



HOUSE OF COMMONS

Environment, Food and Rural Affairs Committee

Oral evidence: Tenant Farmers, HC 1307

Tuesday 27 June 2023

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Members present: Sir Robert Goodwill (Chair); Ian Byrne; Rosie Duffield; Barry Gardiner; Robbie Moore; Mrs Sheryll Murray; Cat Smith; Julian Sturdy.

Questions 1 - 42

Witness

I: Baroness Kate Rock, Chair, The Rock Review.



Examination of witness

Witness: Baroness Kate Rock.

Q1 Chair: Welcome to this meeting of the Environment, Food and Rural Affairs Select Committee. We are delighted to have Baroness Rock along, and I am sure we can call you Kate, as you are an old friend of the Committee. You produced your report on the tenanted sector and the Government responded earlier in the year, so we are keen to hear your views on which of your recommendations they picked up on and—probably more importantly—what they did not pick up on.

Maybe I can start with a more general question. You travelled around England meeting tenant farmers for your review. What assessment have you made of the general health of the tenanted sector in England as a devolved issue?

Baroness Rock: Thank you very much, Chair. I would particularly like to thank you and the members of the Committee for having me here today and for recognising, as a Committee, the importance of tenant farmers in England. I am very grateful to all of you for your interest and thank you very much for having me.

By way of a quick overview, I can tell the Committee that about a third of farmland in England is tenanted, but if you take into consideration holdings with mixed tenure, tenant farmers are custodians of or responsible for farming about 64% of England's agricultural area, so a significant proportion of our agricultural land.

Q2 Chair: Through farm business tenancies?

Baroness Rock: Yes, so the wider custodianship.

Just under half of those tenancies—about 48%—are governed under the Agricultural Holdings Act 1986, which does provide security of tenure for the lifetime of a tenant or, in some cases, three generations if the tenancy began after 1984. These sorts of tenancies inevitably are decreasing in both number and area because in 1995 the farm business tenancies came in and they are very much characterised by short lengths of security. Across all farm business tenancies, we see an average of three years for a tenancy, which is extremely short. If you put in houses and buildings, they nudge nearer to 10 years, but nearly 90% of all farm business tenancies are let for five years or less, so long-term agreements are now very much the exception rather than the rule and FBTs will obviously become the dominant form of tenancies as AHAs expire.

As we get shorter tenancies, concerns arise about tenants' ability to invest in their business to create business resilience and to grow productivity. That very much came across to me as I travelled the country. These agreements are far too short for the environmental outcomes that farmers are now asked to deliver, particularly with the environmental schemes. DEFRA has responded in respect of the SFI, but



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there is still a much bigger issue, which I am sure we will come on to, around the Countryside Stewardship and Landscape Recovery schemes. Tenancies come with very restricting terms and many landowners are now concerned about uncertainty and are very much either taking land back in hand, again something I am sure the Committee will want to explore—

Q3 Chair: Is that due to some sort of cut and paste jobs by land agents, who do not want to tailor the agreement.

Baroness Rock: Yes. Contracts are very much, “Take it or leave it. If you don’t take it as it is with new clauses and things in it, then we will find someone else who will”. The new clauses are very much coming in, and a lot of this is created by uncertainty around the decline in the BPS and the new schemes.

We found that the sector suffers from an unbalanced power dynamic. Landlords have the supply of land, and it is much more in demand from tenant farmers. The many-to-one relationship creates an unbalanced power dynamic, which impacts how the contracts operate. We found that the sector is in a state of total uncertainty—BPS reducing, new schemes being brought forward and natural capital—so it is hard for a tenant farmer to see how their cash flow can add up to a viable and thriving business.

Q4 Chair: Does it only work properly if you have an existing farmer who is taking the adjacent farm, so if he does lose it in five years, it is not good news for the business but it is not catastrophic either? Do a lot of farm business tenancy agreements involve existing farmers rather than new entrants?

Baroness Rock: We are not seeing very much new land coming into tenancies. One of the Government’s objectives is to ensure that we have land in the tenancy sector, and that land does not come out of the tenancy sector. That is a Government policy, but land is coming out of the tenancy sector with this uncertainty and not much land is coming in, so it is very hard for a new entrant to come in.

Q5 Chair: Are you expecting the proportion of tenanted land to decline over the next five or six years?

Baroness Rock: It is a concern. I would hope that it does not, but it is a concern, which is against government policy.

Q6 Chair: I remember my father always telling me you should live as if you are going to die tomorrow and farm as if you are going to farm forever. That is not very easy if you are looking at a five-year maximum term, to consider soil structure, soil nutrients and pernicious weeds. Is it brewing up a situation where the land is not managed for the long term; it is managed for the short term?



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Baroness Rock: I think there is a danger that that will happen, particularly if tenant farmers cannot go into longer schemes. Countryside Stewardship, as you know, is five years.

Chair: We will be coming to that one in due course.

Baroness Rock: There is a danger that you will be just farming for the now and not looking at the custodianship of the farm for future generations. A lot of that, I am afraid, reflects the 1995 Agricultural Tenancies Act, which took the sector into these shorter-term, more contractual and transactional arrangements. It is not fit for purpose for today's modern farming society. My view, and the view of many landowners and tenant farmers that we talk to across the country, is that the sector does need to be reformed, updated and modernised so that farmers and landlords can deliver what society needs today and in future.

Q7 **Barry Gardiner:** I very much admire the work that you have done. You have spoken about the problems of insecurity and the potential lack of long-term commitment to public goods on the land. You talked about the imbalance in the power dynamic, and I suppose exploitation through these short-term contracts. Virtually every other country in the world has engaged in land reform that has broken up large tracts of land ownership and democratised it.

In your review of tenant farmers—and I appreciate this was not one of the parameters of your review—did that come up? Did people advert to what had happened in other countries as a potential model for getting that balance that the Chair was talking about in terms of farming for the long term, having that vision of land as a public asset, as a public good and something that needs to be nurtured and maintained, rather than just a three-year contract out of which you extract maximum value as soon as you can?

