Can *only* Government do this?
- can we do this without regulation?
- if there is an unambiguous need for regulation:
  - how will it contribute to the desired outcome?
  - how do we keep it simple and clear, while keeping the focus on the outcome?
  - how do we avoid duplication in both legislation and subsequent enforcement?
  - and how do we keep the focus on *outcome* rather than *process*?
- is the private sector already doing something similar? If so, how can we use what they are doing including as a risk assessment tool?
- if we need regulation, what is the most efficient and cost effective inspection regime possible that achieves the desired outcome?
- what might be the unintended consequences of our proposal, and how might we avoid them?
- who is best placed to produce clear, succinct and simple guidance to help businesses comply?

2.08 We recommend that trade associations continue to develop voluntary initiatives to address agreed problems and meet desired outcomes, and facilitate take-up by their membership. We also recommend that trade associations strengthen their ‘marketing’ of successful voluntary initiatives, including to policy-makers in the European Commission and European Parliament.

## Cultivate and celebrate partnership

### Trust and responsibility: the basis of partnership

2.10 We endorse the view that regulators should trust business, but this trust must be matched by industry taking responsibility. We recommend that industry should demonstrate this by trade associations informing their membership that the consequences of partnership include accepting punishment for breaches of trust. Just as we expect Government will respond to this report, we recommend that key industry bodies publish their own responses, demonstrating how they propose to take responsibility.

2.11 We recommend that such a response from industry bodies might include their views on the proposals we direct towards them throughout this report<sup>2</sup>, as well as the following elements:

- engaging openly with Government on key tools such as Impact Assessments that are already in place: the quality of Impact Assessments partly depends on industry providing detailed and accurate information; they would be more powerful if they were an agreed document;
- engaging fully with Government and third-party assurance bodies to develop a workable system of ‘earned recognition’ (for which see paragraphs 3.12–33);
- trade associations should continue to help their members become involved with approaches such as the Voluntary Initiatives on Pesticides and the Campaign for the Farmed Environment;
- trade associations and other industry bodies such as the Agricultural and Horticultural Development Board (AHDB) should drive, own and fund training and continuous professional development (CPD) for farmers, farm advisers and inspectors (e.g. agronomists, vets, Lantra), and that such training for farmers be recognised through earned recognition;
- promoting a role for farmers in assessing outcomes, and the sharing of data with regulators and industry representatives; and
- agreeing with the regulator what constitutes bad behaviour and how it should be addressed.

### Sharing the problem and desired outcomes

2.12 We recommend that problem, outcome and solution should be routinely shared, discussed, collectively considered and owned between Government and industry. This includes informing the UK negotiating position in the EU.

### Using independent industry expertise to shape the regulatory future

2.13 We recommend the establishment of a senior panel or board within Defra to have oversight of better regulation matters. Periodic independent regulatory review should be a key principle for Government.

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<sup>2</sup> specifically in paragraphs 2.12, 2.14, 2.16, 2.17, 2.19, 2.20, 2.28, 2.34, 2.36, 2.45 (final bullet), 2.50, 3.10, 3.20, 3.24, 3.31, 4.07, 4.62, 4.69, 4.83, 5.09, 5.17, 6.15, 6.22, 6.30, 6.50, 6.61, 6.67, 8.14, 8.22, 8.41, 9.13, 9.14, 9.17, 9.18, 9.26, 9.39, 9.42, 9.46, 10.17, 10.20 and 10.29.

2.14 We recommend that the group:

- should be a genuine ‘enquire and challenge’ panel if it is to hold Defra to account;
- include, as equal partners, up to three independent members, one of whom should chair the panel;
- include independent members who participate *as individuals* should have the breadth of experience to contribute fully;
- monitor Defra’s adherence to *better regulation* principles and have a strategic overview of regulations;
- steer Defra’s engagement on regulation issues with industry and act as a point of reference where business feels that standards are not being met;
- review progress with implementing the recommendations of this report; and
- be accountable to Ministers.

2.15 We recommend that the board should have a role in contributing to better regulation decisions in relation to animal health and welfare.

### **Defra should engage with industry at the earliest stages of developing (and possibly co-designing) legislation**

2.16 Where a regulatory route has been agreed to address a problem, we recommend that the framework should be designed by Government and industry in partnership to the greatest extent possible.

2.17 We recommend that policy-makers always invite a working group of industry representatives (both trade associations and farmers) to sense-check draft proposals in confidence and ‘instructions to departmental lawyers’ before they are turned into legal text. We recommend that Ministers should not approve formal consultation on any legislative proposal where industry has not been invited to contribute in this way.

### **Defra should invite industry to play a leading role in drafting jointly owned guidance on implementation of regulations**

2.19 We recommend that:

- Defra and its regulators invite appropriate trade associations and farmers, where they have appropriate capacity, to play a leading role in drafting guidance, consulting other interest groups as appropriate;
- those involved in drafting jointly own that guidance with Government (assuming that Government is happy to sign up to that guidance) and should help promote it with those needing to use it; and
- Defra, its regulators and trade associations trial guidance with ordinary farmers in advance to sort out problems.

### **Strengthening Government’s agricultural expertise**

2.20 We recommend that Defra recruit industry specialists. In the short term, we recommend a programme of two-way secondments and training between Defra, its agencies and delivery partners, and industry, e.g. trade associations. We recommend exchanges, induction programmes and farm visits by Defra/agency staff. We endorse Environment Agency and Food Standards Agency efforts in encouraging such interchange and recommend that the practice become more common within Defra, its agencies and delivery partners.

## Develop and demonstrate a new targeted and fairer approach to inspection and enforcement

### A comprehensive risk-based approach to inspections must be the future

2.23 We recommend (see Chapter 3 for details):

- adoption of a system of *earned recognition* to inform and target inspections and that serves as an incentive for good practice;
- that regulators provide a proper explanation of their inspection programme.

### Making penalties proportionate

2.26 We recommend that the proportionality and type of penalties applied by enforcement bodies be reviewed.

2.27 We recommend that regulators should have a greater range of penalties at their disposal; specifically:

- Where non-compliance is minor we recommend that regulators should be allowed to give warnings and require faults to be put right.
- Where non-compliance is major we recommend that tough punishments are applied. We recommend there should be a robust and transparent system for determining what non-compliances count as 'major'.
- We recommend that a good way of applying proportionate penalties would be to use civil sanctions, a Macrory principle<sup>3</sup>, rather than criminal punishments (which should target the most serious cases).

2.28 We further recommend that:

- the UK seeks to renegotiate EU rules to incorporate the principle of proportionate penalties<sup>4</sup>; and
- industry endorse the approach of proportionate penalties – and apply peer and market pressure to develop high standards.

## Reduce and reform paperwork and process

### Introducing general licences where possible

2.30 To reduce burdens on the end-user, we recommend that Defra, its agencies and delivery partners should make a presumption in favour of general licences wherever legally possible.

### Introducing maximum response times and fixed decision points

2.31 We recommend that the Government commits to maximum response times. We recommend that the regulator gives a commitment to take decisions at fixed decision points to allow all parties to consider whether to proceed or not.

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<sup>3</sup> R. Macrory (2006) *Regulatory justice: making sanctions effective. Final report.*

<sup>4</sup> e.g. to avoid a recurrence of the situation experienced by the RPA on cross-compliance., In 2005, RPA adopted a light-touch approach to payment reductions for non-compliance, only to be subject to European Commission Audit criticism in 2008.



## Introducing single sources of information

2.32 In the light of this, we recommend that Defra establishes a single access point to information on inspections (e.g. the Farming Theme of Business Link) and single customer contact points in each regulator.

## Reducing paperwork

2.33 We recommend that Defra, its agencies and delivery partners:

- develop a partnership approach to designing forms (paragraph 2.34);
- introduce new principles for collecting data (paragraph 2.35);
- review requirements on farmers to write plans (paragraph 2.36);
- move from paperwork to 'digital by default' (paragraph 2.37); and
- make better use of the Farming Theme of Business Link (paragraphs 2.38–40).

### A partnership approach to designing forms

2.34 We recommend that with every new administrative burden, Defra and industry collectively engage a sample of ordinary working farmers to help design the form.

### Adopting new principles for collecting data

2.35 We recommend that:

- before any process is considered the question is asked – 'do we really need this information?';
- regulators comply with the Regulators Compliance Code by not collecting the same data twice where this can be avoided;
- regulators should make clear to farmers who their data is being shared with and offer farmers the opportunity to 'opt in' to data-sharing between Defra and its regulators;
- there should be a presumption that regulators share data except where they are not legally or technologically able to do so;
- regulators be sensitive to sectoral calendars when issuing requests for data;
- industry trade associations push the take-up of electronic means of data supply by its members; and
- regulators investigate alternative means of gathering data that do not impinge on farmers.

