

# Written Evidence submitted by the National Farmer's Union (England and Wales)(FS0061)

## Summary

The NFU represents 55,000 members across England and Wales. In addition, we have 20,000 NFU Countryside members with an interest in farming and rural life. Our purpose is to champion British agriculture and horticulture, to campaign for a stable and sustainable future for British farmers. Creating the right conditions for a thriving British farming sector includes promoting the health, safety, and wellbeing of our members.

### 1. What are the key factors affecting the resilience of food supply chains and causing disruption and rising food prices – including input costs, labour shortages and global events? What are the consequences for UK businesses and consumers?

Our analysis suggests the following are the principal factors affecting price and availability of food in the UK. They are not weighted in order of magnitude as these factors will affect businesses in diverse ways and many are interconnected:

- **Energy prices.** Gas prices for this winter have increased 11-fold in the last two years and have a very close impact on broader energy costs such as electricity. As well as the cost of energy, the vastly unpredictable nature of the market is increasing uncertainty for whole supply chains.

Energy is a 'multiplier' input cost because energy is used at most stages of the supply chain – so the cost increase is compounded over each stage of a product's lifecycle. Natural gas is a prominent energy source (and therefore cost driver) given its role in fertiliser production (it takes approximately 365 therms of natural gas to make a tonne of Ammonium Nitrate) but also in warming glasshouses to produce crops and in baking, cooking and pasteurisation in food processing.

Natural gas is also a root source of food grade CO<sub>2</sub> as a coproduct of fertiliser (ammonium nitrate and compounds). CO<sub>2</sub> is critical to the nuclear and healthcare sectors but the gas also has multiple uses and dependencies in food production, from animal processing, packaging, drinks manufacturing and in glasshouse production for our fruit and vegetables. The natural gas price hike led to another stalling of the fertiliser market, which triggered circa ten-fold rises in CO<sub>2</sub> prices as a result.

Risks in the energy market are undoubtedly fuelling food price inflation and, despite strong demand signals from food markets, contraction and consolidation in production is likely as businesses look to reduce risk.

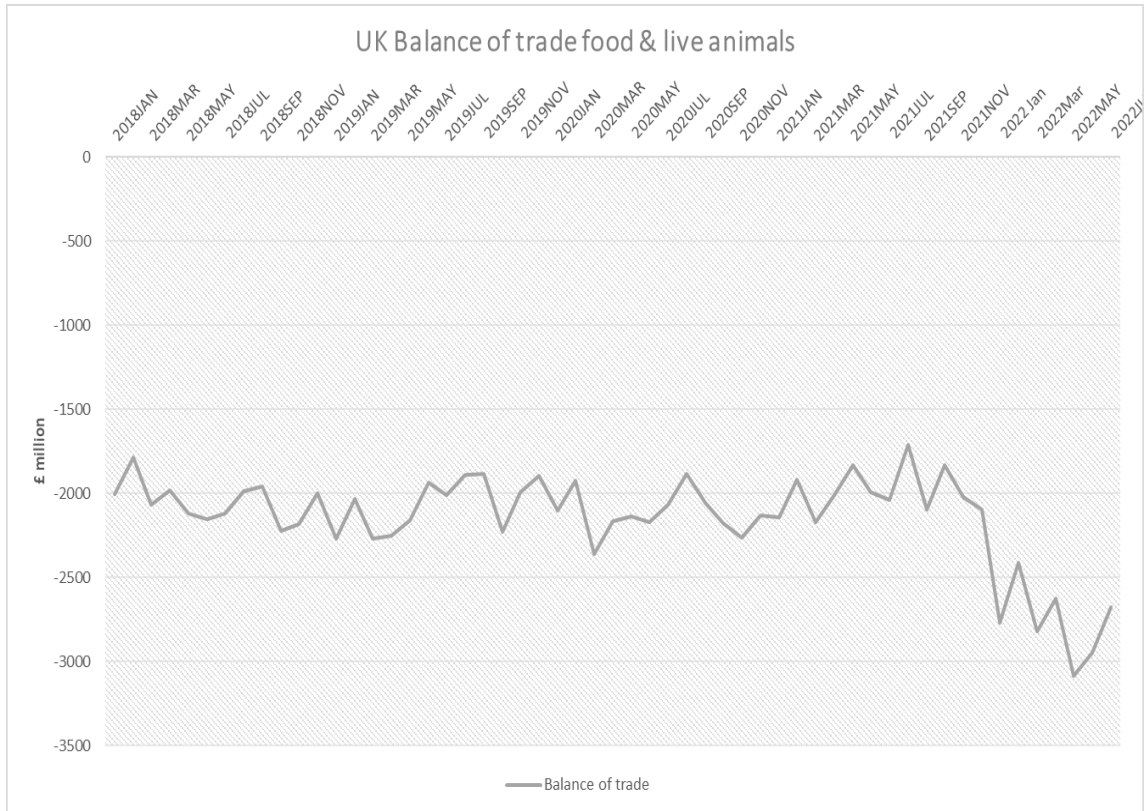
- **Post Coronavirus Pandemic recovery.** Whilst the nation has been returning to a new normal in 2022, farmers, growers and the wider food industry have not fully recovered to a position comparable with 2019. The entire food industry has weathered enormous disruption and volatility for over two years at considerable cost to ensure continuity and

availability of supply to consumers. The additional costs of managing supply chain disruption and significant input inflation have eroded financial resilience, driven by factors such as the cost of energy and fuel, additional labour, storage, loss of market and value recovery, redundancy of space etc, will remain for some time. The uncertainty in the market is reducing confidence and investment decisions to regain business efficiency are more difficult to plan.

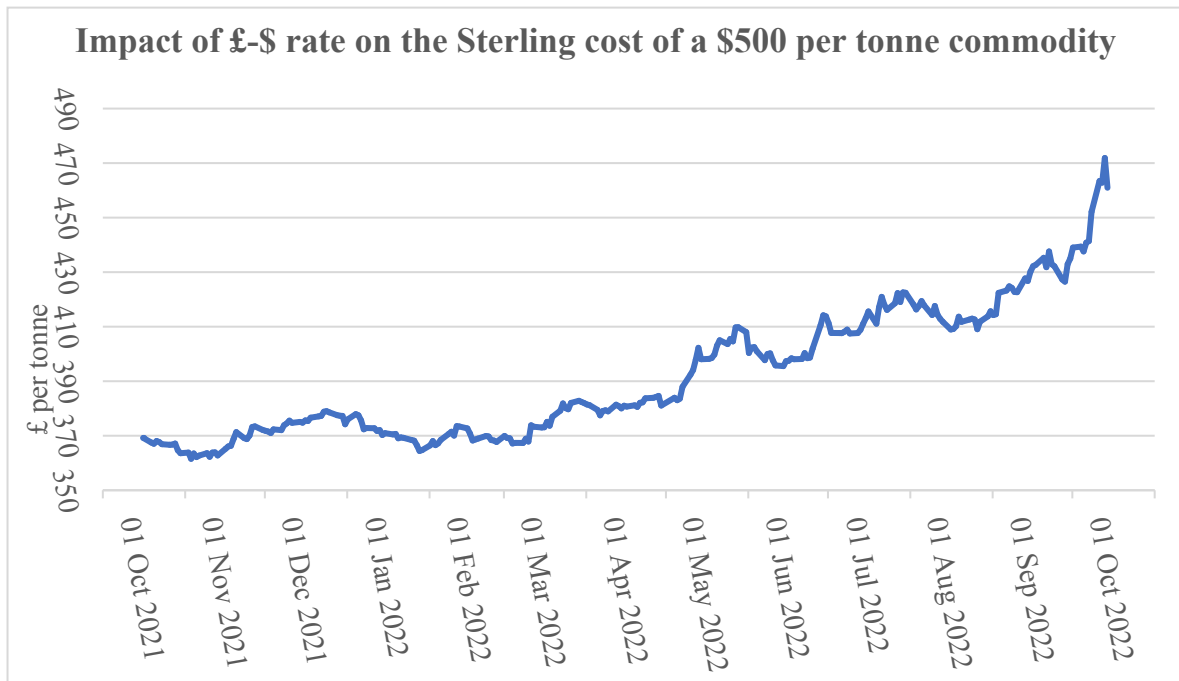
- At the primary production level, there is already an impact to be seen. In January to July this year, chicken producers have reared 5% fewer animals than the year before. In 2022, cucumber and tomato producers are expected to grow the lowest levels of output in Defra records back to 1985. In dairy, for the year to July, farmers have produced 1.5% less milk and have 1% fewer cows than a year earlier despite the highest farmgate prices on record that are not sufficient to offset the escalation in costs.
- **Access to labour.** Labour shortages are being felt across the economy and in agri-food supply chains the main drivers for low labour availability are attributed to:
  - Government immigration policy and the ending of free movement within the EU
  - Coronavirus disruption that stimulated an upsurge in workers taking early retirement or reducing working hours
  - Lack of investment in skills and career development in the food industry and competition from other sectors with a higher-value profile.
- **Brexit and International Trade.** Since the end of the transition period on 31<sup>st</sup> December 2020, we have seen a significant shift in trading patterns with our main international trading partners. During the years affected by the Covid pandemic (2020 and 2021) we saw both imports to and exports from the UK of Food & Live animals suppressed (source ONS). Once legal lockdowns and restrictions began to lift and unwind from late summer 2021, we have seen a significant increase in the value of imports to the UK, largely as a result of increased imports from the EU. Meanwhile, whilst the value of our exports has slowly recovered from the immediate shock seen in January 2021 it has subsequently largely flatlined, this despite the increased commodity prices.