Baroness Rock: No, the European models did not come up. What came through very loud and clear was the need to collaborate, the importance of collaboration between landlord and tenant and the importance of having longer-term contracts. We have some very large landlords in England, not least landlords like the National Trust, the Duchy and the Crown Estate, who work extremely effectively and well. We had some very good examples of some of those institutional landowners working very effectively with their tenant farmers. The Church Commissioners is another one that owns large tracts of land.

What came across very loud and clear was this absolute necessity for collaboration, working together for the benefit of the land and having longer-term arrangements so what is best for both the landlord and the tenant could be planned for together. We also had some examples, to be honest with you, of some very poor behaviour, to your point about landlords just wanting to take as much rent or opportunity as they could from their tenant farmers and who were not interested in collaboration.



Chair: Mr Moore is a former land agent, so be careful what you say.

Baroness Rock: I am sure we shall come on to land agents in a minute, Mr Moore. One thing that I am sure you have noticed as a Committee is that there is going to be a new code of practice, which I think will be very helpful for land agents. As with anything, there are good landlords and bad landlords; there are good tenant farmers and bad tenant farmers and there are probably good land agents and bad land agents.

Barry Gardiner: It is the power dynamic, isn't it?

Baroness Rock: It is the power dynamic. This is one of the problems with these short-term agreements, to the Chair's point about the "take it or leave it" in terms of the contracts. If you do not like it as a tenant farmer, you do not have much option to negotiate. We had an example only the other day. A tenant farmer told me that the landlord and their agent had given them 24 hours to sign a new contract and the letter said, "If you don't sign it within 24 hours, it is gone." The tenant farmer responded, saying they would like to consider it and take advice. They were told that they did not need to take advice; they just needed to sign the contract. That is something that we should try to rectify as much as we can.

Barry Gardiner: It happens in employment as well.

Baroness Rock: It does.

Q8 **Barry Gardiner:** It is called "fire and rehire", yes.

You talked about the swift turnover. Since you were invited to start your review in January of last year, there have been three Environment Secretaries and two Agriculture Ministers. There has been a pretty swift turnover in the Department itself, and in government. How has that impacted your review? Have you found that there has been a change in ministerial attention?

Baroness Rock: If I could perhaps split it into two levels, the first would be at the working level and I do want to pay tribute to DEFRA and the team, which recognised that there was an issue with tenant farmers—it was not just brushed away under the rug—as the Department was considering the scheme design. It was clear that DEFRA recognised that there was a problem. DEFRA was very open and shared ideas and policy with the Tenancy Working Group as we developed it and it did give us an opportunity to put tenant farmers on the radar with DEFRA, which, to be perfectly frank, had not been there in the same strength as perhaps it should have been. We did have very good support from some of the DEFRA team. We had a very good secretariat and we had good teach-ins along the way.

We made interim recommendations before we published the report, and they were taken very seriously by DEFRA. One of them was to not continue with the policy of the LNR scheme, which was going to replace



the Countryside Stewardship scheme. Our recommendation was, “Let’s keep the Countryside Stewardship scheme. All farmers, whether they are tenant farmers or not, recognise the scheme and they understand it.” That recommendation was taken up with speed. As you know, the Countryside Stewardship is—

Barry Gardiner: That is the Local Nature Recovery scheme, for anyone watching.

Baroness Rock: Exactly. It was also slightly confused with the local authorities’ Local Nature Strategy, which is a different thing.

I am also very positive about the engagement that I have had with Treasury. It was very good to see that the tax recommendations form part of the budget provisions and there is a consultation that is now closed. I will be interested to see how Treasury work goes forward. There have been some criticisms of the tax changes proposed, but I think the issues highlighted are not insurmountable.

At the ministerial level, which I think is also, Mr Gardiner, what you were asking for, we had a very good buy-in with George Eustice, who commissioned the report. I had regular meetings with him. He was very keen to make sure that it happened very quickly. It was a nine-month report. As you know, that is quite unusual in these sorts of times.

I will be honest with you: the reshuffles in autumn 2022 did bring their own challenges. We did have a lot of Ministers coming and going in fairly short succession and it did take time for Ministers to get up to speed with the importance of the review. I have had very good traction with the Farming Minister, Mark Spencer. He fully understands the challenges that face tenant farmers. Autumn 2022 was perhaps a little bit of a difficult time, Mr Gardiner.

Q9 **Barry Gardiner:** Your admissions are noted. The TFA has said that it is regrettable that the Government have taken a partial approach to the implementation of the full set of 74 recommendations that you made. Tell us how you feel about that, whether you feel it should not have been treated as a smorgasbord, but much more as a platter all in one.

Baroness Rock: The intention of the Tenancy Working Group—and we did have some absolute experts from many organisations on the group—it was very clear at the beginning that we needed to create a holistic evidence-based approach. The idea was that we were going to put the recommendations together as a whole. While I do pretty much broadly welcome the fact that the Government have taken up quite a few of the recommendations, it is disappointing that they have been taken piecemeal.

There are certain things in the schemes that I am disappointed about. We just talked about new clauses in the contracts. I am disappointed that the Government have not recognised that new clauses are going in. I am



disappointed that while they have taken on board the recommendation about landlord consent for SFI, they do not seem to have done the same with Countryside Stewardship and Landscape Recovery. It seems to me that would have been a very easy win for the Government. They have piecemealed some of the recommendations, and I would prefer to have seen a more holistic approach.

Q10 **Barry Gardiner:** Finally—and I appreciate how you have answered these questions—do you feel that the fundamental problems that you outlined at the beginning about insecurity and the imbalance of power between landlord and tenant have been addressed sufficiently in the Government’s response and implementation of the recommendations? If you do, all you need to say is yes. If you do not, could you please tell the Committee what you would like us to recommend in our report to Government that could perhaps help in that regard?

Baroness Rock: I am going to say that I am partially pleased with some things. What I would like the Committee to look at is tenant access to all schemes without landlord consent and Countryside Stewardship as I said, I think that was an easy win. I would highlight that the Welsh Government have understood the need to implement a better system of protection for farm business tenancies and I would like England to do the same thing. That would be something for the Committee to look at.