### Review requirement on farmers to write plans

2.36 We recommend that Defra reviews its rationale for requiring farmers to write plans.

### From paperwork to 'digital by default'

2.37 We recommend that:

- Defra, its agencies and delivery partners aspire to create a comprehensive system of pre-populated forms;
- Defra, its agencies and delivery partners, and trade associations, encourage take-up of opportunities to complete 'paperwork' electronically as part of good business management practice;
- the Government sets a goal of 100% quality broadband access in rural areas;
- the Government and trade associations encourage farmers and food-processors to use online facilities, whether directly or through a third-party including call centres; and
- IT training for farmers should be a priority for training providers.



## Making better use of the Farming Theme of Business Link

2.38 We are convinced that the Farming Theme of Business Link is the best vehicle to deliver our proposals on earned recognition and risk-based inspections as well as being the place for online applications and information.

2.40 We recommend that:

- the Government makes it easy for farmers to find the Farming Theme, by improving the signposting of the Farming Theme within Business Link (e.g. through a link on the Business Link homepage); and
- trade associations take on the important role of encouraging take-up of Business Link among their members.

2.41 Regulation must be underpinned by clear and concise guidance. In paragraphs 2.18–19 we suggest that Government should invite industry to play a leading role in drafting guidance. But we also recommend that guidance should be as short as possible and where they are issued after changes to the rules they should provide a clear, succinct overview of how rules have changed.

## Improving guidance

### Defra, its agencies and delivery partners should produce a plan for reducing paperwork and process

2.43 We recommend that Defra, its agencies and delivery partners, including the Food Standards Agency produce a coherent plan for Ministers of how they intend to further reduce and rationalise the process and paperwork for farming and food-processing businesses, with aim of improving efficiency and effectiveness. We recommend that the plan:

- is produced by the end of 2011;
- explains where paperwork and process cannot be reduced, and address ‘customer journey mapping’ where it makes sense to do so; and
- is based on the Task Force principles and recommendations elsewhere in this report.

## Explore and embrace tools to influence farmer behaviour

### Understanding farmers to influence behaviour

2.44 We recommend that Government and industry use insights from behavioural science to *enable, encourage or persuade* farmers and food-processors to contribute to achieving better outcomes.

2.45 We recommend that Defra further encourages the use of farming industry ‘segmentation’ in policy-making. We recommend that regulators and industry representatives partner their approach to farmers and food-processors.

2.46 This feeling of ‘guilt’ is behind much of farmers’ worries about inspections and can be compounded by heavy-handed or insensitive enforcement. It is essential that full account is taken of the cumulative and individual impact of regulation, guidance and enforcement.

## Engaging in the EU: more, earlier and in partnership

### The Coalition Government's guiding principles for EU legislation

2.49 We endorse the Coalition Government's *Guiding Principles for EU legislation*, as announced in December 2010, particularly:

- We believe Defra, the UK Permanent Representation to the EU, Cabinet Office and Better Regulation Executive should allocate more specialist resource to engagement, not less. There may also be benefit in integrating a better regulation module into training in EU negotiations.
- We recommend that the UK argues to the European institutions that it can help industry better comply with regulation by agreeing realistic transposition and implementation timescales. We recommend that timescales should not be traded off against other elements as part of the negotiation end-game.
- We recommend that the Government goes further and presses EU partners to introduce post-implementation reviews or sunset clauses as standard in EU legislation, where this is not already the case. We recommend that the European Commission should lead the review and should consult end-users in doing so.
- We recommend that the UK should encourage the institutions to shift their focus from process to outcomes. We recommend that the UK presses the European institution policy-makers to ask themselves the same questions that we suggest Defra policy-makers ask (paragraph 2.07).
- In coming to a decision, we recommend that Ministers consider whether gold-plating:
  - would place industry in an uncompetitive position (as we fear from the Poultrymeat regulations);
  - would simply 'export' the problem overseas; and/or
  - could be provided by the marketplace rather than legislation (e.g. farm assurance standards).

Where Ministers decide not to use copy-out, we recommend that they publicly consult industry and other stakeholders with their reasoning.

### Using the European Commission's *Communication on smart regulation* to lead change

2.50 We recommend that the UK Government use the European Commission's *Communication on Smart Regulation*<sup>5</sup> to help lead regulatory change in Brussels. Specifically, we recommend that:

- the Government should collaborate with the European Commission's Secretariat General to push the other European institutions to incorporate the European Commission's *Communication on Smart Regulation* into their policy- and law-making;
- the Government should argue that smart regulation is key to the European Commission's *Europe 2020* strategy;
- as a matter of continuing policy, the Government should press the European Commission to simplify existing legislation and ensure that this results in improvement to end-users.

<sup>5</sup> [http://ec.europa.eu/governance/better\\_regulation/key\\_docs\\_en.htm](http://ec.europa.eu/governance/better_regulation/key_docs_en.htm)

## Placing the end-user at the centre of EU policy-making and regulation

2.51 We recommend that the Government lobbies European institutions to put end-users at the heart of how interventions are chosen and developed. Specifically, we recommend that:

- the Government uses the Council of the European Union to hold the European Commission's Impact Assessment Board to account in its role of assessing European Commission impact assessments. It should focus on the impacts on micro-businesses;
- the Government presses the European institutions to look at cumulative burdens on industry;
- the Government, working together with the Council of the European Union and European Parliament, presses the European Commission to deliver on its commitment to 'think small first' when developing policy that affects businesses. It should examine cross-DG issues (e.g. inspections) as part of the 'fitness checks' unveiled by the European Commission's *Communication on Smart Regulation*;
- the Government presses the European Commission in particular to engage more thoroughly and at an earlier stage in policy development with industry practitioners likely to be impacted by the proposed problem and solution; and
- trade associations strengthen their engagement with European institutions. This involves making alliances with equivalent organisations from other Member States. It also involves Defra regularly inviting industry on lobbying visits to Europe.

## How the European Commission can improve compliance

2.52 We recommend that the Government:

- explores with the European Commission how they might better take responsibility for helping end-users comply with EU legislation;
- presses other Directorates General to follow DG ENV's compliance promotion initiative<sup>6</sup>. This may involve questioning European auditors and their approach on disallowance decisions; and
- encourages the European Commission to work with industry and Member States to draft guidance on implementing EU law.

## Improving inspections required by EU law

2.53 We recommend a better balance between risk-based and random inspections. This means that the European Commission should review its use of breach rates in calculating the size of samples for inspection regimes.

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<sup>6</sup> [http://impel.eu/wp-content/uploads/2010/01/Communication-on-implementing-European-Community-Environmental-Law-2008-com-2008-773\\_en.pdf](http://impel.eu/wp-content/uploads/2010/01/Communication-on-implementing-European-Community-Environmental-Law-2008-com-2008-773_en.pdf)

## Chapter 3 Improved inspections including through earned recognition

Changes should be made to the arrangements for many inspections to improve the way they affect farmers and regulators.

We recommend adoption of the approach of 'earned recognition'. This is about giving official recognition to the effective efforts made by individuals and businesses in understanding legal requirements and getting things right. Adopting and applying this principle of earned recognition should reduce the burden on business and should help regulators to make risk-based decisions and to make better use of their expertise. This does not always need changes to regulation. But it does require regulators to remove duplication and to adopt changes in the way that inspections are planned and organised. In particular, targeting inspection by using earned recognition in risk assessment to reduce the inspection burden on low risk farmers and business.

Single Payment Scheme (SPS) cross-compliance checks are a priority area for implementing earned recognition.

### Our vision for change

3.03 We would like to see reconsideration of the EU requirement for unannounced visits, so as to achieve a better balance between surprise and business disruption.

### Principles for inspection

3.04 To improve inspection and help the Government end what it calls "the culture of tick-box regulation", we recommend that the following principles should apply to farms and primary processors:

- there should be as few inspections as are necessary to meet obligations and maintain standards;
- inspection must be risk based and targeted;
- regulators should provide a clear explanation of their inspection programme;
- regulators must make full use of all evidence available to them (paragraphs 3.13, 3.23) to implement earned recognition;
- regulators must have greater confidence in industry to meet standards;
- inspections should, where possible, fit the business calendar (e.g. not during lambing);
- inspections should fit with the way that business works and limit requirements on farmers to what is reasonable;
- adequate notice should be given before an inspection (unless the law requires unannounced checks);

- where possible checks should be made on a sample basis: e.g. checking perhaps only 10% of cattle during cattle identification inspections or only selecting certain criteria to be checked during a cross-compliance visit. A full check should be carried out only where non-compliances are found;
- to avoid multiple visits, an inspection should cover all issues for which that regulator is responsible;
- regulators must share information, as far as possible, to improve prioritisation, reduce frequency of visits and improve coordination, e.g. animals should only have to be gathered once for inspection purposes; and
- inspectors must understand the business and be aware of any associated assurance scheme coverage;
- these principles should be applied across the sector, e.g. livestock markets.

## Organisation of regulators

3.06 We recommend that the CAP cross-compliance inspectorate should be confined to RPA and AHVLA, ideally with the whole process being led by RPA to reduce the potential for multiple official inspections. In the longer term, we recommend that RPA carry out all visits, with input from AHVLA as needed.

3.08 We recommend that the Government ensures that local authorities are not carrying out inspections for the same purpose as another regulatory body. In the case of such duplication, only one body should carry out the inspection.