UK agri-food exports for the first half of 2022 sit around 3% lower (in value terms) than the same period in 2019. Whilst the value of imports of agri-food products for the first 6 months of this year sits 17% higher than the same period in 2019. This is leading to a significant deterioration in the nation's Balance of Trade in Agri-food products (see graph 2), at a time when relative weakness in currency should in theory be bolstering the value and competitiveness of UK exports abroad, and making imports relatively less competitive. A significant proportion of foods and good are traded in US dollars, the strength of which is adding significant cost into food, food products and feed. (see graph 3).

Across all categories, we see significant uptick in imports for the first half of 2022. If consumption is relatively unchanged from 2019 levels, this suggests that UK production is losing ground on imported products. The NFU would support a thorough investigation into the drivers, indicators and consequences of the widening balance of trade deficit in agri-food products.



Graph 3



- Border Controls** – The UK Government is yet to reconcile the asymmetry of border controls with our largest trading partner, the EU. This continues to put our exporters and an important value stream at comparative disadvantage to the EU. Since the 1st January 2021, UK exporters have faced the full implementation of EU border controls. This has led to

significant additional costs and bureaucracy and has manifested itself in a 17% fall in the value of UK food, feed & drink exports to the EU (2021/2019), worth almost £2.5billion. Agri-food stakeholders estimate that in the period Jan 2021 - November 2021 the new Export Health Certificates (EHCs) requirements imposed on exports to the EU is estimated to have cost at least £60m in paperwork, with more than 288 thousand EHC applications requiring the equivalent of 580,000 certifier hours - 285 certifier years. It is reported that many UK businesses have stopped exporting because the additional costs cannot be recouped from the market.

The government intends to publish a Target Operating Model (TOM) in the Autumn, setting out a new regime of border import controls, with an implementation target of the end of 2023. This timetable already is slipping, begging the question how robust the current minimal border controls are, and for how long it will be before the UK border is fully operational and able to effectively manage the current and emerging risks the nation's food supply chain faces. The NFU continues to engage with Government on the development of the TOM.

- At the same time as the Government has failed to implement robust border controls on product entering from the EU, it continues at pace, to open the UK market to new sources of imports via its Free Trade Agreement (FTA) agenda. Despite the repeated commitments that our food safety, animal welfare and environmental standards would not be undermined, the government has failed to set out a convincing case to industry on how this is to be achieved. The NFU, along with others including the Trade & Agriculture Commission, has called for a set of core standards to be developed to ensure that imports do not undermine domestic standards and to show international leadership by raising the bar in food, environment, and animal welfare standards. With further FTAs planned for India, Canada, Mexico and the CPTPP it is vital that this system of core standards developed and upheld throughout negotiations.

**Geopolitical situation and the war in Ukraine** is both a causal factor and a compounding factor on prices and availability. Ukraine and Russia are responsible for production of 30% of the world's wheat and 50% of sunflower oil, seeds and meal exports alongside other major commodity crops important for food and feed supplies. Russia was also an important source of red diesel which is an important fuel source for agriculture. Furthermore, before the invasion, Ukrainian workers represented circa 60% of the seasonal workforce since we left the EU, exacerbating existing labour shortfalls across the sectors.

Markets have reacted to the uncertainty of supply from Ukraine and the supply chain has responded by seeking alternative supplies or alternatives for product formulations to mitigate the impact of the conflict. However, it's important to recognise the supply gap as being too large to mitigate completely and the conflict too unpredictable to make assumptions about future supply and prices for the medium term.

- Ukraine is also a key supplier of animal feed raw materials to the world market. Ukraine can typically be expected to export 25 to 30 Million tonnes of maize (corn) to the world market, but the approaching harvest this is expected to be less than half at 12.5 Million tonnes. This, plus the rocketing costs (fertiliser) of crop production, is driving grain prices higher – subjecting animal feed prices to huge inflation. In recent weeks there has been progress in opening up grain exports from Ukraine, which is heavily reliant on crops having

safe internal passage to the port of Odessa and undamaged infrastructure to handle millions of tonnes of grain. The safe passage of grain through and out of Ukraine is vulnerable to developments in the conflict with Russia. Russia is reportedly sensitive to realisation that Ukrainian exports that these exports could be destined for 'unfriendly countries'.

- **Confidence in production.** The NFU flagged in March 2021 that the inflation of input costs that were either caused or compounded by the invasion of Ukraine. The business response to higher input prices and low certainty is to de-risk by contraction.

According to Defra's Agricultural Price Index (API), all inputs in July 2022 were up 36% YoY with Nitrogen fertilisers up 160%. This level of inflation represents a cost and risk way beyond normal operating margins, so the business response is to limit inputs and plan to produce less to reduce business risk of loss.

In the arable sector, high fertiliser prices have disincentivised farmers from growing bread wheat, which has a higher input requirement and instead are opting to produce 'less risky' feed wheat instead.

Other compounding factors include:

- **Agricultural Transition Plan** – The Government's approach to transition away from the CAP to domestic schemes in England remains predicated on the assumption that production costs would on average fall significantly, rent prices will decrease and farmers and growers would be able to increase their productivity. The catalogue of global developments since the original Defra Health and Harmony consultation in 2018 have clearly demonstrated that these fundamental planning assumptions are now flawed. Such eventualities, albeit not the drivers, were envisaged in the [NFU's 2017 post Brexit Domestic Agricultural Policy](#), proposed a comprehensive framework formed of three distinct constituent parts: 1) agricultural productivity measures, 2) volatility mitigation measures and risk management tools, and 3) environmental measures and incentives. We set out then the fundamental importance of farm businesses being able to draw down bespoke assistance from across a range of measures within each of these essential cornerstones. Crucially these measures are not mutually exclusive and provision of these three core policy elements for a successful transition to a domestic agricultural policy remain just as relevant now, if not more so, than in 2017.
- Defra's principal intervention is the provision on Environmental Land Management schemes; however, it is our strong belief that a rounded offer, not just one which focusses heavily on ELMS, needs to be available beyond the transition period (ending in 2028) to enable farming to be competitive, profitable and progressive – producing food sustainably. The current economically and politically volatile situation, combined with exceptionally challenging dry weather conditions across all sectors this year, has brought into sharp focus the lack of measures within the current Defra Agricultural Transition Plan to address the "volatility gap" and provide the critical resilience farm businesses require. By 2023, direct payment (BPS) will be at least 35% lower than in 2020 and farmers and growers are already feeling the impact of these cuts and are looking for the wider ELM offer to manage this impact. Therefore, the Government must address the need for tangible actions or measures to be put in place to alleviate this market volatility, which is currently absent from Defra's plan of action.

- Meanwhile, it is critical that ELMs must be simple, deliverable and offer fair reward to the farmers managing the countryside. Most farmers are more likely to engage in ELMs where it works with the farming systems and complements food production. However, we already know from our own independent [Anderson's analysis that the Sustainable Farming Incentive \(SFI\)](#) in its current form will not be financially attractive for many farm businesses, thus undermining the achievability of the ambitious government targets. This is also backed by [analysis carried out by the Agricultural and Horticultural Development Board \(AHDB\)](#). Farmers and growers need the details of these schemes now in order to establish if there is a real viable business offer. The phased introduction of SFI standards means the complete scheme detail required to make those critical business decisions will not be available until 2025. This is too late for many businesses. Therefore, there is an urgent need to fast track the roll out of SFI in a way that allows all sectors impacted by direct payments cuts to access ELMs. There is also a need to have regular reviews of payment rates to ensure the long-term financial viability of schemes.
- Drought & Climate Change** Over the past 30 years, major crop yields have decreased globally by 4-10% due to climate change. Five of the eight priority risks identified in the UK's third Climate Change Risk Assessment (CCRA) are integrally linked to agriculture. Farmers are seeing changes in weather patterns and the majority of farm businesses have already been significantly affected by severe events. Various assessments have highlighted how food production in northern Europe will be relatively less affected by a changing climate than elsewhere in the world, however the NFU agrees that there is an urgency to make the most of the window of opportunity to secure a sustainable future for all. It is for this reason that the NFU has committed to our own [net zero ambition for agriculture by 2040](#).

During 2022 the importance of the nation's water resilience has been brought into particularly sharp focus with (at the time of writing) 11 out of the 14 English areas being declared as in drought status by the Environment Agency. This exposure to challenging extremes is likely to become the normal as our climate changes. Our ability to feed a growing population relies on access to a secure water supply. Increasing demands from the public water supply to meet the needs of housing growth, combined with the impacts of climate change, are already threatening this supply. Around three-quarters of the water used to grow the fresh fruit and vegetables we eat in the UK has come from countries with greater water challenges than our own. If farmers and growers are going to rise to the challenge of growing more food like fruit and vegetables, which was recently set out in the Food Strategy White Paper, they will need secure access to a share of water supplies. This in turn requires investment in our water resources infrastructure.