I am surprised that the Government avoided the recommendation to allow tenant farmers to have a basis on which to engage in diversified activities. Again, diversification is key to farmers and yet Government do not seem to recognise it for tenant farmers.

On the modernisation of the sector, I am surprised that the proposal for the Law Commission, which understands and recognises that the sector needs to be modernised, was not taken up.

A lot of the recommendations, Mr Gardiner, rest on the new tenancy forum, the Tenant Farming Forum, which I suspect we will probably be coming on to at some stage, so I might reserve some of my comments for that.

Barry Gardiner: Thank you very much. Please forgive me, I have to go to another Select Committee, but I very much enjoyed your evidence. I will be coming back later on.

Baroness Rock: I am very grateful, Mr Gardiner, for your time. Thank you.

Chair: Thank you both. I was in Ukraine a few years back and the boot was completely on the other foot. The tenant farmer had several thousand acres on a former collective farm and had dozens and dozens and dozens of landlords who all had a bit of land, but none of it was fenced off and none of it could be identified. It was basically the opposite, “Take it or leave it. This is the rent I am paying you landlords.”



Q11 **Rosie Duffield:** You have just mentioned the bits of the legislation, if we are piecing it up a bit, which I know you did not want to do. In your report, you stated that there was a need for the legislation around agricultural tenancies to be brought into the 21st century. Why do you think the Government did not take that up and what is your view of their response to that particular request?

Baroness Rock: I think that they probably did not take it up because we have just had the Agriculture Act in 2020, and there was a lot of argument for modernisation as that Bill was going through. As you will recall, it went through with great speed, and I suspect that some of the recommendations and amendments around modernisation that did not go through could have gone through. This is just my speculation because I cannot speak for the Ministers and how they would respond to it, but I would suspect that it is just because we had some recent legislation around agriculture.

I do not think that should stop us, though, because what we are looking at is a very different situation in farming. In 1995 we had a very different set of principles in agriculture. The definition of agriculture that is still being used today does come from the 1947 Agriculture Act, as do the rules of good husbandry, which tenant farmers have to adhere to and is still in their tenancy agreements.

I think my proposal for the Law Commission is valid. I think the Law Commission would take that up and would consider it something worthwhile doing in terms of modernising the sector.

Q12 **Rosie Duffield:** That just seems so ironic, because we hear from farmers all the time that they are expected to react to new rules and things almost overnight and yet they are meant to adhere to these rules from 1947 at the same time. That does not make any sort of sense, does it?

In evidence to this Committee, the CLA—for the benefit of viewers, that is the Country Land and Business Association—said that a period of stability is required and is more important than legislative reform. How would you respond to that?

Baroness Rock: Sorry, could you repeat what it said?

Rosie Duffield: It said that it is more important to have a period of stability rather than legislative reform and to let things bed down and see how we are; I think that was the gist of that. How would you respond?

Baroness Rock: We all want stability in our sector. I think that is absolutely correct. Whether you are a landowner, a farmer who farms his own land or a tenant farmer, we all want to see stability because we all need, as tenant farmers or farmers—I am a farmer myself—to plan ahead and we plan two to three years ahead. We are all buying things now and incurring input costs for the next season, so stability is absolutely key for all of us. However, I do not think that changes in legislation necessarily mean lack of stability, so I am not quite sure how the two would relate.



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Rosie Duffield: I think it was just saying that we need to see how things will go. That is the impression I get from the quotes that we had when it came to see us. Thank you very much.

Q13 **Mrs Sheryll Murray:** Could I turn to tenancy contracts, please? What major problems did you identify in tenancy contracts and what steps do you think the Government should take to address them?

Baroness Rock: As I alluded to earlier, farm business tenancy contracts are very much being used in a “take it or leave it” fashion. I am disappointed that the Government have not recognised the findings in the review about these new clauses being inserted. I can give the Committee many examples of new clauses being inserted. In fact, the review did pick out a few. Given the uncertainty around the schemes and the decline in BPS, what we are seeing even more is contracts having more restrictive clauses in them because landlords are taking a very closed approach to letting land.

I am also surprised that DEFRA did not take forward the recommendation for farm business tenancies, about the ability of tenant farmers to object to a landlord’s unreasonable refusal to allow access to a Government scheme. The key word in this is “unreasonable”. That has been taken forward by the Welsh Government as part of the Agriculture (Wales) Bill. I think that would, in itself, assist in breaking some of the barriers to some of the restrictive clauses. Short contracts and restrictive clauses are having a material impact on tenant farmers.

I think there is a mental health issue here as well. If there is this uncertainty and you are constantly having to negotiate with your landlord every two, maybe three years for perhaps another two-year contract, there is a huge mental health aspect to it. I was given a very good example by the Farming Community Network, which—astonishingly—is supporting over 6,000 farmers with mental health issues and financial difficulties every year, which seems a huge number of farmers in our farming community. It said that if a land agent or a landlord comes in and negotiates around your kitchen table, they go home at the end of the day, but you are sitting around that kitchen table, which is your farmhouse and your home, and you are worrying about your future and you have your family worrying about your future as well because, as we all know, farming is very much a family unit.

In terms of how the contracts can be addressed, it is allowing more diversification, allowing longer contracts and recognising the need to collaborate the two together. Again coming to what the Welsh are doing on diversification, one of the recommendations was to allow provisions for tenants to diversify and to have something that the AHA tenants have, but the FBT tenants do not have, which is to object to the landlord’s unreasonable refusal, again the operative word being “unreasonable”. Many diversification activities, such as allowing a farmhouse to be used for bed and breakfast or sub-letting a building for a farm shop or something like that, do not impact the landlord’s rights and



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there should be no reason why such activities should not be consented to. I would like to see contracts designed more in collaboration and in partnership.

Q14 **Mrs Sheryll Murray:** You mentioned the Welsh Government twice. Do I take it that you do not think the UK Government are doing enough to counter the risk of the new clauses in the farm business tenancy agreements?

Baroness Rock: I think it was very disappointing they did not take up the recommendations in the review that would have addressed those issues.