## Enforcement and emergency capacity

3.09 We recommend that regulators and local authorities continue to work together to pursue enforcement.

## Inspector behaviour and skills

3.10 We recommend that the Government and trade and professional associations jointly develop new arrangements to ensure that inspectors and assessors have appropriate training, and understand the business sectors in which they operate.

## Earned recognition

### Principles of earned recognition

3.16 We recommend that the principles of earned recognition become central to Government regulatory policy-making and implementation, so wherever possible individuals/businesses have the opportunity to provide evidence and benefit from a reduced or less costly regulatory burden.

## Earned recognition in practice

### Accredited assurance schemes

**3.20 We recommend that regulators, industry and assurance providers review current arrangements and agree a list of accredited and other schemes that provide assurance against specific official controls.**

**3.24 We recommend that regulators and industry organisations consider an issue-by-issue list of information that would be appropriate for guiding risk assessment.**

### Information sharing

**3.28 We consider that the Farming Theme on Business Link (paragraphs 2.38–40) offers the best practical way for farmers and regulators to share earned recognition evidence (paragraph 3.22–25), and strongly recommend its development to this end.**

### Inspections where earned recognition could apply

**3.29 We recommend that regulators consider all current farm inspections to assess whether there is close alignment between official inspection and third-party schemes with a view to addressing duplication and adopting the principles of earned recognition.**

### Recommendations made in other chapters

- We believe that the Gangmasters Licensing Authority should move its inspection regime to a more targeted, risk-based approach using the principles of earned recognition (paragraph 4.53).
- The IPPC Farm Assurance Scheme is an exemplar for other forms of ‘earned recognition’. We recommend that if the scheme shows continued standards of compliance, the EA should consider further significant reductions in inspection frequency (paragraph 6.76).
- We recommend greater use of earned recognition in respect of meat hygiene controls and in particular moving to commercially operated control bodies to undertake certain official controls (paragraph 10.16).
- Import controls on high risk products: FSA should work with trade bodies, ports and designated laboratories to minimise delays of products produced to internationally recognised standards (paragraph 10.45).

## Recommendations to assurance and other schemes

**3.31 We recommend that third-party assurance schemes: ‘keep it simple’; ask what is really needed and leave out what is superfluous; use language the farmer understands and keep paperwork short and simple.**

## Chapter 4 Business and management

**We recommend that:**

- the National Planning Policy Framework adequately reflects the need for productive, sustainable farming, the sustainable intensification of agriculture and the positive contribution to local communities and economy that can be made by agriculture;
- the permitted development and prior notification thresholds for agricultural buildings are increased;
- polytunnels and on-farm winter-fill reservoirs are added to the General Permitted Development Order, with specific criteria limiting their use;
- measures be taken to increase the supply of seasonal labour, including adapting the benefit system to reduce financial disincentives for the unemployed to undertake seasonal work, and introducing a new Seasonal Agricultural Workers Scheme;
- the gangmasters licensing system is improved by ensuring greater use of targeted inspections and enforcement, clarifying current guidance and refocusing external communication;
- the Department for Transport review and amend the current Road Vehicles (Construction and Use) Regulations to reflect the needs of modern farm machinery;
- farmers remember the Health and Safety Executive message “Make the promise: come home safe” and increase their professionalism, awareness of and training in health and safety; and
- Defra invite the Tenancy Industry Reform Group to undertake a review of the Agricultural (Maintenance, Repair and Insurance of Fixed Equipment) Regulations.

### Planning

#### Localism

4.07 The onus will be on farmers to participate proactively in neighbourhood plans under the Localism Bill and we recommend that they do so.

#### National Planning Policy Framework

4.12 The NPPF must recognise importance of food production and agricultural businesses. We propose the following specific wording for inclusion in the NPPF:

*“Competitive and profitable agricultural and food-processing industries, producing as much food as possible whilst maintaining environmental standards, are a key feature of national*

*government policy. The planning system must therefore facilitate sustainable intensification<sup>7</sup> and productive farming which can grow, adapt, innovate and change; and promote the development of agricultural business and the wider food supply chain, recognising the economic and social benefits that these businesses can add to the local community.”*

## Permitted development and Prior notification

4.15 We recommend a return to the development regulations which were in place pre-1995 where any agricultural buildings under 465m<sup>2</sup> on an agricultural unit of 5ha or more is permitted development without prior notification.

4.17 We recommend that agricultural buildings between of 465–1,500m<sup>2</sup> surface area, on agricultural units of a minimum size of 5ha, should be subject to the prior notification procedure rather than full planning control.

4.18 We recommend that the construction of on-farm winter-fill reservoirs up to 25,000m<sup>3</sup> be permitted under the GPDO. LPAs should expedite their construction, with appropriate conditions regarding siting and design. Water infrastructure for agriculture and horticulture should be recognised as strategic within the NPPF and by LPAs.

## Polytunnels

4.21 We recommend that Part 6 of the GPDO is amended to create a category that would include polytunnels.

4.23 We recommend that LPAs take a pragmatic, non-regulatory approach to horticultural support structures, such as ‘table tops’, training systems and fruit-netting; these should all remain outside the planning system.

## Information requirements

4.27 In order to simplify and reduce unnecessary delays in the planning application process, we make the following recommendations:

- for outline planning permission and prior notifications, LPAs should be required to respond within 14 days to notify if there is a need for any additional information to validate the application (this is consistent with our wider strategic recommendation that Government commit to maximum response times (paragraph 2.31));
- for outline planning permission and prior notifications, LPAs should be required to provide a substantive reply and decision within 42 days of the original request (ditto);
- local planners should be offered training in agriculture, horticulture and the food industry. The onus on this should come from farming organisations but we also commend this opportunity to agricultural colleges.

<sup>7</sup> The term ‘sustainable intensification’ features in the recent Foresight report on *Global food and farming futures*. See <http://www.bis.gov.uk/foresight/our-work/projects/current-projects/global-food-and-farming-futures/reports-and-publications>



## Village greens and footpaths

- 4.34 We recommend that for both the application for designation of village greens and the recording of new rights-of-way, mechanisms should be introduced to rebalance the process and to ensure that reasonable costs are met by both parties (i.e. including applicants).
- 4.35 We recommend that the proliferation of inappropriate village green designations is addressed. We understand that, as part of their Business Plan commitments, Defra and DCLG will be looking to reform village green designations and to introduce a new local 'green space designation'. We would recommend that Defra/DCLG use this reform to address our concerns in paragraphs 4.28–34.
- 4.36 We recommend that the Group's conclusions that a cut-off date of 2026 for discoveries of historic routes should be implemented, as originally introduced by the Countryside and Rights of Way Act 2000, whereby a final map is drawn up with all footpaths and rights-of-way, with no more being added.
- 4.38 We recommend that a pragmatic solution for temporary diversions should be to put the proposed diversion to the relevant local access forum, for agreement or otherwise. We believe that it might be helpful for the Government to supplement this local approach with a code of practice.
- 4.39 We encourage the Government to consider our recommendations and the strong sentiment behind them in any wider package of measures to come out of the work of the stakeholder working group.

## Seasonal workers' accommodation

- 4.41 We recommend that there should be a presumption in favour of planning applications for seasonal workers' accommodation in established horticultural businesses. This would mean allowing permitted development for buildings up to 465m<sup>2</sup> surface area and prior notification for buildings between this threshold and 1,500m<sup>2</sup>.

## Renewable energy operations

- 4.44 We recommend that the NPPF should recognise the important of on-farm renewable energy developments.

## Agricultural labour

### Seasonal workers

#### Using UK and EU citizens in seasonal work

- 4.49 We recommend that the Department for Work and Pensions adapts the benefit system to reduce financial disincentives (such as loss of benefits) for the unemployed to undertake seasonal work. We recommend that the agricultural industry improves its collective communication strategy to encourage greater take up of seasonal work by EU citizens, particularly students.

## Seasonal Agricultural Workers Scheme (SAWS)

4.54 **We urge the Home Office to introduce a replacement for the Seasonal Agricultural Workers Scheme to enable workers from prospective accession states to provide seasonal labour for UK agriculture and horticulture.**

## Gangmasters licensing scheme

4.60 **We urge those leading the review to consider our recommendations as a means of reducing the burden of administration and inspection when enforcing workplace rights.**

## Communications and perceptions

4.62 **We recommend that the GLA continues to work with the National Farmers Union (NFU) and other representatives of labour users to lead drafting of future guidance specific to labour users. In line with our strategic recommendation (paragraphs 2.18–19), we recommend that the GLA and NFU jointly own this guidance.**

4.63 **To improve its relationships with the farming and horticultural industry, we recommend that the GLA should better communicate its priorities (enforcement against rogue gangmasters) and further engage with labour users on its enforcement approach.**

## Inspections and enforcement

4.64 **We welcome the GLA's pilot [to test lighter-touch regulation in the forestry sector], and recommend that it be extended to low-risk activities in farming and growing.**

4.65 **We believe that the GLA should move its inspection regime to a more targeted, risk-based approach using the principles of earned recognition.**

4.66 **We recommend that the GLA ensures that its inspectors are clear as to the guidelines that are in place when conducting inspections.**

4.67 **We recommend that the GLA explores further alternative means of interviewing gang workers without disrupting farm businesses as far as possible and without adversely affecting its ability to identify worker exploitation.**

4.69 **We recommend that the GLA and trade associations should work together to better communicate the advantages of a labour user voluntarily registering on the GLA website as a labour user. We also recommend that the GLA make clear that labour users that voluntarily register on the website are at no higher risk of inspection than if they do not register.**

## An alternative to licensing

4.70 **We recommend that Defra explores the costs and benefits of a 'registration and enforcement' model as an alternative way of delivering desired outcomes.**

## Transport

### Trailer licences

4.74 We recommend that the DVLA introduces an exemption from the B and E category licence requirement for vehicles used for agriculture, horticulture and forestry.