Farmers and growers can and do take practical steps to manage water on their own farms, such as improving the management of our precious soils, building on-farm reservoirs, and installing rainwater harvesting equipment. But the pressures faced by farmers and growers in managing 'too much' and 'not enough' water are likely to become so great that they will not always be solved at the farm level. As we set out in our [Integrated Water Management Strategy](#), cooperation and collaboration within the farming community, and with other sectors such as water companies, will also be vital in the national response to managing these extremes. Whilst we welcome the acknowledgement by the Environment Agency for our call for flexibility to abstraction and our recent ask for winter fill of reservoirs at high

flows, more must be done across Government to secure the water required for food production. This includes measures such as unblocking planning regulations that can impede the construction of more on-farm water storage reservoirs.

## **2. What is the outlook for UK food price inflation in the short and medium term?**

- The Bank of England has warned the UK will fall into recession this year. It expects the economy to shrink in the final three months of this year and keep shrinking until the end of 2023. This would make it the longest downturn since 2008 financial crisis.

The ongoing war in Ukraine and the safe passage of food commodities out of the country are significant yet uncertain factors that will influence food price inflation.

With a high level of interaction between energy and food, forward energy prices could be useful in providing a loose proxy for food price outcomes in the future. Forward gas prices through 2023 remain elevated by at least 10-fold versus typical pre-September 2021 levels. The market is impossible to predict and remains highly volatile. The current forward energy prices suggests that farmers are unlikely to enjoy any correction/deflation in input costs.

The Governments' Energy Bill Relief Scheme (EBRS) is expected to bring some short-term relief from further spikes through the winter, when demand for energy is high. However, the impact of the scheme on short-medium term food production and prices must be questioned given that the scheme is only six-months in length and dwarfed by the decision-making timelines of food production. In practical terms, a grower planning or planting a crop for 2023 has no greater degree of certainty than before the EBRS announcement. Longer term certainty beyond EBRS from April 2023 onwards would support confidence and decision making.

Overall, its reasonable to forecast that recent increases in input costs are now likely to be at least sustained for the medium term. Further inflation of food production costs is likely but linked to volatility in the energy markets that are difficult to forecast owing to geopolitical events. Given the energy interdependence and the nature of the energy market, it is likely that importing countries will continue to face similar input cost challenges and confidence erosion but availability -or lack of availability of products from importing countries will also have a bearing on prices and consumer choice.

## **3. What policy interventions should the Government consider to manage these pressures?**

- Farmers, growers and food businesses ought to qualify for ongoing government support under EBRS as they are critically vulnerable to energy price volatility. Government should work with the industry to shape a longer-term and agile energy resilience package beyond April 2023 to support decision making, market functionality and consider broadening the scope of the measures beyond commodity energy costs to combat other inflationary forces such as standing charges
- Support improvement in the transparency of domestic and international fertiliser and CO<sub>2</sub> markets to ensure fairness through supply chains, market functionality and the ability of Defra to detect issues early and act

- Mandatory Food Resilience Impact Assessments across all areas of government policy and regulation, expanding the scope that is currently applied to regulatory impact assessments.
- It is imperative that the food and farming industry has sufficient access to labour, not just within primary production but for the wider food industry to lift productive output, reduce costs and waste and allow farmers and growers to plan for larger output in future seasons. A report published in the autumn of 2021 highlighted the significant challenges being felt across the entire food and farming supply chain ([Establishing the labour availability issues of the UK Food and Drink Sector](#)). This estimated half a million vacancies across the industry and demonstrated the impacts it was having on UK food production.

The UK Horticulture sector relies on approximately 40,000 permanent and 70,000 seasonal workers a year. Shortages have been reported across all roles in the last two years and in seasonal roles since at least 2014. Seasonal roles underpin permanent roles: that is to say, without access to a sufficient seasonal workforce, business viability is compromised and contraction is inevitable.

An NFU 'mid season' labour survey showed that around half of the horticulture sector has cut production in 2022, by an average of 19%. Across the entire sector, a further 4.4% reduction is expected in 2023.

Businesses need confidence before planting crops. The NFU calls for the horticulture seasonal worker scheme to be increased to 60,000 visas for a 5 year rolling programme, and for the inflated seasonal worker scheme wage to be removed from 2023 and reverted back to national wage legislation.

- The NFU calls for the **Grocery Code Adjudicator** to remain in place to protect the consumer and the supply chain from unfair trading practices and ultimately ensure the pressures caused by CPI are managed within the remit of GSCOP.

The GCA is the UK's first independent adjudicator to oversee the relationship between supermarkets and their suppliers. Established in 2013, its role is to make sure that retailers treat their direct suppliers lawfully and fairly by investigating suspected breaches of the Groceries Supply Code of Practice (GSCOP) and arbitrating in disputes.

The GCA has made substantial progress in ensuring the regulated retailers are complying with the Groceries Suppliers Code of Practice. This can be demonstrated by the year-on-year decline of suppliers facing Code related issues, as per the GCA Annual Survey results from 2016 to 2021. Although the 2022 survey results showed an increase in suppliers who experienced code compliance issues, this is unsurprising given the UK is experiencing the highest levels of inflation in the last 40 years and highlights further the need for the adjudicator role.

The success of the GCA has been thanks to its active interpretation of the GSCOP and hands on approach with retailers to ensure the code is not breached. Therefore, the current BEIS review which is questioning the future of the GCA is deeply concerning for the supply chain. The merging of the GCA into the CMA would dilute the power and effectiveness of policing



the industry and its compliance with GSCOP. Now more than ever, we can not afford for the role of the GCA to be diluted or worst-case scenario removed, when relationships between retailers and suppliers are under huge strain and the major multiples are launching their biggest ever price campaigns.

- Post EU exit and through its Plan for Growth, Government has committed to *'rapidly review frameworks for regulation, innovation, and investment that impact farmers and land managers in England. This will ensure government and industry are working together to strengthen UK food security, and maximise the long-term productivity, resilience, competitiveness, and environmental stewardship of the British countryside.* NFU has submitted to the European Scrutiny Committee Inquiry 'Regulating after Brexit' that we submit with this submission.

#### **4. How are the rising cost of living and increasing food prices affecting access to healthy and nutritious food?**

- The rising cost of living will force many more into poverty and spending on healthy and nutritious food could significantly decrease. Many retailers are already reporting reduction in spend in the average weekly basket particularly in fresh produce with own label value ranges increasing in popularity, with sales up 33% (Kantar, last 12 weeks to 4<sup>th</sup> September). The discounter's market share is rising with Aldi is now taking fourth place over Morrisons. An indication that consumers are moving around and varying their buying behaviour.

LACA, the School Food People, which covers over 1 million meals per week recently launched a report which has highlighted the rising cost of living on school food provision in the UK. The data showed that 40% of caterers are concerned they will no longer be able to meet the school food standards in the new academic year and 55% said that if things do not improve, school food quality will deteriorate. If cost and supply chain issues do not begin to improve, 55% of respondents expect a decline in school food quality.

However, these challenges are not solely within school food provision. Feedback from the wider public sector is showing that inflation and product availability is impacting all elements of the market, with the energy crisis threatening to impact hot food provision over the winter months. This means that public sector food providers will be reliant on cold food and pre-packaged food offerings to help manage energy bills. These changes could impact the access to healthy and nutritious food.

#### **5. How will the proposals in the Government's food strategy policy paper affect:**

- **The resilience of food supply chains?**
- The Government must aspire to develop a transparent, competitive, and functioning agri-food supply chains. The government should seek to develop a food and agriculture sector that is resilient, sustainable, operates in a transparent and competitive marketplace alongside exists within trade agreements that doesn't undermine the integrity of our food

system. By supporting these ambitions, Government can build resilience into the agri-food supply chain.

- Additionally, through investment and innovation, we can improve our food resilience at home and play a leading part in a sustainable food revolution around the world, while also taking advantage of new opportunities being created through products like home grown protein crops for both human consumption and animal feed.

The Government Food Strategy does not evidence the current resilience within the supply chain and has little data on how the current supply chains will become more resilient. NFU seeks a commitment from government to report annually on UK food security, highlighting our self-sufficiency in key products and our contribution to global food security.

Furthermore, to embed resilience into our food supply, we need supportive approach that enables new technology and innovation to be embraced by farmers, ensuring international competitiveness and climate friendly food production. Furthermore, farmers need domestic policies – and the associated investment needed – to ensure we can continue to be producers of world-leading food while delivering for the environment, the economy and net zero.

Additionally, Government must seek to utilise their own food policy and provision as a mechanism to build resilience into domestic supply chains. Public spend can support business resilience within the agri-food supply chain, and food security ambitions. Government policy must not be short sighted in understanding how public sector food provision can be utilised as a mechanism for investment in agri-food, alongside increasing innovation and building resilience within local supply chains. Inflationary pressures are impacting all aspects of food production, both in the UK and overseas, and policy must seek to support the development of greater local supply instead of simply reacting to cost price pressures.

Whilst the domestic economy is currently under immense pressure and with the multiple changes to trading relationships and agricultural policy, mandating standards that drives more local food procurement within public sector procurement can give stability and a vote of confidence to domestic supply chains.

#### ○ **The Agri Food and Seafood Sectors?**

- By investing in the Nation's food production system, the Government can capitalise on the benefits which our agri-food economy delivers, whether in terms of food safety and production standards, environmental protection, or animal welfare.

Through government demonstrating support for domestic sourcing, confidence will grow between and within farm businesses, food processors and wider food chain operators. Collaborative supply chains can both drive market lead innovation and investment on farm and can add a degree of security of supply as fluctuations of demand are able to be managed more cohesively. This means that driving domestic food sourcing can provide security and value to both the buyer and the end consumer.