Q15 **Chair:** Would you consider planting trees and committing the land to 100 years under afforestation to be an unreasonable thing? That seems to be the worry that some landlords might have, that a tenant might go into a tree-planting scheme that would extend long beyond the lifetime of both the tenant and the landlord.

Baroness Rock: In pretty much every tenancy, whether it is an Agricultural Holdings Act tenancy or a farm business tenancy, tenants cannot plant trees. They have that as a restrictive clause in their tenancy. Tree planting was a big area of dialogue and concern, but it was around land being taken back by the landlord for tree-planting purposes or for other purposes like solar as well. There is a very high-profile case in Yorkshire at the moment—

Chair: I was talking to the farmer on Sunday at the Malton Show, so we are going to come on to that with Cat's question.

Baroness Rock: Thank you, Chair.

Q16 **Robbie Moore:** I am going to stay with the same theme, to do with what Sheryll Murray was picking up on, but I want to delve slightly deeper into the issues around diversification and contracts. Do current tenancy agreements—you have mentioned AHA and FBT—allow enough flexibility, in your view, for tenant farmers to diversify their operations?

Baroness Rock: I think that some do. I think that if you have a very progressive landlord, they do tend to understand the need to diversify. I think many do not. It comes back to the conversation we were having earlier around the definition of agriculture and good husbandry from 1947. Most tenancy agreements are agricultural tenancy agreements. There is no room for diversification unless they are negotiated separately.

There is a very good example from a farm I visited recently, which is a very impressive National Trust farm. The farmer there has some lovely land, and he is in a scheme, but he is very clear that how he makes his money is from a wedding venue, from having some ponies on his land and various other things, and I think glamping or camping as well, none of which were in his original tenancy. He worked with the National Trust to say, "These are the things that I want to do," and he and the National



Trust sat down together and worked through a proposal from him. For me, that is very progressive and quite enlightened of the National Trust, but examples like that are quite few and far between, Mr Moore, if I am honest. For that one good example, I can also tell you of examples where the landlord has just said no to a farm shop or no to any sort of sub-letting or change.

Again, perhaps we are going to come on to the Tenant Farming Commissioner in a minute, but that is the sort of area where the Tenant Farming Commissioner could be very helpful in terms of a tenant farmer being able to go and say, "I would like to be able to diversify a bit more."

Q17 **Robbie Moore:** I suppose what you are surmising there effectively is that where a contractual relationship between landlord and tenant does not allow such diversification to take place, a farmer is at the will of the landlord allowing consent outwith of the provisions of the tenancy agreement to have that agreement put in place and work through in a collaborative format.

Baroness Rock: Many tenants are quite nervous about going to their landlord to do that because any change makes them nervous. I had numerous tenant farmers saying to me, "But if I do that, they are immediately going to ask for a rent review or they are immediately going to ask for something else," or, "I am going to be in danger of losing the land and losing my tenancy." "Retribution" is perhaps the wrong word, but there is just that challenge, so again the power dynamic. It is very difficult for tenant farmers to go and negotiate with their landlords.

Q18 **Robbie Moore:** Sticking with the theme of diversification, what more could Ministers do to expand on permitting current tenancy legislation to allow more diversification to take place?

Baroness Rock: They could take up the recommendation in the review, which would allow provisions for a tenant to be able to go and challenge it if there is an unreasonable refusal to consent to be extended to diversification, which they could do. Currently, farm business tenants cannot do that.

Q19 **Robbie Moore:** Moving on to what was almost one of the core themes of the report was about, which was the accessibility for being able to get into ELM—the Environmental Land Management stewardship scheme—how accessible, in your view, are Sustainable Farming Incentives, Countryside Stewardship agreements and Land Recovery schemes for tenant farmers?

Baroness Rock: I was very pleased, as we were going through the review, that DEFRA took a very early decision on one of our interim recommendations, which made the SFI tenant-friendly. The standards came out last week and when you go through them, most tenants can pretty much do most of the SFI standards. That was very welcome and good news, but that is only one pillar of the three schemes.



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I am disappointed that they decided not to follow through to the same extent with Countryside Stewardship and Landscape Recovery. It is something that it has asked the Tenant Farming Forum to look at. I would hope that that would be done with some speed, particularly on Countryside Stewardship. There has to be trust, and if a tenant farmer has a three-year agreement and has an understanding or feels very strongly that that three-year agreement will continue for another three years, because so many of these FBTs are rolling agreements, it seems to me that there should be complete trust in a tenant farmer to be able to sign up to a five-year agreement. If that five-year agreement does come to an end after three years and the tenant farmer can no longer continue, then do exactly what they are doing with the SFI scheme, which is to basically say, "We understand that is out of your control and therefore we can completely understand that that is the case," and therefore there would be no penalties for coming out of the agreement. That is on Countryside Stewardship.

On Landscape Recovery, my understanding is that there are pilot projects that do include tenants, but having spoken to a number of people who have gone into Landscape Recovery with tenants, they are very much trying to figure out how their tenants can be part of these long-term agreements because we are talking about 20-plus years now. Although they have gone in with their tenants, there is now a conversation about figuring out how you can deliver on this.

On the other schemes, I am very pleased to see that there is some good work going on to allow joint applications with landlords and tenants. That was another recommendation that I felt very strongly about, not least because it brings the landlord and tenant together in a collaborative approach. There is some good stuff on that with the slurry storage facilities and some woodland planting in some of the schemes, which I think is very encouraging, but I would urge DEFRA to press on with both of those schemes and try to look at those more widely in that joint thing.

Q20 **Robbie Moore:** I just want to put to you what the CLA said about the issue of consent. When you are entering into longer-term stewardship agreements, whether it is Countryside Stewardship or Landscape Recovery, CLA's view is that consent is essential where the character of the holding changes potentially from agricultural to environmental. I think this comes back to the definition of agricultural operations, as determined in the original Agriculture Act of 1947. Do you think that there is a risk here, if the landlord does not need to give consent that the character of his, her or the organisation's holding could change over the longevity of that scheme sufficiently away from what the original let was for?