### Weight/speed restrictions for trailers

4.77 In the light of the size/needs of modern farm machinery, we recommend that Department for Transport (DfT) amends the 1986 regulations, making the following changes:

- the maximum speed limit for tractors should be aligned with the rest of the EU at 40 km/h;
- the maximum weights of trailers and combinations are increased from 18.29 tonnes and 24.39 tonnes to 21 tonnes and 31 tonnes respectively. We appreciate that, due to other legislation, any machinery of this weight would be required to be registered with an appropriate scheme to ensure roadworthiness. We understand that such a scheme is being developed by the industry in partnership with the DfT.

### Forklift testing

4.79 We recommend that the relevant training guidance or application form from the certification body makes this clear to test candidates booking a forklift-driver training and certification test. We also recommend refresher courses for all forklift drivers from time to time.

## Health and safety

4.83 We urge farmers to remember the HSE message “Make the promise: come home safe” and increase their professionalism in awareness of health and safety issues.

## Tenancy issues

### Agricultural Holdings Act 1986

4.85 We think there should be consideration of a less costly approach. In particular this should allow the parties to a Tenancy Agreement to contract out of the arbitration provisions within the existing legislation and to opt for disputes to be settled by an Independent Expert where the matter does not relate to a notice to quit.

### Agricultural (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973

4.86 We recommend that Defra invites the Tenancy Reform Industry Group to undertake such a review.

## Chapter 5 Paperwork

### We recommend:

- that Defra adopts our 'principles of paperwork', which cover forms, plans, records, data collection, use of online tools and guidance;
- specific changes to paperwork associated with livestock movements, the Single Payment Scheme, environmental permitting, food chain information and Nitrate Vulnerable Zones; and
- that agricultural surveys are completed online and Defra continues to lobby the EU over the size and extent of required agricultural surveys .

## Principles of paperwork

### Government and industry should design forms in partnership

5.07 We recommend that for every new administrative burden, Defra, its agencies and delivery partners, and industry should collectively engage a sample of ordinary working farmers to help design the form/record/plan.

### A new approach to data collection that improves the efficiency of its supply, capture and use

5.09 We recommend that, before soliciting data, Government asks itself whether it really needs the information. The question should be 'do we really need this information in order to comply with legislation?' not 'would the information be useful?'

5.10 We recommend that regulators do not collect the same data twice where this can be avoided. We recommend that Government agencies endeavour to join up their information-gathering wherever possible.

5.11 We recommend that regulators do not collect superfluous data.

5.12 To reduce burdens on farmers, we recommend that there should be a presumption that regulators share data except where they are not legally or technologically able to do so. We recommend that regulators make clear to farmers who their data is being shared with and offer farmers the opportunity to 'opt in' to data-sharing between Defra and other regulators.

5.13 We recommend that regulators demonstrate sensitivity to sectoral calendars when issuing requests for data.

5.14 We recommend that trade associations encourage their members to submit data electronically.

5.15 We recommend that regulators investigate alternative means of gathering data that do not impinge on farmers.

## An aspiration that paperwork becomes ‘digital by default’

5.17 We recommend that Defra and industry set a joint vision of making all paperwork available for electronic completion and online submission. As the Farming Theme of Business Link (paragraph 2.38–40) expands in membership, it should become the default means through which farmers can store and submit forms electronically.

## Reviewing the requirements to produce plans

5.19 We recommend that Defra/regulators review the requirements on farmers to complete plans.

## Improving guidance

5.21 We recommend that Government considers ways to improve co-ordination of related guidance and the frequency with which it is made or changed.

5.22 Where guidance documents relate to rule changes, we recommend that they provide upfront a short, ‘quick-start’ guide on how rules have changed. We suggest that guidance documents should be as short as possible; page numbers in single figures if possible!

## Summary of regulation-specific paperwork recommendations

### Nitrate Regulations

5.23 We recommend that:

- the review of the Nitrate Regulations significantly reduces the paperwork, including the need for detailed plans and maps;
- it is necessary to keep a record only of the amount of nitrogen applied per field in organic and inorganic form. Where a farmer has a more detailed nutrient management plan, they could earn the right to be less frequently inspected as part of an earned-recognition approach;
- the Farming Theme of Business Link is expanded to enable farmers to submit electronic copies of nutrient management plans online.
- farmers can apply for a derogation from the 170 kg/ha whole-farm nitrogen loading limit through the Single Payment Scheme claim, rather than submitting a separate application;
- a new calculation for NMax should be required only when a significant change in farming practice takes place, or unless the fertiliser recommendations<sup>8</sup> change substantially; and
- organic and low-intensity farming systems are exempted from record-keeping requirements under this regime.

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<sup>8</sup> Fertiliser recommendations as contained in the Defra [‘Fertiliser Manual’](#) (RB209).

## Environmental permitting

5.24 We recommend that:

- the environmental permitting application form and accompanying charging note should be tailored to the agricultural sector;
- the EA should allow and encourage permit applications to be completed online;

## Single Payment Scheme and cross-compliance

5.25 We recommend:

- that the Soil Protection Review becomes voluntary and be used in earned recognition (with GAEC 1 itself being reframed as a 'duty of care');
- removing crop codes from the SPS form where possible;
- extending the SPS-application window so that forms can be submitted from the beginning of January;
- changing the entitlements form to include an option which allows RPA to rotate the entitlements so they remain viable;
- that in cases of dual claims, the RPA gives farmers the option to forward their personal details to the other claimant;
- that the RPA should return to its previous pragmatic approach to 'obvious errors' on SPS forms;
- that the RPA should introduce a system of fixed-date replies throughout any appeals process.

## Livestock movements and farmed animals

5.26 We recommend:

- increasing the use of electronic reporting for livestock movements;
- reviewing information in cattle passports, herd books, flock registers and the fallen stock register to ensure that information is provided only where necessary and in a way consistent with normal farming practice.

## Food chain information

5.27 We recommend that existing information from contractual arrangements between producers and slaughterhouses, and/or farm assurance schemes, should replace the need for food chain information requirements.

## Agricultural and other surveys

### Agricultural surveys

5.30 We urge Defra to continue lobbying the EU over the size and extent of the surveys. We recommend that Defra integrates into its negotiations the new approach for data collection that we outline in paragraphs 5.08–15.

5.31 We recommend that the June survey is completed entirely online, using information that applicants are already providing for the SPS forms.

## Food and Environment Research Agency surveys

5.33 We recommend that FERA continues to make the best use of online and electronic tools to reduce the time it takes farmers to complete surveys.

## Chapter 6 Environment and land management

**We believe that burdens on farmers can be reduced without compromising environmental outcomes, and recommend that:**

- record-keeping and calculations to demonstrate compliance with the Nitrate Regulations should be significantly simplified, and there should be exemptions for organic and low-intensity farming systems;
- Defra, building on partnership initiatives existing within the industry, should move towards a catchment approach for managing diffuse pollution, paving the way for eventual management of nitrates purely through the Water Framework Directive;
- the Water White Paper should recognise the importance of a sustainable water supply to the farming sector;
- Defra should also better manage water as a resource for agriculture by lifting specific regulatory burdens;
- the regulation of waste and integrated pollution prevention and control (IPPC) should be kept to the minimum possible;
- environmental permitting forms and guidance should be tailored to the agricultural sector;
- the need for farmer registration could be reduced by applying a general licence to some negligible-risk waste activities;
- IPPC inspections should be reduced, ensuring objective application and complaints processes, and removing controls if possible; and
- the Government should ensure greater consistency across its policies relating to renewable energy in the farming sector.

### Introduction

6.04 We recommend that, through the NEWP, Defra sets out a framework to deliver better integrated and prioritised environmental messages to farmers and their advisers.

### The Nitrates and Water Framework Directives

#### Package of recommendations

6.15 We recommend that farmers use initiatives such as the Campaign for the Farmed Environment to encourage water protection measures.



## Record-keeping and calculations

6.16 We recommend that the review of the Nitrate Regulations significantly reduces the paperwork, including the need for detailed plans and maps. It should also reduce the complex calculations required of farmers, particularly in relation to manure and slurry.

6.17 In terms of compliance, we believe it is necessary to have only a record of the amount of nitrogen applied per field in organic and inorganic form. In line with our earned recognition proposals (paragraph 3.23), where farmers have a detailed nutrient management plan we recommend that they could earn the right to be less frequently inspected.