Innovation must provide the ability for food producers to access the market and for the UK food supply chain to be maximised to allow us to deliver safe, traceable, affordable, nutritious food. Innovation should be driven around the following in public sector catering:

- a) Mandating standards that drives more local food procurement within public sector procurement can give stability and a vote of confidence to domestic supply chains.
- b) supporting new and emerging food procurement structures such as “Dynamic Food Procurement” where there is a shortening of the supply chain from primary supplier to buyer.
- c) Developing clearer, more transparent procurement structures which enable SMEs to bid more effectively for public procurement contracts.

- **Access to healthy, nutritious food?**

- Within the procurement proposals, we have seen a concerted effort to drive more sustainable and healthy diets within public sector catering. However, we know from inflationary pressures that food providers are anticipating challenges around fresh hot food provision. It is important that procurement standards allow for the delivery of fresh, local and nutritious food and that the Government supports the supply chain to meet this ambition.
- It is important that the benefits of meat-based protein are not diminished with procurement standards. Red meat is one of the richest sources of essential nutrients such as iron, zinc and B vitamins in the diet, as well as a significant source of protein. Red meat has much lower fat contents than it did 20 years ago, with fully trimmed lean beef containing just 5% fat on average and fully trimmed lamb containing 8% fat. Lean red meats can play an important part in a healthy balanced diet as they have a high nutrient density. This means that they contain a wide variety of nutrients in a relatively small amount of food.
- The NFU welcomes the move to make data and insight on public sector procurement more transparent and accessible. Government must support buyers and authorities to collect and report this data, so as to not place additional burden on individuals and services.

## **6. Is the current level and target of food self – sufficiency in England still appropriate?**

- Self-sufficiency is a shortcut measure that provides a useful context to understanding how our domestic ‘market share’ measures up. However, it does not tell us *inter alia* about market stability, investment potential, critical challenges, supply chain vulnerabilities or drivers, or for example, how inflationary pressure in the household and through the chain, or globally, may affect the market dynamics in the short to long term. Given the longer-term nature of food production, its essential that the assessment of security becomes more forward-looking so that industry and public policy can adapt and plan accordingly.

We propose a detailed discussion with Defra through the MMCG to establish the development of a National Food Security Index and set targets around an agreed index, to guide the delivery of the food strategy and ensure we have an objective measure of food security. We propose a more sophisticated and more regular (annual) analysis is needed with an ingredients list that allows us to scenario plan against known risks rather than looking retrospectively at historic information. Existing examples that we could take learnings from include the index modelled by Economist Impact and their Global Food Resilience Index.

- Other examples of food security assessments are accessible in the public domain for comparison but should consider a bespoke index that is in the interests of the UK. We propose that the index also considers elements of the public goods or food values that the UK considers important, which accounts for our global contribution to impacts of our food system. The following components could be considered for such an index:
  - FAO food price index (although with more weighting for cereals, F&V, meat and dairy)
  - Input prices (especially energy and fertiliser)
  - CPI vs Income Growth (as a measure of affordability across food groups)
  - Forward look on key drivers of CPI, such as housing costs, energy and fuel
  - UK market share in domestic market for key or sensitive commodities
  - Opportunities for sustainable growth at home and abroad
  - Farmer and grower confidence, competitiveness, profitability, and investment
  - Global risk factors including climatic, political and economic
  - UK exposure to exported impacts (deforestation, slavery etc)
- The Government Food Strategy, rightly, recognises the benefits of growing more of our own fresh produce, plants and flowers. The commitment to developing a Horticulture Strategy for England is welcome and the NFU is already in dialogue with Defra to identify and understand how the opportunities can be realised. However, there are a number of existing policies which are creating barriers for growth, and in some cases resulting in contraction. Without these key 'building blocks' expansion will be virtually impossible. The key policies include: immigration and the access to sufficient labour; water abstraction licencing and funding for water storage; crop protection legislation and the access to critical plant protection products; the proposed ban on peat and the limited availability of viable alternatives; post-Brexit import controls for plants and plant products. In addition, supply chain policies are having an equal impact, including: fairness in the supply chain and the balance of risk versus reward; the inability to pass on cost price inflation; an imbalance of farm assurance standards between UK and imported produce, including worker welfare.

#### **7. How could the Government's proposed land use strategy for England improve food security? What balance should struck between land use for food production and other goals such as environmental benefit?**

- We welcome the aim in the recently published Government Food Strategy, of maintaining domestic production and the aims of the Agriculture Transition Plan (ATP) to support productivity and sustainable farming. Successful domestic production is part of our national resilience and has the ambition to grow and displace imports in products we can sustainably and competitively grow and produce here in the UK.

We also welcome the commitment to the overall farming budget and Defra should ensure the scheme does not become diluted through reliance on specialist advice or support from consultancy to deliver. Our farming members are seeking detail on how the ATP, and specifically the various elements of the Environmental Land Management scheme, will provide the necessary platform to underpin the sustainable and resilient food businesses we need, even though the overall commitment on budget is positively received.

Farmers will continue to play a pivotal role in maintaining and enhancing our dynamic landscapes for future generations and we want to work with Government and other

stakeholders to create a policy environment which enables them to do this. However, farmers and growers are currently overwhelmed by the plethora of competing and sometimes directly conflicting demands on their land being proposed by Government targets, single issue group agendas and market forces. The challenge is how these various land-use demands co-exist, if indeed they are able to, alongside the primary objective of our members' businesses to produce food, fuel and fibre for the nation and beyond. Land use is constantly driven to change over time in response to policies and markets and for this reason the NFU believes that our countryside has to remain a multifunctional and dynamic space given the finite land area of the UK and the importance of UK food security in volatile times. Therefore, it is concerning to us that many Government proposals, such as those out in the recent Defra Environmental Targets consultation, appear to directly conflict with food production. Some require a long-term or irreversible change to the productive capacity of farmland, such as tree planting, re-wetting and re-wilding. These proposals are particularly challenging to the tenanted sector who are land managers but not landowners. We have called for a much clearer cross-government prioritisation exercise to be developed considering the broad spectrum of domestic and international policies. Crucially this exercise must address the compatibility of these policies to co-exist and their impact on food and energy security. Therefore, the NFU cautiously welcomes the recent commitment by the Government to a Land Use Framework in 2023. However, for the reasons set out above, our position is that such a strategy must be based on capability enabling owners and occupiers to make better choices focused on 'sharing not sparing' and not simplistic lines on maps dictated nationally.

We must also not overlook the market challenge in front of the industry today and the issues of agricultural inflation which are currently triple the rate of the CPI. Our nearer term asks set out our views on the immediate challenges facing the sector including labour inflation and availability, but the ATP and schemes like ELMs must take account of market dynamics and trading conditions to be able to shape and adapt the ATP to secure the right outcome.

## **Appendix For reference only**

### **European Scrutiny Committee Inquiry 'Regulating after Brexit' *Written Evidence of the National Farmers' Union (England and Wales)* *July 2022***

The NFU represents 55,000 members across England and Wales. In addition, we have 20,000 NFU Countryside members with an interest in farming and rural life. Our purpose is to champion British agriculture and horticulture, to campaign for a stable and sustainable future for British farmers. Creating the right conditions for a thriving British farming sector includes promoting the health, safety, and wellbeing of our members.

#### **Summary**

1. The NFU welcomes the opportunity to submit evidence to this inquiry. We have fed into numerous Government and parliamentary consultations and discussions on the subject over several decades, based on policy analysis and feedback from our members.
2. Over the last two years the government has embarked on a number of initiatives reviewing the UK's regulatory approach following Brexit, including the [Reforming Regulation Initiative](#) in June 2020; the report of the [Taskforce on Innovation, Growth and Regulatory Reform \(TIGRR\)](#), led by Iain Duncan-Smith, in June 2021; the [BEIS consultation on reforming the UK's Regulatory Framework](#) in July 2021; and more informal announcements on progress and intentions such as Lord Frost's [summary of progress](#) in September 2021 and the Government's 'Benefits of Brexit' position paper in January 2022. The government's [Food Strategy](#) in June 2022 will also have implications for the regulation of food and farming. Prior to Brexit, successive governments have pursued 'better regulation' agendas and consulted on cutting red tape and reducing the inspection burden (more recently including the [Dame Glenys Stacey review](#) of farming regulation in 2018 and Oliver Letwin's request for examples of gold-plating EU regulations in 2016). The NFU has engaged with all these and submitted information and examples. In February 2022, Jacob Rees-Mogg MP was appointed Minister of State for Brexit Opportunities and Government Efficiency, with a particular focus on reviewing and removing EU-derived legislation and regulation. In June 2022 he published the [Retained EU Law \(REUL\) dashboard](#) to assist and monitor progress in this regard. The government also announced a [Brexit Freedoms Bill](#) in the Queen's Speech in May 2022 to make it easier to amend and remove REUL, among other things.
3. In this evidence we will set out our principles for better regulation, answer those questions most relevant to the agriculture and horticulture sectors and provide examples and evidence to support our assertions.
4. Regulation of farming and rural businesses is a critical issue for the NFU and its members, given its significant impact on the sector. The NFU recognises the need for and value of regulation to protect the environment, human and animal health and the needs of consumers. We want to see a more certain and predictable regulatory environment for the whole sector – one that maintains these important protections while encouraging business growth and investment, as well as investment in R&D and innovation, which are all vital if the sector is to be competitive, resilient, environmentally sustainable and profitable.
5. The NFU believes that **the overriding principle of good regulation is that it should strike a balance between managing risk and harm from any given activity, economic or otherwise, and maximising the societal and economic benefit of that activity.**
6. The **principles** the NFU believes Government should follow in regulating after Brexit are:

- Follow a common law approach as set out in the BEIS consultation
- Adopt a proportionality principle
- Promote and enable innovation and fair competition
- Delegate discretion to regulators to achieve regulatory objectives
- Use regulatory sandboxes
- Enable feedback and iterative improvement
- Conduct full impact assessments and scrutiny
- Undertake meaningful and independent post-implementation reviews, i.e. by the Regulatory Policy Committee
- Consider regulatory offsetting (i.e. one in, one out)
- Use of earned recognition and data sharing to reduce regulatory burden and improve targeting.
- Support industry-led initiatives

7. The NFU proposes the following legislative areas related to agriculture and land management as priorities for regulatory reform:

- Plant Protection Products
- Habitats Directive
- Water Framework Directive
- Drinking Water Directive
- Nitrates Directive
- Animal by-products
- Veterinary medicines
- Animal welfare

## Call for evidence questions

### 1. How was the UK's regulatory autonomy constrained when it was an EU Member State?

Agricultural policy, and more recently other aspects of environmental and commercial policy, are key areas of competence for the EU. For the UK, rules governing much of farming businesses' operations have been derived from our status as an EU Member State. Through directly applicable EU regulations, domestic legislation that implements EU directives and other aspects of EU law and guidance, agriculture has arguably been more exposed to EU law-making over the past four decades than any other sector of the economy. The European Union's 'Directory of EU legislation in force' confirms that the agricultural sector has the second highest number of EU legal acts in force, second only to external relations. There were 3268 acts (as at 1 August 2013) specifically classed as relating to 'agriculture'. When taken alongside 'Environment and consumers and health protection' (a further 1810 acts) it is apparent just how significant a role the legacy of EU legislation continues to play in farmers' everyday lives.

It is important to recall why the EU has competence for agriculture and plant health. Before Europe had a common market, each country had its own agricultural policy (and the UK had its own before it joined the EEC in 1973). The creation of the common market in agricultural goods through the Treaty of Rome necessitated the creation of a common agricultural policy to minimise distortions of competition that otherwise would have persisted were countries to have retained their own different agricultural policies. The Treaty on the Functioning of the European Union stipulates that "the operation and development of the internal market for agricultural products must be accompanied by the establishment of a common agricultural policy (Art 38)".

While avoiding distortions and ensuring a level playing field for competition was critical for the operation of a single internal market, regulatory decisions and processes frequently emerged with which the UK did not agree and actively voted against. For example, the EU's increasingly precautionary and disproportionate implementation of Plant Protection Products and GMO regulations. The Qualified Majority Voting meant that UK's regulatory autonomy was constrained. Requirements and decisions on contentious and emotive topics such as pesticides, GMOs and precision breeding were often politically motivated rather than being based on sound scientific evidence and regulatory principles. This continues to stifle innovation and harms or constrains the UK's agrifood sector with no benefit to consumers or the environment.

The significant impact on farm practice of EU legislation, and UK implementation thereof, has unsurprisingly been the subject of much campaigning for reform by the NFU and others. This does not reflect an opposition to regulation but rather a reflection of often poorly drafted legislation, an overly politicised or dysfunctional legislative process, disproportionate requirements, and ignoring the evidence base. Indeed, over recent



decades the government itself has repeatedly analysed, consulted upon, commissioned inquiries into and even set up new institutions focussed on improving regulatory processes, stakeholder engagement, implementation and enforcement.

Many problems and concerns are due to poor design or implementation, rather than anything inherently wrong with the identification of an issue requiring a regulatory solution. In practical terms, UK competent authorities and regulatory bodies not only had to work with the core legislation plus implementation guidance from the EU Commission, but also consider the views of EU Auditors on how regulation should operate. Often the views of EU Auditors have been at odds with the domestic regulator and its interpretation of the regulations. This could lead to a dysfunctional and adversarial process resulting in the imposition of financial sanctions in the form of disallowance of refunded expenditure from the EU. The significant costs of EU Audit driven infraction and recovery created a precautionary approach amongst many legislators and policy makers. The option to adapt and challenge EU legislation to make it more fit for purpose for the UK was therefore often not pursued.

There is now an opportunity to reform regulation not only in those areas ripe for divergence from EU law but also in the implementation of retained EU legislation. It is entirely possible to properly design and implement regulation to achieve its aims while allowing farmers to continue to do what they do best – provide a safe, sustainable, high quality and affordable supply of British food.

## **2. After Brexit, how can the UK now regulate differently?**

The NFU believes that having left the EU, there is an opportunity to significantly improve the experience and development of regulation for the farming sector. Regulation that is fit-for-purpose and proportionate; relates to GB/domestic circumstances; enables innovation in businesses' response; is properly designed and implemented to achieve its aims; will enable farmers to continue to provide a safe, sustainable, high quality and affordable supply of British food and other products; and enable diversified farming businesses to carry out their business activity without disproportionate burden and cost. The NFU acknowledges that Government must strike a balance between developing regulations suited to the specifics of the GB environment and economy and the desire to keep trade barriers low with our major trading partners. However, it is also important that in all future regulatory development Government, and in particular the lead department for our sector, Defra, embraces the **five principles of good regulation set out by the Better Regulation Task Force: proportionality; accountability; consistency; transparency; and targeting**. Those principles must be embedded as the starting point for any reform process including regulatory baseline setting.

The whole process of developing regulation and the subsequent practical implementation of the rules can also be improved with the sovereignty that has been gained from Brexit. This must include greater interaction with those impacted by legislation and associated

regulatory processes, from policy development, through drafting rules and guidance and into implementation and enforcement.

When the UK was a member of the EU, the NFU had significant concerns about Government's tendency to gold-plate. This was recognised by some parliamentarians. For example, in 2016 Minister for Government Policy in the Cabinet Office, Sir Oliver Letwin, challenged Defra to go further in cutting red tape. The NFU was asked to identify problematic areas and examples of gold-plating, and we provided Sir Oliver with information on impact and possible solutions. Those still relevant are included later in our evidence to the current inquiry.

In the NFU's post-Referendum report "A Regulatory Regime That's Fit For Purpose", we set out a number of guiding principles for better post-Brexit regulation, which still hold true:

- 1) As regulation is amended or created, **impact assessments must be carried out to gauge the effect on farm businesses.** How regulation improves or damages the performance of businesses in the specific rural context should be a key indicator considered in all regulation.
- 2) **Science and evidence must be at the heart of policy and decision making** to ensure a regulatory environment that has a long-term vision to provide stability and certainty for farm businesses.
- 3) **Proportionate, risk-based approaches** across the spectrum of regulation should be pursued to encourage innovation and improve competitiveness.
- 4) Farm regulatory visits need to be **better co-ordinated and planned across different regulatory agencies** to reduce overlapping, duplicated checks and be overall more proportional. Greater data and information sharing between regulators and third-party voluntary schemes will enable regulators to identify and focus their efforts on where there is greatest risk of non-compliance.
- 5) Farmers that demonstrate they present a low risk of infringing on rules, and those that go further through voluntary schemes should have this effort recognised when compliance with regulation is being assessed. **Earned recognition should therefore feature in the design and implementation of future regulation.**

Central to delivering on these principles is good communication, a clear road map showing the review process, proposed direction of change and expected timescales. Following such principles and having clear guidance will help to deliver a consistent approach across Government and in turn allow those regulated to understand better what is happening. The latter is vital as all those involved in the regulatory change will be operating for the first time in a non-EU legislative environment.

With the lesson of the current Ukraine crisis, and the publication of the Government's Food Strategy White Paper, there is also a compelling case for all new regulation to be assessed

not just for its impact on individual farm businesses but also the cumulative impact on the UK's food security and resilience.

### **3. How is the Government regulating differently since EU exit and how could the process of doing so be most effectively undertaken?**

There are certainly serious constraints on Government's ability to effectively regulate after Brexit. We would refer the Committee to the NAO report of 18 May 2022 [Regulating after EU Exit](#), which examined HSE, FSA and CMA. The NFU contributed ideas and evidence during the development of the report, and Government officials were interviewed. Highly relevant to this current inquiry, the NAO noted *"All three regulators covered in this report have taken on significant new responsibilities and were allocated additional funding as a result of the UK leaving the EU. The regulators implemented measures aimed at ensuring continuity in their respective sectors on Day 1 after the transition period ended, in some cases this involved delaying new regulatory requirements, or extending deadlines. All three are building capability to match their increased responsibilities but are facing operational challenges that need to be addressed as they move away from interim arrangements. These include recruiting people with the necessary skills, bridging information and data gaps, and planning for the future when there is uncertainty over long-term workloads in some key areas."*

*"All three regulators and the respective policy departments are at an early stage with developing strategies for reaching their future state, while still having to manage the operational challenges that have already arisen following EU Exit. Until long-term strategies are fully developed, there is a risk that regulators' current plans to meet operational challenges may be wasted effort and not align with longer-term ambitions."*

Specific areas were identified, relevant to the farming sector, which are already constraining Government's ability to regulate effectively after EU Exit. All three regulators are struggling to recruit essential specialist skills, risking delay in regulatory decisions. Scientific skills are lacking in the FSA and the HSE's Chemicals Regulation Division (CRD), with the latter expecting it to take *"a further four years before it reaches the full capacity it has planned for its post-EU Exit regulatory regime"*. In relation to pesticides, or plant protection products (PPPs), expiry dates for active substances have been extended, and there is a backlog of authorisations in the system. The industry suspects this is also partly responsible for continued delays in authorising GMOs for import for feed ingredients.