Baroness Rock: I am very pleased that in the consultation for tax, the Agricultural Property Relief, the Treasury is looking at the fact that environmental schemes should form part of APR. With that, environmental outcomes will very much be seen under the agriculture



banner. With respect to the CLA, I would consider that should not stop a tenant farmer from doing good environmental outcomes on the land. If they are being encouraged by Government to do so, which is very much policy, which is farming with nature and good environmental outcomes, and if that is something that they would like to do on their land, given that the landlord has gone into a contract with the tenant farmer for that piece of land over a period of time, it would seem to me that the tenant farmer should not need to have landlord consent to do something that is environmentally sound.

Chair: We are coming on to tax later.

Q21 **Robbie Moore:** Yes, that is fine. One final question from me, Chair, just to finish off this section. You are happy with the Government's response to the Sustainable Farming Incentive. On Countryside Stewardship and Landscape Recovery, do you think the Government's new schemes are a threat or an opportunity in their current state for the tenanted sector?

Baroness Rock: I think that if you have a long agreement, they are an opportunity, but if there are barriers to entry for tenant farmers, coming back to the fact that they are custodians of 64% of our agricultural land in England, I think there could potentially be an issue around a lot of tenant farmers not going into Countryside Stewardship because the barriers are just too high.

Chair: We were tenants from 1850 until 1963. I remember as a child having to paint the doors red, presumably so the Earl of Carlisle could spot which farms were his when he was riding around on his horse or hunting around the estate, so there are some interesting clauses in some of the older tenancy agreements, I suspect.

This is Cat Smith's first session with the Committee, so you are very welcome.

Q22 **Cat Smith:** Thank you, Chair. Thanks ever so much for your time. Baroness Rock. We have heard about the risk of land being taken back in hand by landlords wanting to benefit from Government schemes or perhaps increase commercial activity. Could tell us what you think the scale of the problem is and perhaps how it should be addressed?

Baroness Rock: It is very difficult to get what I would call data on this because DEFRA is not capturing any data around how land is owned or how it has changed over the period of time. But as we went around the country, we had a lot of evidence of land being taken back in hand. Since the publication of the review, I have had a considerable number of emails from a number of tenant farmers about land being taken back in hand.

As I said, I was quite disappointed that the Government did not seem to accept the premise that land was being taken away, because we provided quite a lot of evidence to demonstrate that it was. A lot of it is being taken away so that landlords can enter the schemes themselves or for other land use, which I am sure we will come on to later. It does need to



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be addressed to ensure that the Government can meet their objective of ensuring that the size of the tenanted sector does not diminish.

We do not want to intervene in situations where private landowners take individual decisions in respect of their private use of their land—absolutely not, absolutely to the contrary. But I think when it comes to the allocation of public funding, taxpayers' money, we do think that Government need to set criteria to ensure that that use of funding does not offend other Government objectives. One of our recommendations was that a landlord—

Q23 Cat Smith: Do you think that landlords should be able to access that public funding if it is used to take the land out of the tenanted farming sector?

Baroness Rock: Thank you, because one of our recommendations was where a landlord has resumed land from a tenant farmer, we did not think it was unreasonable for the landowner to be restricted in access to public funding for a certain period from things such as tree planting or entering environmental schemes because it is literally taking land back in order to access taxpayers' money.

Q24 Cat Smith: My final question: do you think the Government need to be more up front and recognise that new schemes are, in some cases, actively encouraging land to be taken out of farming and into other activities?

Baroness Rock: I think Government are very clear about their objectives. I think the narrative has changed over the last year or so. When the schemes were first announced, it was very much all about environmental outcomes. There was no talk of food security and food production. I think the balance has changed a bit. For me, as a farmer, every farmer says to me, "Well, I farm with nature anyway. I produce food and I look after nature." If you go against nature, you are not really farming. I think that the narrative has changed, and it is very important that we do enhance our environment and we do have those nature and environmental outcomes, but we must not lose sight of the fact that the balance needs to be right between food security and environmental outcomes.

Q25 Chair: On landlords wishing to take land back from their tenants, did you see any examples of situations where potentially very large dilapidations could be payable on the cessation of a tenancy and where landlords were waiving those as a way of incentivising the tenant to leave?

Baroness Rock: I did see one example of that, but I saw more examples of case B notices being served, quite often out of the blue, to take land back in for various uses.

Again, Chair, sorry to talk about Yorkshire for a second, but there is a very good estate in Yorkshire that is doing a quite robust and big tree-planting exercise. It has many tenant farmers on the land. It got them all



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together and said, “We want to do this tree-planting exercise. We do think it is important. You tell us where you would like us to plant some trees on your tenanted land and what we can do to help you.”

That for me was a fantastic example of very good collaboration between a landlord and their tenant farmers, of which there are a considerable number. They got the environmental outcomes from it, but what it also did was the taxpayers’ money. The landlord took some of the grant money and the tenant farmer had some of the money. Again, in the review, we were very much encouraging that sort of approach.

Q26 Ian Byrne: Thanks, Baroness Rock, for your evidence so far, very good. I am going to touch on the Farm Tenancy Forum. What role do you see the new Farm Tenancy Forum playing and how will it be different to the Tenancy Reform Industry Group?

Baroness Rock: This is key for me. The way the forum operates has to be the key to the success of a lot of these recommendations. I do not want it to be a talking shop. I think that it would be disastrous if it was a review of the review. The Rock review was evidence-based. We do not need any more evidence. We need implementation. We do not need to have more consultation and more discussion, to be perfectly honest with you. What it cannot do, for me, is recreate TRIG. I think that if it does, it will be difficult. It needs to use the review as evidence, as I said, to build from in order to focus on the implementation. It needs to be resourced properly and it needs to have the right people on it.

One of the things that I was clear in my response to the Government’s response was that I would be disappointed if I saw the same people that were on TRIG on the forum. Obviously, you will need representatives from various organisations in the industry, but I would like to see much wider representation from practitioners, from progressive landlords and tenants, not just the same trade organisations and the same people from the trade organisations, with due respect to all of them—the TFA, the CLA, the NFU, the CAAV. I know that the Tenant Farmers Association will not put the same person that was on TRIG onto the review, and I would very much encourage all organisations to do the same and for Government to recognise that the forum needs to be significantly different.