6.18 We recommend that the Farming Theme of Business Link should be expanded to enable farmers to submit electronic copies of nutrient management plans online. To complement this, we recommend that Defra, the EA and trade associations jointly encourage better take-up of PLANET, the Defra-developed nutrient management software that helps with doing the calculations and keeps records.

6.19 We recommend that this application for a derogation could be incorporated into the SPS claim, with the RPA then sharing this information with the EA<sup>9</sup>.

6.20 We recommend that a new NMax calculation should be required only when a significant change in farming practice takes place, or the fertiliser recommendations<sup>10</sup> change substantially.

## Exemptions for organic and low-intensity farming systems

6.21 We recommend that if an organic farmer in an NVZ is fully certified by a relevant organic certification body, the organic land should be assumed to be compliant with the Nitrate Regulations and the farmer should not have to carry out the additional record-keeping.

6.22 We recommend that the Government takes a lighter-touch approach to record-keeping for low-intensity farms within an NVZ. We propose that the forthcoming Nitrate Regulations exempt these farms from the record-keeping requirements. We recommend that farmers should either complete a self-declaration or use an accredited adviser to claim this exemption.

## Review of rules for the use of organic materials with low readily available nitrogen

6.23 We recommend that Defra revises the rules to allow for higher limits on the nitrogen content of slow release nitrogen organic materials under the Nitrate Regulations.

## Recommendations for long-term change

6.26 So, in the long term, we would like to see measures to address nitrate pollution integrated within river basin management planning and delivery. We hope that, over the next five years, a catchment-based approach to managing all the pressures on the water environment could be operational across England.

<sup>9</sup> We recognise that this is reliant on the EU granting a further derogation.

<sup>10</sup> Fertiliser recommendations as contained in the Defra ['Fertiliser Manual'](#) (RB209).

## Key actions needed to integrate nitrate reduction with a catchment-based approach to nitrate pollution

6.30 We recommend that the farming industry works with others to roll out catchment-based projects to demonstrate that nutrient pollution can be tackled locally and effectively.

6.33 We recommend that the minimum national closed period for manure and slurry spreading and their storage arrangements in NVZs should be looked at again and also made to reflect local differences. A zonal approach to these, such as in operation in Ireland, could be a useful model. We further think there is a case for staggering the beginning and end of the closed periods so that farmers can make the best use of good weather to spread manure early or late.

## Monitoring progress with an eye to the future

6.34 We believe there would be a case for the European Commission to look again at the provisions of the Nitrates Directive. Ideally we would like to see an integration of any revised measures under the Nitrates Directive with those of the Water Framework Directive in a way that minimises burdens, avoids duplication and preserves outcomes.

# Managing water resources

## Water White Paper

6.37 We recommend that Defra take account of farmers as customers of the public water supply, as private water suppliers, as small scale abstractors of water, and take account of farms as a potential source of water storage for agricultural and horticultural use.

## Water abstraction: problems with licensing

6.40 We recommend the granting of longer water-abstraction licences, with further renewal being permitted as long as the conditions are met. We also recommend that the EA do more to encourage the trading of abstracted water.

## Avoiding summer abstraction – on farm reservoirs

6.43 Unless there is strong evidence to the contrary, we recommend that Ministers set the threshold which triggers registration of reservoirs back to 25,000m<sup>3</sup>.

## Private Water Supply Regulations 2009

6.47 The FSA plans to issue guidance on the use of private water supplies, including use in dairy premises, which will clarify the requirements of relevant food hygiene legislation and the relationship with the Private Water Supply Regulations. We recommend that the FSA acts promptly to issue this guidance.

## Water Supply (Water Fittings) Regulations 1999

6.50 We recommend that the water industry, through the Water Regulations Advisory Service, reviews its guidance for farms, in collaboration with relevant farming organisations to ensure that compliance is cost effective, practical and relevant to risk.

## Maintenance of seawalls and other coastal/fluvial assets

6.54 We recommend that Defra and the EA press ahead with plans to streamline the consenting system. We also recommend that outdated byelaws are reviewed. The aim should be to move towards a more risk-based and easier to understand system with time-specific consents for routine maintenance operations.

6.55 We believe the EA should be required to actively encourage and facilitate the involvement of landowners who come forward with proposals to maintain defences that would otherwise not be maintained.

## Environmental Permitting Regulations: Integrated Pollution Prevention and Control and waste

### Overarching permitting issues

6.61 We recommend that the EA, working in partnership with specialist trade associations, should:

- tailor the environmental permitting application form and the accompanying charging note to the agricultural sector;
- identify a checklist of information that needs to be submitted with each application;
- produce a Standard Operating Procedures (SOP) note that sets out the service standards that farmers can expect; and
- produce guidance to help farmers best navigate the parallel planning and permitting processes; in order to ensure consistency and to make the processes expeditious, the EA should lead on aspects of applications covering local wildlife sites.

6.62 We recommend that the EA should examine options for online permit applications. We recommend that the Farming Theme of Business Link (paragraphs 2.38–40) should become the hub for registering exemptions and applying for permits. Farmers registering on this site should have simple waste exemptions and their waste-carrier registration registered automatically.

### Waste management

6.66 We recommend that waste regulations should be as light touch as possible, to grow trust with the industry. We believe that a three-tier approach to regulation and exemptions is needed. Where appropriate, Defra may need to renegotiate the Waste Framework Directive to achieve this.

6.67 We recommend that Defra and the EA should work with the farming industry to further develop national End-of-Waste Protocols for appropriate farm waste. We also endorse work by regulators to advise farmers of how they can best recover resources.

6.68 We believe that farmers should not be penalised by having to treat fly-tipped material as business waste. We recommend that the EA should reclassify fly-tipped material on farms as household waste, so that farmers can dispose of it at council waste sites at no cost.

## Integrated Pollution Prevention and Control (IPPC)

6.74 If the scheme shows continued standards of compliance, we recommend that the EA should consider further significant reductions in inspection frequency.

6.75 We recommend that if there is any opportunity to remove farming altogether from IPPC controls then it should be taken. If this is not possible, we recommend that the thresholds for applying IPPC to pig and poultry businesses should remain unchanged, and that IPPC should not be extended to cattle. We recommend a long-term objective of basing the limits on actual numbers of livestock housed.

6.78 We recommend that the EA:

- should have an objective process for dealing with applications for installations that could impact on new and existing local wildlife sites;
- should demonstrate that it has assessed the risk properly, accurately and consistently;
- should base decisions on sound science;
- should give considered reasons for requiring applicants to model possible impacts; and
- with others, should make it easier for industry to access public records on sensitive sites, including local wildlife sites.

6.79 We recommend that the EA should establish a mediation scheme to address persistent or vexatious complaints regarding odour, noise and other nuisance issues.

6.81 We recommend that local planning authorities should consider the possible impacts on new housing developments from existing local farms before granting planning permission.

## Energy

6.83 We recommend that Government must be consistent in its policies on renewables, and must provide businesses with long-term certainty and simple application processes that can be dealt with quickly.

### Energy from waste

6.86 We recommend that a higher-level resolution must be found on the issues around the combustion of manures to generate energy.

6.87 We recommend that the Government should be ambitious in its Anaerobic Digestion Strategy. This should set out a range of actions to promote a dramatic increase in the numbers of anaerobic digestion plants for agricultural waste. It should include projections to illustrate the growth in numbers of facilities that the Government expects can result.

## Carbon Reduction Commitments and Climate Change Agreements

6.90 We recommend that any future scheme is responsive to the needs of the farming and food-processing sectors, whilst helping to secure further significant reductions in emissions.

## Energy Crops Scheme

6.91 We recommend that, as part of negotiations on the Common Agricultural Policy 2014–20, the Government seeks to reform the Energy Crops Scheme to remove barriers to its take-up.

## Other environmental issues

### Environmental Impact Assessment Regulations

6.93 As part of Natural England’s current review of the EIA guidance, we think Natural England should establish a better way to identify these valuable sites to enable their protection. The upcoming review of the guidance on the use of the Regulations provides an opportunity to do so and we would encourage all stakeholders to participate fully.

### The Hedgerow Regulations

6.94 We recommend no change to the current Hedgerow Regulations.

## Chapter 7 The Common Agricultural Policy, Single Payment Scheme and cross-compliance

**We recommend that:**

- in Common Agricultural Policy (CAP) negotiations, Defra should focus on outcomes not processes, better use of risk assessment, and better use of online facilities, and should ensure that the Single Payment Scheme (SPS) is simplified and the lessons of the 2005 negotiations are not forgotten – specifically that any policy must be capable of being implemented effectively without excessive cost;
- re-mapping is stopped and a single map (showing all external boundaries) used for all CAP schemes, with farmers notifying the Rural Land Registry of any changes to their holdings throughout the year;
- the SPS is available only on holdings of over 5ha of *actively managed* land;
- Commoners should claim the SPS as a group, through their Commoners Associations or equivalent;
- entitlements should be abolished and Defra should oppose the introduction of a cap on SPS payments;
- cross-compliance risk-assessment factors should be reviewed, enforcement made proportionate and guidance made clearer and more accessible;
- a number of cross-compliance conditions should be changed, removed or reviewed;
- the cross-compliance inspection regime be altered to reflect the risk of breach; and
- some crop codes should be removed, entitlements forms changed and RPA appeals and errors processes amended.