Both PPPs and genetically modified organisms (GMOs) were long-standing areas of concern for the UK government about the poor EU legislative process, and yet thus far the capacity for improvement post-Brexit is severely limited. Loss of access to EU systems for data- and information-sharing is also negatively impacting risk assessment work by regulators.

However, the NFU is increasingly concerned that Government is not doing anything substantially different on PPP regulation since EU exit. Defra is providing no policy direction

or mandate to the regulator, the HSE. The CRD is therefore largely continuing to apply the regulation in the same way it did when UK was part of the EU. It is true that even under EU Regulation 1107/2009 on PPPs, the UK is able to make science and evidence-based decisions that differ from the increasingly precautionary and politically-driven decisions in the EU. For example, since leaving the EU the UK has assessed and set a different hazard classification for the fungicide mancozeb. However, because HSE is generally following the EU system, with the rigid and even 'gold-plating' approach about which the Cabinet Office was concerned in 2016, GB's interpretation of the EU regulation is now showing signs of being more conservative than the EU's.

On a potentially more positive note, Government is taking forward a Precision Breeding (Genetic Technologies) Bill, currently at report stage in the Commons. This aims to enable precision bred organisms that could have been produced through natural selection or conventional breeding to be regulated separately from GMOs, providing a route to market for improved varieties of crops and breeds of livestock. Currently, the EU regulates all these technologies as GM, so once all the legislation is in place England would diverge from EU rules. It should be noted that the European Commission is itself working towards separating new genetic technologies from GM through legislation to be proposed in 2023.

#### **4. What restrictions are there on the UK's regulatory autonomy as a result of commitments in the UK/EU Withdrawal Agreement and the UK/EU Trade and Cooperation Agreement? How might divergence in certain policy areas have practical consequences for the UK's wider relationship with the EU?**

The Level Playing Field (LPF) agreement under the terms of the Trade and Cooperation Agreement allows for each side to independently set their own laws, regulations and subsidy rules, whilst also giving each the right to take countermeasures where they believe they are being damaged by changes in the other party's subsidy policy, labour and social standards, or climate and environmental standards. If used too regularly then a review can be launched. There is a limit to how well the impact of these agreements can be understood until the legislative changes have been made and are operational in practice, which will take many years.

On competition and subsidies, both sides have committed to maintaining their high standards of competition law, with further cooperation between competition authorities possible. Each side will be transparent in their subsidy policy, with each establishing or maintaining an independent body to have a role in their subsidy systems. A reciprocal mechanism has been agreed to allow either side to take rapid action where subsidies are causing significant harm to the other's industries. There will be an accelerated arbitration procedure where such measures can be challenged, with the potential for compensation if measures are used inappropriately.

On labour and environmental standards, the TCA includes reciprocal commitments not to reduce current levels of protection for workers, the environment or the climate, or fail to

enforce laws and protections in these areas, while allowing each side to make their own regulatory or policy decisions. There will be co-operation between the domestic supervisory bodies to ensure effective enforcement, and these chapters will be governed by a bespoke Panel of Experts procedure. In regard to carbon pricing, each side will have their own systems, but will cooperate and consider linking these systems if appropriate.

As a general rule, compatibility in regulatory approaches between nations allows trade to flow more easily between them. The greater the regulatory divergence, the greater the trade facilitation costs incurred (e.g. extra paperwork and checks at the border, and potentially import restrictions or bans). Regulatory equivalence is a key element in securing future trade deals with partners, something the NFU has set out as a priority in our trade policy vision. This is particularly true of trading relationships between the EU and the UK as a third country. The level of friction occurring at the border will directly relate to the extent the EU and UK regulatory regimes are aligned. To access the single market trading partners outside of the EU must ensure that the EU's import standards are met. If UK regulation changes to the extent that UK product no longer complies with EU import standards, this could lead to UK goods being unable to reach the EU market. Equally, if UK regulation is modified so costs are greater for UK farmers compared to our EU counterparts, this could make our exports less competitive on the EU market. The NFU strongly believes that there can be divergence in regulations while maintaining equivalence with those of our trading partners, and Government can thereby provide for better outcomes for UK farmers without jeopardising trade. However, this is a delicate balancing act.

The EU already trades with third countries that have different regulatory regimes but are considered to deliver equivalent standards of safety and protection. This should be possible with a UK that diverges in certain policy areas. Indeed, the EU itself may also look to change its approach such that there is, in time, no divergence. For example, currently the EU is considering how to change legislation to enable 'new genomic techniques' (precision breeding) could be part of building a more sustainable and resilient agrifood system and deliver its Green Deal and Farm to Fork strategies. There are also opportunities for the UK to achieve better regulation outside of the EU without diverging on the rules themselves, but by implementing a smoother, more predictable and better-functioning legislative system in terms of authorisations processes or enforcement.

In matters of the environment and public health, British farmers comply with some of the most stringent rules in the world. While this can add cost burdens to farm businesses, it can in some cases help producers command a premium on certain markets for certain commodities. In the future, changes in regulation must not unnecessarily undermine these standards. While the NFU believes that implementation or certain aspects of regulations can be designed in a better way, the environmental and public health protections that many regulations seek to achieve must not be overlooked. As well as delivering protections and direct improvements, they also underpin the value of British produce more generally and the high levels of public trust in British food and farming.

**5. How might Common Frameworks—introduced by the Government to ensure a common UK approach is taken where powers have returned from the EU which intersect with policy areas of devolved competence—affect the Government’s ability to regulate differently after EU exit?**

Before the end of the transition period, the Government provided very little substantive information on the progress of the UK Common Framework programme, leaving a great deal of uncertainty over what would be put in place once the European Commission’s role in overseeing very substantial parts of the functioning of the UK market in agri-food products came to an end. It remains unclear how this oversight will be ensured and fully delivered in the future. We have still not seen comprehensive and effective frameworks in place and are concerned by the lack of close dialogue with impacted stakeholders, including farmers and their organisations.

There is an increased likelihood in those areas of agricultural policy that are devolved within the UK of a further divergence of implementation of regulation. There are 600 - 700 farming businesses in GB that operate across devolved boundaries. They have endured significant challenges under EU and domestic arrangements to date and must be considered in terms of impact of regulation after Brexit. Defra has in place a policy coordination structure with devolved administrations to minimise disruption. However, the NFU remains concerned about divergence having immediate and direct impact on farm businesses (e.g. differences in approach to animal movement recording; application of plant protection products authorisation regulation) and longer-term disadvantages (e.g. genetic technologies). A coherent and cross-GB approach must remain the goal for agricultural regulation after Brexit.

**6. What wider obligations—flowing from new UK free trade agreements—might affect the Government’s ability to regulate differently after EU exit?**

The NFU believes there is a significant risk that the FTAs currently being negotiated and signed (most recently with Australian and New Zealand for example) could lead to an increase in the volume of food imported by the UK which has been produced to different standards. This possibility is heightened by the simple fact that these deals involve widescale tariff liberalisation on imports, in some cases phased in over time, across a range of commodities and products that countries like Australia and New Zealand excel in producing and exporting, with no conditionality related to production standards. These recent FTAs have confirmed the UK’s right to regulate, but they also create incentives for, and forums in which to discuss, equivalence and regulatory convergence. Such moves are potentially important in facilitating free trade, which can benefit UK farmers, but they also run the risk of permitting an increase in trade in goods produced to different standards which can put UK farmers at a competitive disadvantage.

The NFU believes there is a likelihood that where there are significant differences between the production standards of domestic and imported food which will compete with each other on our domestic market, the likelihood of regulatory convergence over time increases. There may be advantages or disadvantages to such convergence, depending on one's perspective, and it may be effected by changes in either, or both, UK and Australian laws, standards and regulations.

- 7. In which sectors is the UK well placed to maximise the opportunities afforded by its newfound regulatory autonomy and, conversely, in which areas might diverging from the EU prove more challenging?**
- 8. Of the priority sectors highlighted by the Committee (agriculture, data and financial services), where and how should the UK diverge from EU rules? Are there any specific examples of retained EU law that should be kept or revoked and/or replaced? What are the likely cost and resource implications of divergence and how can these be effectively managed?**

Within the agriculture and horticulture sectors there are many, many areas of regulation that could and should be improved in order to enable farm businesses to become more resilient, sustainable, profitable and competitive. Such reform is vital for the industry as a whole to deliver on its commitments to produce food, fibre and energy, contribute to net zero targets and deliver public goods. There is a great deal of legislation that applies across agricultural and horticultural sectors that has long been the subject of concern, as well as sector specific rules and guidance.

In this evidence, we focus on the aspects that relate to EU law, highlighting how the UK (GB) could improve the regulations themselves and/or implementation. Some are areas identified previously as having been gold-plated by the UK when it was an EU member state, and these remain problematic and should be tackled as a priority if Government is serious about maximising opportunities of regulatory autonomy.

In brief, the priority areas are:

- Plant Protection Products
- Habitats Directive
- Water Framework Directive
- Drinking Water Directive
- Nitrates Directive
- Animal by-products
- Veterinary medicines
- Animal welfare

More detail is contained in the annex, below.