Q27 Chair: Will you be on it?

Baroness Rock: I have had conversations with the Minister about me going on it, and to be perfectly frank—

Q28 Chair: Was he asking you or were you asking him?

Baroness Rock: It is conversations, Chair. It was recognised that it would be sensible for me to become a member of it, but I have not had an invitation yet. I think that in itself would show that the new group will operate differently, as an advocate of the report and as the chair of the working group, which was an expert working group. I would like to feel



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that at least there was considerable dialogue and involvement with the members of the new forum.

I think that it is good news that the Minister will attend quarterly. He is committed to doing that. I think that it would be encouraging if he was also to co-chair it to give fresh representation and a new sense of direction. If this is the same forum as it was before—everybody in the industry recognises that TRIG has had its day. It was set up in 2003. It has had 20 years. I am encouraged that this forum has been set up, but if it is not an implementation group, as opposed to a forum, I would be very concerned.

Ian Byrne: That has covered a lot and is a comprehensive answer.

Q29 **Robbie Moore:** I am moving the line of questioning on to the code of practice, Baroness Rock. You have proposed that a new code of practice is included for tenants and landlords. What would you like to see in it, and how will it support the sector, in your view?

Baroness Rock: Is this the code of practice or is this the Tenant Farming Commissioner?

Robbie Moore: We are focusing on the code of practice to start with.

Baroness Rock: Perfect. Okay, thank you. I am encouraged that this recommendation was taken up and I am pleased that DEFRA recognised that there was a real need for this. With huge respect to land agents, first of all, we heard a lot of evidence that there are some agents whose behaviour leaves something to be desired. The acceptance by Government that there is bad practice in the sector is good. I am pleased that the RICS has been instrumental in driving this and that it has appointed Matthew Morris of the Duchy of Cornwall to chair it. I am encouraged that there is a strong chair and that it is setting up an expert working group. I am also encouraged that it is being fast about it. I believe it will have its first meeting later this month or early next month. This is being taken seriously. I would encourage all the land agent businesses to buy into the code and to speak to the RICS and the expert working group about what should be in it.

The core objective of the code is simple: it is to hold parties to a higher standard of behaviour. It needs to be simple, concise and easy to understand. It needs to be a piece of paper that a tenant farmer can sit down and have a conversation with the land agent, that says it is about respect, professionalism, good manners and encouraging collaboration. Forgive me, I know you were coming onto the Tenant Farming Commissioner, but once it is developed—and I think it will develop quickly—I would like to see the Tenant Farming Commissioner take responsibility to oversee the use and the development of it because the enforcement of the code is also incredibly important. You can have a code of practice—and we all know that—but there need to be some



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enforcement measures in it. My recommendations for the code of practice and the Tenant Farming Commissioner went hand in hand.

Q30 Robbie Moore: Chair, before I asked this question, I should have declared that I am a member of the RICS and previously worked as a land agent. I probably agree with you, that there are some who consider themselves land agents that are more the aggravator rather than the facilitator-type role.

I want to push on this. As a member of the RICS, or indeed a member of the CAAV—which are the two organisations that would push any dispute resolution or try to reach a settlement between a landlord and a tenant if a dispute ever occurred—to even become a member of the RICS, you are effectively signing up to agree to a good code of practice, good code of governance and good code for when you are carrying out your professionalism, whether that is negotiating or acting on behalf of your client, be they landlord or tenant. What do you want to see that will go above and beyond what already exists either within the RICS structure or the CAAV structure?

Baroness Rock: I think that this is a more practical code that can be used to encourage that collaboration. I think that the RICS recognises that it is needed, and I am encouraged by the fact that it does. As a land agent, you do not have to be a member of the RICS, so we are encouraging this to be a much wider industry.

Q31 Robbie Moore: But if you are producing a contractual agreement between a landlord and a tenant, you could only do that if you were either a solicitor, a member of the RICS or a member of the CAAV.

Baroness Rock: Some solicitors are not members of the RICS, so they do not necessarily follow that—

Robbie Moore: Hence why you think it—

Baroness Rock: I think that it is a broader thing around ensuring that it has a much wider appeal than just being a member of the RICS. You can be a member of the RICS, but as a land agent, the contract bit is different to the ongoing dialogue that a land agent, who is perhaps not a member of the RICS or the CAAV, can have with a landlord or tenant. You can still be a member without doing all the contractual bit. I agree, the contractual bit is separate.

I could touch on this dispute resolution point, which is that dispute resolution and arbitration is only available to AHA tenants at the moment, so it does need to be extended to the FBT tenants. That is a further legislative backstop to the code and the commissioner. As AHAs expire and everything is moved onto an FBT thing, you will not have that dispute resolution and arbitration available to you as an FBT tenant, which is important. You do not have that as an FBT tenant.

Q32 Robbie Moore: I would beg to disagree with that. I would say that you



do absolutely have the ability to go to arbitration and mediation with an independent expert with an FBT arrangement, but perhaps that is me saying that, and my role is to ask the questions.

To close this before I hand over to Julian, how should the views and objectives of landlords and tenant farmers be balanced when considering your recommendations for the code?

Baroness Rock: I think that they will be balanced very well by the RICS expert working group. Having Matthew Morris—who is a land agent for the Duchy—representing landlords as the chair is a very powerful message that this is about the right balance. I very much see landlords and tenant farmers on the same side of one coin. They are not different and there should not be conflict. There should be collaboration. The expert working group also has members from the CAAV and some progressive tenants on it, so I think that you will see a balanced code of practice. It has to work for both sides. It is not about us and them. It has to work for both landlords and tenants.

Robbie Moore: Thank you very much. Thank you.

Q33 **Julian Sturdy:** Before I go on to my question, something that you might have picked up in the evidence and that I want to find out about is whether there has been any concern from tenants about reporting land agents for any breaches and so on going forward. This is what we are talking about—that that might have to come forward and retrospective action might follow from that. Has that come up as an issue while you have been taking evidence?