### Common Agricultural Policy

**7.07 We recommend Defra incorporates the following points into its negotiating brief:**

- regulations and regulators should focus on outcomes rather than process;
- constant reminders of the complexities of 2005 and subsequent costs of administrating the scheme in England;
- provision should be made for regulators to demonstrate trust in farmers by developing a system of earned recognition to inform their risk-assessment strategy;
- a need to apply a simplification test against all proposals, e.g. capping;
- while we welcome the provision in cross-compliance for Member States to use risk to target inspections, the European Commission should remove the disincentive to adopt such an approach and facilitate efficient enforcement;

- the European Commission should encourage Member States to improve their use of online tools for gathering information and completing forms, and encourage claimants to employ third parties if they are unable to use IT services themselves; and
- barriers to the Energy Crops Scheme should be reduced (paragraph 6.91).

7.08 We recommend assessing the breach rate only with the random (and thus probably representative) sample of inspections, and not including the results from an already targeted (and thus unrepresentative) risk-based sample.

7.09 When considering the CAP 2014–20, Defra should remember the lessons of previous negotiations.

## Single Payment Scheme

### Mapping

7.11 We recommend that every effort should be taken to avoid ‘re-mapping’.

7.12 We recommend that there is a single map for both SPS and agri-environment schemes.

7.13 We believe that regulators determining land eligibility should be able to make greater use of remote sensing as a replacement for physical inspections on-farm. We also recommend:

- that Defra continue to only go to the minimum level of accuracy imposed by the European Commission;
- that Government should continue to push back should the Commission request more accuracy in mapping since this has little benefit for a lot of extra cost.

### The SPS form

7.15 We recommend that claimants should proactively notify the Rural Land Registry (RLR) of any changes to their holdings (e.g. when land changes hands) *throughout* the year.

### What the SPS should be claimed on

7.17 We recommend that Defra, in CAP negotiations, seeks greater simplification through requiring the claimant to map the outer boundaries of the holding and any ineligible areas (such as woods and concrete etc.).

7.18 We recommend that Defra make use of the power Member States have to introduce a minimum size of holding below which the SPS is not payable: in England, we recommend 5 hectares of *actively managed* land (see paragraph 7.21-22) as an appropriate minimum.

## Who should be able to claim the SPS?

7.22 We recommend that the SPS should only be available on *actively managed* land, which we define as 'land which is capable or has the capacity to be farmed'.

7.23 We recommend that the Government should press for the abolition of entitlements.

7.24 We recommend that there should be a single payment made to the appropriate Commoners Association (or equivalent). The Association (or equivalent) should be responsible for identifying the active claimants, notifying the RPA and dividing the payment appropriately on the basis of those who are actively farming the common.

7.25 We recommend that the Government opposes any proposals in the EU to introduce a cap on direct payments (whether absolute or graduated) for single business claims.

## Cross-compliance

### Inspections

7.29 In our view, the most appropriate organisation would be the RPA, with input where necessary from AHVLA on animal issues (as per paragraph 3.06).

7.31 We recommend that Defra reviews EU risk-selection factors, and propose changes as appropriate. We recommend that membership of appropriate third-party assurance and other schemes should form part of the cross-compliance inspector's risk toolkit.

7.32 Where inspectors are not already doing so, we recommend that they should start by inspecting a sample of the holding/cattle/passports etc.

### Enforcement

7.34 We recommend that enforcement of cross-compliance should focus more on the overall outcome rather than process and exact measurements.

### Guidance

7.37 We recommend that cross-compliance guidance be thoroughly overhauled to become a short, outcome-based 'summary note'. This should give clear advice on the requirements that Defra and industry jointly believe are the most important.

## Good Agricultural and Environmental Condition and Statutory Management Requirements

### General approach

7.41 We recommend that Defra carefully reviews all cross-compliance conditions to ensure that they are properly focused on outcomes as a demonstration of a farmer's duty of care, rather than unnecessary process, and to ensure that evidence justifies their continuation.



7.43 On balance, we believe it would be consistent with the principles of earned recognition to change/remove standards that have very low underlying breach rates<sup>11</sup> – on two conditions. First, that there have been adequate inspections that mean that the low breach rate is real. Second, that Government is confident that the value of retaining the cross-compliance deterrent is negligible given the retention of underlying legislation.

#### GAEC 1 (Soil Protection Review)

7.46 We recommend that Defra changes GAEC 1 to a duty of care to protect the soil and to prevent damaging soil erosion, reduce compaction, damage to landscape features and, over the long run, maintain organic matter in mineral soils.

7.47 We recommend that completion of the Soil Protection Review remains an advisory feature under GAEC 1 but that not completing the Review correctly (or at all) should not result in a breach of GAEC 1.

#### GAEC 11 (control of weeds)

7.50 Should it be shown that the *injurious* weeds element of this GAEC meets the conditions we identify in paragraph 7.42, we believe it would be a candidate for removal. We recommend that Defra explores alternative ways of combating the spread of invasive weeds.

#### GAEC 12 (land not in agricultural production)

7.52 We recommend that Defra and industry closely monitor GAEC 12 to ensure this condition does not continue to have adverse unintended consequences.

#### GAEC 18 (water abstraction)

7.53 We believe that removing GAEC 18 as a cross-compliance condition would not risk lessening environmental impacts.

#### Statutory Management Requirements

7.55 We have heard that SMRs 3 (sewage sludge) is acting as a disincentive to the use of this recycled product. SMR 10 (hormones) has a nil breach rate. We believe there is a case for their removal.

#### Paperwork

7.57 We recommend that the current system of crop codes should be disbanded with the exception of energy/protein crops and those essential for ELS agreements.

7.58 We recommend changes to the paperwork that a farmer is required to fill in regarding the rotation of entitlements.

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<sup>11</sup> In 2009, of the 36 standards (GAECs and SMRs), 11 standards (up from eight in 2008) were not found to be breached by any of those farmers inspected for that standard. Of the remaining 24 standards, there is a fall in breaches recorded for nine standards. In the case of 10 cross-compliance standards, less than 10 breaches were found under each. The top 10 standards breached account for 96.49% of the breaches recorded.

7.60 We recommend that the RPA sends SPS application forms and opens the online application facility at the beginning of January. The RPA should communicate clearly to farmers that submitting their application early in the year will not result in an increased risk of inspection.

7.62 We recommend that the RPA offers the farmer the option of the RPA giving their details to the other. This would enable the farmers concerned to resolve the matter themselves and lessen the burden on the RPA.

### Errors and appeals

7.63 We recommend that Defra should seek to allow the RPA to adopt a proportionate approach to 'obvious errors' on SPS forms.

7.64 We recommend that the RPA introduces a system of fixed-date replies throughout the appeals process and clearly sets out its timescale.

### Miscellaneous points

7.65 We recommend that Defra investigates a better method of assessing whether or not high-quality (as opposed to all) grassland is being eroded.

## Chapter 8 Farmed animals

In terms of livestock movements, identification and reporting, we believe that robust controls are essential to slow down the spread of disease. We need to avoid a repeat of the 'starburst' effect and movement 'blindness' that caused so much harm early in the 2001 foot-and-mouth disease outbreak. We believe that these controls must be proportionate and risk based and that they must take account of the management needs of livestock producers. Set against these goals, we consider that some of the current arrangements can be simplified, making them easier to understand and improving compliance. We recommend:

- lifting the 6-day standstill on farm to farm movement;
- maintaining the 6-day standstill for animals coming from gatherings (e.g. markets and shows), but providing for approved on farm separation and isolation;
- abolishing Sole Occupancy Agreements and Cattle Tracing Service links and introducing single County-Parish-Holding units (up to 10 miles in radius); and
- adoption of electronic recording of all livestock movements (subject to their not being discriminatory).

Bovine TB is largely outside our remit, so we have referred many suggestions made to us to the TB Eradication Group for England. We do, however, make a couple of specific recommendations. We also make recommendations on the welfare of animals at slaughter and during transport, make proposals relating to fallen stock/on-farm burial, and suggest improvements to the various elements of the veterinary medicines regime.

### Livestock movements, identification and reporting

#### Recommendations: a new livestock movements regime

8.12 In summary terms, we recommend that the standstill operates within a simpler structure that recognises that some movements are inherently more risky than others.

8.14 We recommend development of rapid and accurate provision of information on animal movements by adopting electronic reporting for all species. Specifically, we recommend:

- immediate adoption of a single database, commercially and privately operated, to record sheep movements to ultimately replace entirely and make redundant the Animal Movement Licensing System (AMLS);
- early adoption of automatic pig movement recording;
- an end to paper-based reporting of cattle movements;
- consideration in the longer term to developing a single private-sector database for all species;
- electronic data entry and recording should be immediate;
- where alternate reporting systems are provided, movements must be reported within 72 hours;
- maximum use of the Central Point Recording Centre (CPRC);

- industry should take the opportunity to offer support to non-IT enabled producers, through livestock markets or ‘call-centre’ arrangements to collect and record information; and
- the paper trail currently associated with AMLS should be abandoned as soon as replacement arrangements are robust.