**9. Should the Government adopt a particular approach to regulating in areas previously governed by EU rules? Should priority be given to forms of governance like legislation or should other methods like self-regulation be pursued?**

The NFU strongly believes that frequency of regulatory inspections should reflect the analogous requirements of farm assurance scheme membership. Such 'earned recognition' uses membership of third-party schemes to assess risk and therefore the need and frequency for the state or its agencies to inspect. The Farming Regulation Task Force, which reported to DEFRA in 2011, proposed that the principle of earned recognition be central to future regulatory policy making. The NFU supports approaches that reward good practice, with verified adherence to given farm assured standards leading to less frequent statutory inspection. Greater data and information sharing between regulators and third-party voluntary schemes enables this to be delivered effectively. This helps to ensure that low risk farms are not targeted on multiple occasions, allowing regulators to focus their resources on those more likely to be non-compliant. It is an approach that has already been successfully implemented to reduce inspection burdens for both farmers and administrators in Feed and Food Hygiene inspections. There is potential to further avoid duplication in other regulatory areas covered by the Red Tractor, Lion Brand, LEAF and other supply chain farm assurance standards. Farmers that demonstrate they present a low risk of infringing on rules, and those that go further through voluntary schemes should have this recognised when compliance with regulation is being assessed. Earned recognition should therefore feature in the design and implementation of regulation after EU Exit.

The NFU has identified 5 key principles to guide this approach.

- 1) We would recognise the potential complementarity of farm assurance to some regulatory activity whether directly or as a risk indicator. However, seeking to promote participation of voluntary commercial schemes as a means of delivering regulatory compliance is not acceptable.
- 2) The priority for Government should be to reformulate regulatory inspections before potential overlay with other private schemes. Businesses choose to follow assurance scheme standards as a commercial decision, and these often provide producers with a premium to enable them to go beyond the regulatory baseline. At this stage, therefore we are unable to support full integration of farm assurance into the regulation and inspection landscape but retain the view that a changed culture amongst regulators may provide an opportunity for an enhanced role to reduce burden and positively support behaviour change on-farm.
- 3) Regulators should not abrogate responsibility for inspections to assurance bodies, as assurance schemes do not cover the whole industry and do not necessarily have the expertise to inspect for all aspects of regulation.



- 4) We could not support a right for regulators to accredit schemes or set minimum standards. It is for schemes themselves to determine their own commercial purpose, business relevance and orientation in the marketplace, and to decide the standards and level of compliance that are included.
- 5) We support the principle that data can be shared or exchanged to reduce inspection burden on farm where that is undertaken with consent of the participating farm businesses. This should not include commercially confidential information.

It is vital that regulators understand that administrative burdens disproportionate to the desired outcome are damaging to productivity, have serious resource and cost implications for regulation and enforcement, discourage participation in publicly beneficial activities and damage the relationship between Government and industry. Figures from the National Audit Office in 2012 estimated that compliance with regulation cost the average English farm £5,500 – a tenth of the average income at the time. The NFU's confidence surveys have repeatedly shown most farmers believed that regulation and legislation would have a negative effect on their businesses. Poor regulation is characterised by approaches that have not engaged in advance with businesses to fully assess impact and to consider how regulation is best targeted or implemented.

The NFU believes that rules must be designed in a way that reflects how farm businesses operate in practice. Failure to do so can result in issues with compliance or unnecessary, artificial changes to farm activity. For example, the Nitrates Directive introduced inflexible 'closed periods' when application of fertiliser and some manures are banned but that take no account of soil or weather conditions during or after the closed period. Instead, farmers should be encouraged to assess actual conditions and risk at any given time. Where farm practice has been considered better results are achieved, for example an exemption to hedge-cutting rules for oilseed rape growers that attempts to achieve a balance between cultivating a crop while minimising the threat to the nesting birds. However, effective implementation is key to fully realising the benefits of this approach.

A significant change that could be explored and that could have a transformational impact in some areas of policy, notably the authorisation of plant protection products, would be the opportunity for the Defra Minister or Secretary of State to remove themselves from any day-to-day decision-making process involved in implementing regulations. Since EU Exit, the Defra Minister/SoS is very much exposed as the final decision, and this inevitably means decisions can be subject to political influence, with all that that entails. The UK could look to other countries, such as Australia, which have a greater degree of independence between the implementation of the regulation and political decision-makers. This would free the process from potentially problematic political involvement, enabling a far greater focus on the science and evidence as well as the opportunity for greater transparency, which is especially important for emotive topics.

## **ANNEX**

### **Agriculture and horticulture cross-sector and sector-specific examples of targets and opportunities for regulatory reform**

#### **1. Plant Protection Products (EU Regulation 1107/2009)**

Governs the availability of Plant Protection Products (PPPs) and thus impacts on farmer's ability to protect crops. The opportunity is to retain 1107/2009, but to implement it in a better and more efficient way, which will result in divergence as GB makes science and evidence-based decisions that differ from the increasingly precautionary politically driven decisions in the EU. Efficiencies and associated cost savings are sought, otherwise the additional regulator and industry workload, and cost of running an autonomous regulatory regime will result in companies making commercial decisions not to support active substances at renewal, and UK farmers will lose crop protection tools, not because they fail regulatory hurdles, but because the cost of the GB regulatory process is too high given the likely return from the GB market. Some express a concern that divergence on PPP availability could impact trade. However, the understanding is that producers would simply grow to the requirements of their market and this should overcome this issue.

The NFU is asking for the PPP regime to be operated more efficiently, under a robust science and evidence-based approach, so thus should deliver many benefits. If efficiencies and associated cost savings are not sought, it is clear the additional regulator and industry workload, and cost of running an autonomous regulatory regime will result in companies making commercial decisions not to support active substances at renewal, and UK farmers will lose crop protection tools, not because they fail regulatory hurdles, but because the cost of the GB regulatory process is too high given the likely return from the GB market. This will put GB farmers at a serious competitive disadvantage, compared to those in the EU and other markets. The future UK PPP regulatory approach needs to be fit for purpose – protecting the environment and the public along with effectively supporting productive and competitive agriculture and horticulture. Key principles of a new UK PPP regulatory approach should be that 1) continuing protection of human and animal health and the environment are priorities, 2) as is the need to ensure availability of necessary plant protection tools and promote innovation in plant protection technology, and that 3) maintaining and enhancing UK food security and improving agricultural and horticultural competitiveness and production in the UK is a priority. The UK regulator should utilize EU and other global authorities' regulatory assessments where appropriate. It should have flexibility in interpretation and use of guidance documents (which are not part of the regulation) and use of weight of evidence approaches. There should be proper consideration of impact assessments and the effectiveness of the regulatory system. The legislative approach should be clear, with a simple authorization process, and proportionality in the decision-making approach. The decision-making process needs to be

faster, pragmatic and adaptable. In the case of 1107/2009 it needs to be kept, but implemented better and more efficiently, to create predictability and certainty in regulatory outcomes, which in turn creates confidence in high levels of consumer and environmental protection, stability and opportunity for the users of PPPs, and helps incentivize investment and innovation among manufacturers of crop protection technologies. In the case of PPP regulation it is essential that efficiencies and associated cost saving are sought - otherwise the additional regulator and industry workload, and cost of running an autonomous regulatory regime will result in companies making commercial decisions not to support active substances at renewal, and UK farmers will lose crop protection tools, not because they fail regulatory hurdles, but because the cost of the GB regulatory process is too high given the likely return from the GB market. With respect to PPP regulation, Government needs to adopt a new approach to regulation with clear, credible and consistent science-based risk assessment. It needs to provide a mandate that empowers the UK regulator (HSE CRD) to modernize approaches, to better apply the regulation and interpret guidance, and use its widely recognized expertise to make evidence based decisions.

If required, the NFU can provide a detailed list of changes that could be made, while still retaining the regulation.

## **2. The Official Controls (Plant Protection Products) Regulations 2020 (enforces and applies Regulation (EU) 2017/625)**

New requirement for pesticide users to register with government, implemented to ensure government is legally compliant with the legislation. The farming industry sees this requirement as an additional burden that duplicates other activity. It's difficult to see what the benefit is, particularly considering than government has no clear coherent position of regarding its future approach on PPPs regulation. There is self-regulation and other legislative requirements in place that already cover this policy area.

## **3. Official Controls Regulation (EU) 2017/625, as applies to plant health at the border**

Particularly important for growers importing plant material for growing on. Government work in changing this policy area is already underway, after it scrapped new border biosecurity measures due to come into force in July. The future opportunity here is a specific one around giving growers the opportunity to self-regulate - the change would be to move biosecurity checks away from the border and give growers the opportunity to carry out the checks themselves as under a government run trusted trader type scheme. Regulating in this better way within GB should create efficiencies and lower biosecurity risks. We believe this will benefit GB grower businesses and GB biosecurity overall.

## **4. Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019 – (implementing Regulation (EU) 2016/2031 and Regulation (EU) 2017/625) and Regulation (EU) 2017/625 in relation to food and feed law, rules on animal health and welfare, plant health and plant protection products**

Applies to official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection

products. At the end of April 2022, the government announced that the remaining import controls on EU goods will no longer be introduced this year. Instead, traders will continue to move their goods from the EU to GB as they do now. The government intends to publish a Target Operating Model in the Autumn, setting set out a new regime of border import controls, with an implementation target of the end of 2023. This new approach will apply equally to goods from the EU and goods from the rest of the world. SPS measures serve a vital purpose: protecting national freedom from animal and plant diseases that are expensive to control and threaten our ability to export to third countries (e.g. Foot and Mouth Disease and African Swine Fever). There are undoubtedly many benefits in terms of simplification, digitisation and streamlining the system, but this must not come at the cost of robustness. The concern is that developing new systems at pace will overlook potential risks and issues of concern. Biosecurity must be upheld. SPS checks have a vital role in minimising the risk of disease incursions via our food systems.