Baroness Rock: This is one of the things that we spent a lot of time having discussions with farmers and landlords about. There is a real fear of retribution if you challenge the behaviour of a land agent, whether it is an in-house land agent or one of the bigger organisations, which is why we felt that the code of practice was the right approach. We discussed whether there should be more regulation around land agents and decided that we did not want more top-down regulation. Obviously, as you know, other areas do have more sectors and more regulation. I think that there is a bit of fear of retribution and, if you are on a short-term FBT and you complain, there is a danger that you could lose that FBT.

Julian Sturdy: A blacklist, sort of?

Baroness Rock: Exactly. The landlord is saying, “They are being difficult so let's just get rid of them and find someone else”—again, coming back to that power in balance. I think that the code of practice and the Tenant Farming Commissioner could resolve a lot of these issues before they become too problematic. I would like to see a situation where all of these are resolved with a code of practice and Tenant Farming Commissioner. We would not have to have the expensive and costly side of arbitration, which nobody likes. Both parties do not like arbitration.

Q34 **Julian Sturdy:** That leads me nicely to the next question. Your review



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proposes the creation of a new Tenant Farming Commissioner. Why do you believe this is necessary? You have answered that anyway, but you might add a bit more detail.

Going on from that, the second point was that the Government have agreed to launch a call for evidence on the proposals. Given everything you have brought forward, do you believe that that is actually necessary?

Baroness Rock: Could I answer the second part first, if I may?

Julian Sturdy: I thought you might want to do that.

Baroness Rock: No, I do not believe that a further call for evidence is necessary because why we need it has been articulated incredibly strongly in the review. I think that the call for evidence should be about how we can establish a commissioner. How can a commissioner be set up? How should it operate? How should it be given powers? How should it work for the sector? How should it be accessed? For me, the call for evidence should be focused on those five hows. I do not think that we need the why. I think that we have the why already.

We have a lot of evidence. I would say that many landlords and industry organisations—Church Commissioners, the National Trust, the NFU, the TFA and the RICS—all support its establishment. We have a Tenant Farming Commissioner in Scotland, which operates very successfully, and I think that England can learn from that. I do not know whether it would be useful for the Committee to take evidence from Bob McIntosh, who is the Scottish Tenant Farming Commissioner.

Q35 **Julian Sturdy:** Would you propose a similar model?

Baroness Rock: I would propose a relatively similar model. We know that many sectors have effectively an ombudsman for people who can receive independent support and advice. Quite often these sectors and industries are where you see this difference in the power dynamic—rented accommodation is a very good example.

What do I see the Tenant Farming Commissioner doing? I see that they would have a role to play in reforming and reviewing dispute resolution, particularly arbitration. I would suggest that they review the consistency and knowledge sharing of arbitration because at the moment they are very confidential and each one is very ringfenced with confidentiality. I think that they can ensure fairness and that the landlord-tenant sector plays its part when it comes to delivering the wider environmental outcomes and the social outcomes that the nation needs.

Again, when we talk about the code of practice, the commissioner can review it, promote it, and ensure that when there are grievances, they are looked at in much the same way as the Local Government and Social Care Ombudsman. They can provide a platform for holding people to account and work with existing bodies to make sure that land agents function in a much more robust system of accountability. Not least, I



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think that the commissioner can be a critical friend to Government and other bodies to ensure that the landlord-tenant system is well-understood. I think that it is an important role.

For me, the call for evidence, as I said, needs to be about the “How?” and we need to ensure that the Tenant Farming Commissioner is hearing widespread views from tenants, landlords, and land agents, and understands the nuances of how the sector works. I think that I said at the beginning of the evidence that DEFRA acknowledged that it did not know enough about the tenanted sector and the support that tenant farmers need. I think that the Tenant Farming Commissioner can bring that into Government and into the industry.

Q36 **Julian Sturdy:** Talking with DEFRA, do you feel that that call for evidence will go down the route you are suggesting?

Baroness Rock: I have not spoken to DEFRA about its call for evidence, but I would hope very strongly that it considers that the call for evidence should be how, because I think that we have already given the evidence of why.

Julian Sturdy: Okay. Thank you.

Q37 **Chair:** Thanks, Julian. We will turn to tax. I should declare an interest as an owner-occupier and, although it will not apply to me now, when I am dead, it will. Many farmers breathed a collective sigh of relief when Norman Lamont brought in the relief from inheritance tax for agricultural land farmed in hand. You have already touched on allowing some of the environmental schemes to count as farming, which I think makes a lot of sense and the Treasury is consulting on that. On extending relief to tenanted farms, you suggested eight years. The Tenant Farmers Association is saying 10 years. Do you think that is workable? Are Government likely to smile on those proposals?

Baroness Rock: The thing that really struck home for me as we were going around the country and talking to landlords and to tenant farmers—we met over 700 people as we went around in eight months. It was quite a baptism of fire. From every landlord, we heard the same thing, which is that tax is a cornerstone of their long-term estate planning.

For me, it was clear that it therefore become one of the key levers to drive changes to longer-term tenancy agreements. Everyone acknowledges that we need longer-term tenancy agreements, which we have already discussed, to do all the things that we need to do. The tax lever was an important one because every landlord says that that is the first thing that they look at.

The reason that we took eight years—I know that the TFA suggests 10—is that the CLA did a survey of its landlord members and the survey suggested that the average length of a landlord with a tenant is around eight years. Some of those are rolling FBTs—two years, two years, two years—but the average is around eight years. With the CLA’s evidence, it



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seemed sensible to take that eight years. The point is that it will benefit in giving landlords the opportunity to lock in their capital taxation position for the full duration of any lease, and it will give us that longer-term view and viability.

Chair: It would address the point we raised earlier about the short-term view.

Baroness Rock: It would address the point that we made earlier. What we have said is that a succession of short-term agreements that amount to eight years should not qualify. It should be the full eight years, which would then give those tenant farmers the flexibility to enter into the schemes and to do the right thing with clarity and confidence of being able to farm for that eight-year period. We have said that there should be an exclusion for high-value crops, horticulture and vegetables that would normally be grown in rotation. I think that is understandable and the Treasury recognise that. I am pleased that the recommendations—

Chair: And annual grassland lettings as well?