8.15 We recommend that the complex rules for linking premises should be simplified to introduce the same arrangements for cattle, sheep and pigs. Specifically, we propose that:

- producers should be able to link premises within a single CPH within a radius of 10 miles of the centre of the ‘home’ premises;
- each CPH should be managed under the same herd/flock register; and
- SOAs and CTS-links and any other links/distance rules should be removed.

8.16 We recommend that movement-reporting requirements should be the same for cattle, sheep and pigs. Specifically, we propose that:

- movement within a single CPH should neither be recorded in the herd book/flock register nor reported;
- movement to any other CPH, whether or not with a change of owner/keeper, must be reported; and
- movement to market or to slaughter must be recorded and reported.

8.17 We recommend that the standstill rules should continue to apply to all susceptible animals on a CPH other than to:

- movement within a single CPH;
- movement between farms (or commons), whether or not there is a change of owner/keeper and where those farms are not engaged in animal gathering;
- movement direct to slaughter or via a slaughter market; or
- where animals are held in an approved separation or isolation facilities (para 8.18); but
- in all cases, movement restrictions for specific disease regimes (e.g. bovine TB) must take precedence.

8.18 We recommend that approved separation or isolation facilities should provide for animals to move from premises under standstill where it is essential for management reasons. Specifically, we propose that:

- approved separation requires animals to be held on land managed separately from other animals on that holding or on contiguous holdings (e.g. on distinct parcel of land within a CPH, with separate handling, feed and water management, and appropriate distance separation from other animals);
- approved isolation in a building within a farm premises requires a dedicated facility with separate arrangements for handling stock and discharges, effluent etc that ensure they do not come into contact with other livestock;
- approval for an isolation facility would be dependent on the applicant operating electronic reporting; and
- separation or isolation arrangements should be approved by the Animal Health and Veterinary Laboratory Agency (AHVLA) on the basis of producer ‘self-declaration’ supported by information provided by a private veterinarian and monitored by a private veterinarian and/or annual farm assurance audit; AHVLA should monitor operation in the course of other visits.

8.19 We recommend that animal identification regulations should be risk-based and proportionate to the objective of ensuring clear traceability. We propose that they be designed in a way that facilitates rather than impedes compliance (e.g. without imposing burdens that are seen as restrictive). Specifically, we propose that:

- the Government must continue to seek European Commission agreement to arrangements for batch recording and transitional arrangements for the ‘historic’ flock; and

- in the longer term, the Government should seek to negotiate EU sheep electronic identification (EID) rules that take greater account of the way the country's flock is managed.

8.20 We recommend that livestock recording arrangements should also work with best management practices and not duplicate information. Specifically, where it is not already in hand, we propose that:

- the content, size and weight of cattle passports should be reviewed with a view to replacing documentation with electronic reporting;
- in the meantime, maximum use should be made of reporting systems that do not require the submission of the passport or tear-off strips; and
- provision should be considered for herd books and flock registers to be kept electronically, and for such electronic records to remove the need for paper copies. This also provides a chance to simplify and minimise the data needs of the register.

8.21 We recommend that enforcement must be consistent. In line with our strategic recommendation on the proportionality of penalties (paragraphs 2.26–2.27), we believe that poor practice and regular/wilful poor performance must be identified and dealt with effectively – but that the normally compliant producer is not penalised disproportionately. Specifically, we propose that:

- it must be a high priority to agree with the EU appropriate tolerance levels to address errors in data reading when using electronic tag readers;
- there should be clearly defined and communicated flexibility in the enforcement of cattle tag rules. For example, we suggest that if an animal that has left a holding has lost one of its two tags but can still be readily identified, the loss of a tag should not trigger rejection or further enforcement action, provided that the animal can be clearly identified throughout the remainder of its journey and the incident is not evidence of a wider failure on the part of the keeper;
- in line with our strategic recommendation that there should be a presumption of data-sharing between regulators (paragraph 2.35), official agencies must share information within their organisations and with other agencies, to ensure best use is made of data to identify risk and to co-ordinate and monitor inspection and tests.

8.22 Finally, in line with the Coalition Government's principle of 'Government doing only what only Government can do' and our proposed approach of earned recognition (paragraphs 3.12–30), we believe that Government and industry in partnership should generate greater opportunities for trust and adoption of private-sector arrangements in making risk assessment.

8.27 We recommend that livestock producers, whether as individuals or through their representative organisations, must take responsibility for improving training and understanding the importance of bio-security and movement controls at times when there is not a disease outbreak.

## Bovine TB

8.32 We recommend that TBEG, in the near future, should consider options for a system of communicating the test history and status of cattle with the aim of developing a joint industry/government solution.

8.33 We recommend to TBEG that owners of non-bovine susceptible species (e.g. sheep, goats, pigs and camelids) should be part of the national TB eradication programme. To reflect the relatively lower risk presented by these animals, we recommend that a proportionate, risk-based approach should be developed.

## Animal welfare

### Welfare of animals at slaughter

8.39 We recommend that an authorised veterinary surgeon should be able to take account of supplementary evidence available about an applicant's competence and skills from another veterinarian. We recommend that this change should be implemented in advance of the new welfare-at-slaughter rules that come into effect on 1 January 2013.

8.40 We recommend that Ministers consider changing the law now to enable the use of carbon dioxide for poultry slaughter rather than wait until 2013: the savings involved would appear to represent a 'compelling reason' for early transposition (see paragraph 2.49).

### Welfare of animals during transport

8.41 We recommend that industry, in consultation with Government, bring together existing guidance on fitness for transport so that there is a common reference for producer, haulier and regulator.

8.42 To improve information about the handling process, we recommend that, if requested by the exporter, the issuing agency informs them of the date on which the documentation will be sent to the veterinary officer for completion.

### Fallen stock/disposal/on-farm burial

8.44 We recommend:

- the continued development and adoption of methods of containing stock prior to disposal and bio-reduction, and
- continuing to seek a derogation for burial of small farm animals.

## Animal health and veterinary medicines

### Availability of veterinary medicines

8.46 We recommend that the regulator should continue to seek every opportunity in EU discussion to increase the availability of treatments by adopting regulatory approval processes to allow products to be approved for use across the EU.

### Farm veterinary medicines records

8.48 We recommend that the VMD should take steps to simplify record-keeping demands where the regulation allows. We also recommend that the VMD pursues its policy of asking the European Commission to consider the extent of the records to be kept and to retain only those necessary for consumer safety and, on a proportionate basis, for animal safety.

## Chapter 9 Growing and crops

To safeguard the future of the EU Fruit and Vegetables Scheme, we recommend that:

- Defra, the Rural Payments Agency (RPA) and the horticulture industry must work together to disseminate new guidance that provides clarity on eligibility of Producer Organisations and measures which are permitted within operational programmes;
- the RPA should act swiftly to carry out a review of compliance, using this guidance, so that only those Producer Organisations which meet the scheme's conditions are eligible for payment;
- the review must bring about a significant improvement in the relationship between Government and the horticulture industry, with increased mutual trust and responsibility; and
- in the long term, the UK should work with other Member States to press for improved consistency of interpretation of the scheme rules at the EU level.

Pesticides must be regulated in order to protect human health and the environment, but the continued availability of an adequate range of effective pesticides is critical to sustainable food production. We recommend that:

- Defra should continue to lobby in the EU for a regulatory system governing pesticides that is based on risk not hazard; and
- in the short term, Defra facilitates adequate availability of pesticides (including for minor crops).

The Home Office should act immediately to amend the Misuse of Drugs Act so that hemp with low Tetrahydrocannabinol content, grown for industrial reasons, is not subject to a dual licensing regime.

### Introduction

9.03 We endorse the Fruit and Vegetable Task Force's regulatory recommendations and are pleased that Defra Ministers have accepted them.

### EU fruit and vegetables producer organisation scheme

#### Making the scheme work

9.09 We believe it essential for Defra and RPA (in consultation with industry) to review the current EU Fruit and Vegetables Producer Organisation scheme and make prompt changes to get this model right. Growers must also ensure that they comply with the scheme rules and co-operate with Government so that the review is effectively and speedily executed.

#### Short-term recommendations (domestic level)

9.12 We recommend that POs use this guidance to consider whether they need to amend their operational and organisational structure to meet the scheme requirements.

9.13 We recommend that POs themselves provide RPA with a much clearer picture of their operational practices and the evidence of how they meet the scheme requirements.

9.14 We recommend that members of those POs that do not comply with the scheme requirements should be encouraged to join existing compliant POs, and consideration should be given as to how Defra could facilitate this.

9.15 We recommend that RPA staff responsible for scheme administration should have the opportunity to gain an understanding of the fruit and vegetable industry and how PO businesses operate in it. This is something with which POs should assist.

9.16 Where problems arise, we recommend that Defra, the RPA and POs work together immediately to solve them before they cause difficulties for the scheme.

9.17 We recommend that Government and industry should work together to improve communication with POs about the reasons for the separate audit processes, and the auditing of the inspections themselves. Government should seek to improve the efficiency of the audit process while remaining consistent with EU requirements.

#### Longer-term recommendations (EU level)

9.18 We recommend that:

- the European Commission and auditors pursue consistent interpretation of the scheme's regulations across the 27 Member States;
- the European Commission works with industry and Member States to draft guidance on interpreting scheme legislation;
- the European Commission considers developing a 'compliance promotion initiative' along the lines developed by the Directorate-General for the Environment on other regulatory frameworks; and
- Defra continues its dialogue with Member States who have faced similar problems, in order to draw together an approach that encourages clarity and consistency of application of the scheme rules.

## Pesticides

### Dealing with change

9.25 It is essential for the Government, pesticides manufacturers and distributors, and farming industry associations to clearly communicate these legislative changes to pesticide users. In line with our strategic recommendation on post-implementation review (paragraph 2.49) and the Government's commitment to sunseting (paragraph 2.09), we recommend a review of the new legislative framework after it has bedded in.

9.26 We are concerned that the EU pesticides legislation is moving towards a hazard-based approach to regulation rather than one based on risk. We believe that this change is fundamentally contrary to good practice and the principles of better regulation. We are aware that the UK Government has repeatedly expressed this view and we reinforce its message.



## Approvals

9.31 We support the move to a zonal approach to approvals that will take effect in June 2011 as a result of the new EU Regulation 1107/2009. We recommend that the UK should press for the development of this approach so that, ultimately, approvals (including for minor uses) in other Member States should immediately be available for use in the UK, and vice versa.

9.33 We recommend that the Government should support the introduction of such an EU fund for minor use approvals. On SOLAs, we recommend that re-registration in groups is allowed, and incur a single fee.

9.34 We believe there remains room for significant improvement in the speed of the approvals process.

9.35 We recommend that CRD should actively work for simple interpretation of regulation on bio-pesticides. In particular, we recommend that regulation of the plant protection uses of pest-specific semio-chemicals, including the above uses, should be simplified to expedite their development, commercialisation and adoption.

## Withdrawals

9.37 Where the active ingredient itself remains safe to use (and thus there is no risk to health or environment), we recommend that growers be allowed a significant grace period to use up their stock of pesticides following withdrawal.

9.38 We recommend that more could be done nationally to communicate the cut-off dates throughout the industry so that growers are clearer on the deadline for using up approved products. We recommend that trade associations, suppliers and other representative bodies take responsibility for cascading this pesticides newsletter more widely.

## Pesticides use and harmonisation of worker exposure

9.40 We recommend that the CRD supports the development of new guidance by the European Food Safety Authority which aims to harmonise exposure assessment methods. We endorse CRD and industry's efforts to get data needed to refine worker exposure assessments and justify increased harmonisation.

## Engagement between industry and Government

9.41 We recommend that CRD and industry establish an industry-only route of communicating sensitive information, to allow issues to be raised confidentially at an early stage.

## Minor issues

9.43 We recommend that manufacturers ensure that labels are clear and consistent with CRD guidance in its *Labelling handbook*.

9.44 We propose an online central register for datasheets for pesticides, so that the requirements for control of substances hazardous to health (COSHH) regulations could be fulfilled digitally rather than on paper. We recommend that CRD and industry together establish how this might best be achieved.

## Licensing of industrial hemp

9.50 We recommend that the Home Office should immediately establish the THC-content below which *Cannabis sativa* varieties can be considered to be safe and where its cultivation cannot be considered as intended for drugs use (a figure of 0.5% has been suggested to us). The Misuse of Drugs Act should then be amended to only provide for licensing of *Cannabis sativa* cultivation of varieties with a THC level above the threshold.

9.51 We recommend that Home Office acts immediately to ensure that a single general licence and inspection regime is agreed until such a time as the Misuse of Drugs Act can be amended, in order to not further restrict the natural expansion of cultivation of this crop.

## Farm-saved seed

9.55 We recommend that it should be possible to trade home-saved seed between holdings that are linked by being under the same management, but understand that this may require renegotiation in the EU.

## **Chapter 10 TSEs, meat hygiene inspections and food processing**

**We believe that burdens on business can be reduced without compromising food safety, and recommend:**

- **pressing the EU for early decisions on changes to meat hygiene and TSE rules and then implementing reduced regulatory arrangements without delay;**
- **allowing meat processors to obtain risk-based meat inspection services from accredited private sector providers within a system managed robustly by the competent authority;**
- **revisiting the interpretation of legislation relating to antibiotic failures in milk; and**
- **renegotiating the requirement to destroy milk from TB reactors;**
- **removing the Beef Labelling Scheme;**
- **encourage Defra and the Food Standards Agency to engage constructively with the current reviews on the sampling of veterinary residues and trichinella controls; and**
- **ways in which earned recognition would help reduce paperwork arising from food chain information requirements and reduce inspections of poultry and egg producers.**

### **TSEs and meat hygiene controls**

#### **TSE controls and the EU TSE Roadmap<sup>2</sup>**

**10.05 We recommend that the Government makes maximum use of existing derogations in EU legislation, fully supports moves to more proportionate and risk-based TSE controls, and implements changes without delay once revised EU legislation comes into effect.**

**10.06 We recommend that official controls on BSE testing and SRM removal in abattoirs are reviewed to ensure that they are fully risk-based (not 'tick-box') and take account of the FBO record of compliance.**

**10.07 We recommend that the domestic TSE regulations are changed to take advantage of the existing derogation in EU law, which permits authorised cutting plants to harvest head meat.**

#### **Meat hygiene controls**

**10.08 We recommend that the Government supports moves to more proportionate and risk-based meat hygiene controls and inspection that take account of earned recognition.**

**10.15 We recommend that consistently competent FBOs should be able to use accredited private sector bodies to provide meat inspection services. We recommend that the FSA should approve and designate these accredited private-sector bodies as control bodies.**

- 10.17 **We recommend that a joint industry/official group with an independent Chair considers the criteria for accepting provision of meat inspection services by accredited third parties and reports to FSA as soon as possible.**
- 10.19 **We recommend greater use of cold inspection for small abattoirs.**
- 10.20 **We recommend that the FSA continues to work with industry to develop trials of innovative inspection arrangements.**
- 10.21 **We recommend that there should be consistency of approach in England and Scotland when dirty animals are presented for slaughter, with the option of returning animals to the producer.**
- 10.22 **We recommend reviews of the following elements, where there appear to be issues of consistency, flexibility or propriety that should be addressed:**
- consistency in permitted process for sterilising knives etc in abattoirs and cutting plants;
  - inspection arrangements for udders and testicles;
  - greater flexibility for FBO staff to inspect and approve young animals and offal;
  - arrangements for moving edible co-products between licensed meat premises;
  - adopting risk-based controls to regulate the period between slaughter and minced-meat production; and
  - the requirement for the FBO to collect forms relating to transporter cleaning of vehicles.

## Other food-processing issues

### Food safety controls

- 10.24 **We recommend that the FSA should reopen discussions with the European Commission about the interpretation of legislation relating to antibiotic failures in milk. We recommend that Defra and the FSA should work with industry to establish a suitable way forward for disposing of milk that has failed antibiotic tests.**
- 10.25 **We recommend that Defra, the FSA and dairy trade associations should open discussions on how pasteurised milk from TB-reactor cows could safely enter the food chain.**
- 10.26 **We recommend that Defra should engage constructively with this review in order to ensure that the surveillance requirements are proportionate.**
- 10.27 **We endorse EFSA's review into trichinella controls.**

### Abattoirs and slaughterhouses

- 10.29 **We recommend a dialogue between the haulage industry, abattoirs and the FSA to ensure that abattoirs provide vehicle-washing facilities in line with their obligations, and appropriate actions are taken against those that do not provide adequate facilities.**
- 10.30 **We recommend that the FSA should review the opinion, including the risk assessment, and discuss with Ministers whether the UK should press for revised arrangements to allow for greater recycling of water in slaughterhouses.**

## **Frozen foods**

**10.33 In line with our strategic recommendation relating to Government–industry partnership in EU negotiations, we encourage Defra to be more inclusive of comments received from the industry when preparing for negotiations.**

## **Labelling and information**

**10.39 We recommend that existing information from contractual arrangements between producers and slaughterhouses, and/or farm assurance schemes, should replace the need for food chain information requirements.**

**10.40 We recommend that the Government should continue to seek to remove EU rules giving rise to the Beef Labelling Scheme.**

## **Sales, packaging and marketing**

**10.43 We recommend an earned recognition approach to reducing the inspections of poultry and egg producers. Existing assurance arrangements should be used in each case to provide the necessary assurance and reduce burdens on the industry.**

## **Import controls on 'high-risk' products of non-animal origin**

**10.45 We recommend that the FSA work with trade bodies, ports and designated laboratories to minimise delays of products produced to internationally recognised standards.**