Baroness Rock: Yes. I am pleased that the Treasury has picked up on this and has gone to consultation. I look forward to seeing what the Government's response will be. There is clear evidence that a tax lever will work effectively and well towards longer-term tenancy agreements and should have no material impact, given the CLA says that most are eight years anyway.

Q38 **Chair:** I usually like to have a rough idea of the answer I might get to a question, but this one here about stamp duty and land tax is one that I have not been personally involved with. Would reforming the stamp duty land tax benefit tenant farmers, and if so, how?

Baroness Rock: The stamp duty was mainly developed as a way to stop urban property holders, as you know, to avoid tax by entering into a long-term leasehold agreement with property developers. It does not operate appropriately within agriculture. It works against this objective of encouraging long-term agreements. Again, that was not taken up, but I think that should be addressed within a future Budget.

Q39 **Cat Smith:** The last question is hopefully a nice one. Talking about the tenanted farm sector and opportunities for new entrants, I wondered, Baroness Rock, how optimistic you feel about the future of the sector?

Baroness Rock: Thank you. I am an optimist by nature, so I am optimistic about the future of the tenanted sector because I think that we are pretty resilient as a nation of farmers. I think that you will find flexibility and a way through it. With some of the recommendations that have been taken up, I am optimistic. If more of the recommendations were taken, we could go even further and be even more optimistic. You mentioned new entrants. I feel really passionate about new entrants. Unless you are a hedge fund manager or the son of a hedge fund manager, you cannot afford your own land.



Chair: Or marry well.

Baroness Rock: Or marry well, Chair. New entrants are really important. The way you will get new farmers into our industry is through tenancies, being a tenant farmer. I have to be honest with you, I am disappointed that DEFRA has not taken forward any of the recommendations made in the report on new entrants. I would urge it to look again at recommendations 39 to 45. There is broad agreement that the pilot new entrant scheme that DEFRA operates is not ambitious enough or sufficient enough to be of real benefit.

We heard from so many amazing young farmers across the country. We need to bring in new farmers with their enthusiasm, new ideas, and embracing of new technology. Downing Street recently did a Farm to Fork summit and there are a number of new, young entrants there who were desperate to get into farming, but access to land, expertise and finance is hard for a young new tenant farmer. Addressing those three pillars is critical.

The other thing that I feel passionate about is council farms because they are extraordinary. We have some amazing council farms across the country. Sadly, some counties do not have them any longer and have sold off the land, but council starter farms are a career progression for going into the private rented sector. I think that we need to support our council farms as much as we possibly can because they are a fantastic way for young farmers to come into our farming community. It is amazing. I have met some most exciting, young, dynamic people who want to get into farming, and their frustration is that they find it is really hard. We need our farmers to do all the things that we want our farmers to do, produce food and enhance our environment.

Q40 **Cat Smith:** Absolutely. I have a final question. What advice would you give to a young person, perhaps at school today, looking at the future? I am thinking about schools such as Ripley St Thomas in my constituency. If you have a school farm, the children get that experience in a school environment, which I think is unusual, but for children that have not had that experience, what top advice would you give them for getting into farming?

Baroness Rock: Perseverance is key, I think, right now. You need to have a good business plan. You need to start thinking of exactly what you want to do, and you need to find landlords who have tenant farms and approach them and say, "This is me. I can make a very good productive successful farm on your land." A landlord should be embracing these new tenant farmers and not seeing them as a risk, but seeing them as a huge opportunity to take on some of the new challenges that we face in our farming community.

On our farm in Dorset, we had 30 young kids out over the weekend coming to see what they were doing. Of course, they love all the technology, the GPS and that side of things, but they are also fascinated



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by what is growing in the ground, the seasons and the weather. They ask so many incredible questions. Encouraging them to get involved as much as they possibly can and to forge a career in farming, because I love it.

Chair: Thank you. Our resident land agent wants to ask another question.

Q41 **Robbie Moore:** This will be my last question. I will put on record my thanks to you for your endeavours with this, and bringing to light something that I, as a member of the Committee, am very passionate about as well. Thank you very much for doing that, because it was a very comprehensive and well put together report.

Another passion of mine is the issue of new entrants getting into farming. I want to tease out of you a bit more on the recommendations. Obviously, getting into the rented sector is absolutely key, but as a new entrant coming in, the risks are high, not only with funding but also risk exposure to do with expertise and so on. There are many other routes to get involved in farming, whether through contract farming, share farming or partnership-type structures. Do you wish to expand on some of the other options that are available to you, where you could build up that relationship with a landowner who is willing to work with a new entrant in more of a partnership-type structure with potentially the end result being a tenancy that would be awarded, rather than going straight into the tenancy structure?

Baroness Rock: There are lots of different routes to farming and lots of different areas to farm in. It is not just about going straight into being a farmer. There are so many young people who could go into the sector and who could do lots of different things. There is a whole drive for technology. We are having conversations around vertical farming these days and all sorts of things. There are so many different avenues. You are absolutely right. Explore as many avenues as possible and get as much experience as you possibly can.

The young people that I meet want to farm their own land. They want to be a present and successful farmer who goes out through the seasons and goes through that side of things. What I said in this report is that there are very few avenues for doing exactly that, therefore the tenant farming side is crucial.

You are absolutely right. There is contract farming. There is working for various farming companies. There are lots of different approaches, but one of the things that we suggested was a help to farm fund to support access to capital. That recommendation was not taken up. I think that Government need to have a policy and objective of supporting young people into the industry.

Q42 **Robbie Moore:** A quick follow up on that. Without stating the obvious, is that something that you would like to see Ministers within DEFRA explore further, with recommendations to be put to the sector?



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Baroness Rock: I was disappointed that not a single recommendation was taken up from the recommendations that we did around new entrants.

Chair: Thank you very much. I will repeat the thanks. You have been a good friend to this Committee. We had an informal briefing early, we have had conversations ourselves and appreciate once again all of the work you have put in and the candour and brevity with which you have answered the questions, which is always good in this Committee. Thank you very much indeed.