**5. Habitats Directive (Council Directive 92/43/EEC) (implemented through the Conservation of Habitats and Species Regulations 2017): Birds Directive (Directive 2009/147/EC) (implemented through the Wildlife and Countryside Act 1981).**

The implementation of the Habitats Directive has been too focused on the preservation and restoration of protected habitats, regardless of the social and economic costs of the measures. The Directives focus purely on maintaining current habitats, and do not consider the need to adapt to changing climate. It is, therefore, possible that in the long term, these Directives may have an adverse effect on biodiversity, as habitats and species have not been allowed to evolve to cope with changing climatic conditions. Generally, it is important to move away from the current precautionary system of site protections, give greater weight to economic and social factors in the decision-making process and promote nature's recovery alongside sustainable economic activities.

a) Impacts outside of the protected site

This causes issues for plans/projects outside of protected sites which have the potential to impact on the protected site. Issue commonly arise in relation to:

- Planning
- Applications for permitting
- Abstraction licencing

Can result in members having to carry out an assessment to prove, beyond reasonable scientific doubt, that there will be no adverse impacts on protected sites. Proof to this standard is hard to achieve. Can result in consents/permits etc being refused. As a result of the Dutch N cases, it is hard to get permission for anything (even replacements for existing infrastructure) in areas with high background levels (typically Ammonia or Nitrates in an agricultural context). If not resolved, could limit take up of initiatives like the slurry investment fund if applications can't get through the planning process and also delay environmental improvements.

Habitats Directive has resulted in requirements for all development to be “nutrient neutral” in some areas. Currently, this is often achieved through using farm land to off-set the impacts of development (e.g. in the Solent area) but this is not sustainable in the longer-term.

#### b) Consents for activities within sites

Examples of NFU members having had consents for periodic activities (e.g. burning on moorland) which have had to be reviewed due to the potential impacts on priority habitats (e.g. blanket bog), on the basis that there isn't sufficient consideration of harm each time the activity occurs with a periodic consent.

#### c) Lack of future proofing

Sites are designated based on features/habitats found at the time of designation. Favourable status is then measured against the how well those features/habitats are doing. The aim is essentially to preserve/enhance the features and habitats which already exist. There is very little consideration of what the long-term outcomes for the site should be, or what adaptation may be unavoidable due to factors such as climate change.

It also means a lot of resources can be put into trying to preserve something when there is no evidence that the population is viable or what conditions would be needed for it to become so e.g. there is a population of pearl muscles in the River Clun, which haven't bred for many years. Other activities in the area (including farming) have been impacted by pressures to improve water quality to try to save the muscles.

#### d) Species licencing

The way species licencing for some species is carried out is also problematic. Some species of birds can attack young lambs. Farmers have to apply for a licence each time they need to deal with a problem bird, despite the welfare issues caused by this issue. For some species, it isn't currently possible to obtain a licence to carry out lethal controls for that species of birds to deal with that specific issue during the lambing period.

Potential solutions:

- There should be a ‘technical feasibility test’ built into the legislation, rather than a ‘protect at all costs’ approach to ensure that a proportional approach is taken. This is particularly important in the context of aquatic environments, where interaction with the Water Framework Directive can cause particular difficulties.
- Habitats Directive should have greater consideration for the socio-economic costs and food security impacts of implementation of the regulatory requirements. The current approach of doing something, without knowing whether that will have a positive impact is not an effective or proportionate approach, especially where there is a significant cost to other economic activities, such as farming in the area. The balance is weighted too

much in favour of protection of habitats and species at the expense of other legitimate activities.

### ***Interaction between the Habitats Directive and the Water Framework Directive:***

The WFD sets targets for bringing water bodies into good condition, taking into account both quantity and quality issues. This has caused particular problems for water-based protected sites as some of our sites were designated because they were the best example of a feature we had, even though they were in poor condition. At the time of designation there was no expectation of bringing them into favourable status. However, as a result of the interaction between the WFD and the Habitats Directive, there is now a lot of pressure to bring those sites into favourable status.

In the Poole Harbour Catchment, this has resulted in a consultation on a potential water protection zone, although a farmer-led voluntary approach has now been implemented. The River Wye has also had calls for a WPZ, although at this point Defra has said they are pursuing other options.

These issues may be partly behind the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (Farming Rules for Water issues), as agriculture is often seen as a significant cause of pollution.

### ***SSSI regime***

Each site has a list of “operations likely to damage the site”; “grazing or changing the grazing regime” often feature on those lists. In many cases these sites were grazed before the sites were designated, and the members didn’t have a consent. NFU members have then gone into agri-environment; HLS operated as a SSSI consent. At the end of the HLS NE used the absence of consents for grazing to pressure farmers into entering new agreement as there was some doubt as to whether (and if so at what level) grazing would be permitted at the end of the agreement.

There are also over-lapping layers of protection, with SSSIs being designated under the **Wildlife and Countryside Act 1981**, SACs and SPAs (required under the Habitats and Birds Directives) being designated and regulated under the **Conservation of Habitats and Species Regulations 2017**. This can make the legislation quite complicated to navigate, which may impact members when applying for licences to control protected species.

### **6. Nitrate Vulnerable Zones (Nitrate Pollution Prevention Regulations 2015 – implementing Council Directive 91/676/EEC):**

The NFU has criticised the blanket approach under NVZs, which impose the same restrictions on all farmers within the catchment of designated water bodies. Concern about whether the measures will actually deliver results, especially in areas where there are other sectors contributing to the pollution. However, we also dislike the outcomes focused

approach under farming rules for water due to the uncertainty around the interpretation and application of provisions.

This was introduced with the aim of reducing nitrates from agriculture in ground- and surface water. It designates areas of the country where on farm action is required. However, in some cases areas are designated where nitrate pollution is from several, non-agricultural sources and small improvements in farming upstream would have no measurable impact upon the downstream monitoring point, making designation of the area highly questionable. Prescriptive rules on the steps farmers should take in tackling nitrate pollution are out of line with farm practice and actual conditions, which also does not result in the optimum environmental solution.

## **7. Water Framework Directive (Directive 2000/60/EC):**

The EU Water Framework Directive (WFD) requires water bodies to achieve a 'good ecological' status. WFD recognises the complexity of achieving good status in some cases and makes some allowances for this, but insists that ecology must not deteriorate. Whilst the no deterioration rule may seem reasonable in principle, it risks unfairly impacting on farmers and growers who abstract water. The WFD makes use of the 'one-out, all-out' rule to assess the ecological and chemical status of a water body, meaning water bodies can only achieve the headline target of 'good' status where all underlying indicators also meet 'good' status. This rule gives a misleading impression about the true condition of many water bodies, hides real progress made against the underlying indicators by farmers and others, and ultimately makes the headline target too challenging. As an alternative to the 'one-out, all-out' principle, the NFU suggests allowing water bodies that achieve the necessary standard across all but one or two elements to still be assigned 'good status'. There could be a set of criterion to identify which elements could be overlooked in this way, such as the element having little effect on the overall health of the water body, the element being too costly to correct, and where correcting the element would cause unreasonable economic harm, as can be the case with correcting physical modifications and farm businesses.

### a) Abstraction

*Environmental Permitting (TBC, expected within the next 12 months. Likely to amend the Environmental Permitting Regulations 2016)*

It is expected that abstraction licences will move into environmental permitting next year. We are expecting to see the Regulations which will achieve this later this year. Based on discussions/information we have to date, concerns include:

- Cost implications;
- Reduced certainty – environmental permits can be reviewed at any time, whereas I understand abstraction licencing is on a more fixed timescale;
- Implications for permanent licences as they will have to become full permits if certain events occur;
- Whether the regime is fit for purpose. A particular example in the agriculture sector is that the permit holder under environmental permitting has to be the operator.

However, abstraction licences are usually held by the landowner, although the tenant/licencee may be using the licence with their consent. It is unclear how this will work in environmental permitting, and transferring the licences would have cost implications (especially for in sectors where occupation of the land changes regularly) and it was suggested that a change of operator could be one of the factors which results in a permanent licence becoming a full environmental permit, which could have significant implications.

#### b) Revocation without compensation

The Environment Act 2021 made it easier for abstraction licences to be revoked or varied on environmental grounds without compensation. Many farming businesses are heavily dependent on the ability to abstract, and compensation would help businesses with the costs of implementing alternative solutions.

#### c) Alignment of timescales/policies

Where abstraction licences are to be revoked or varied, farmers need time to investigate and implement alternative solutions. So, there needs to be sufficient time between a farmer being notified of a revocation (or decision not to renew) or a reduction in volume for the farmer to, for example, secure funding, go through planning and construct a new farm reservoir. Water companies are allowed time to plan for changes, and farmers need this too.

### **8. Drinking Water Directive (Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption)**

The Drinking Water Directive concerns the quality of water intended for human consumption. Its objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean.

There are questions over the scientific validity of some quality standards, which are precautionary and not related to human health or environmental impacts. For example, the 0.1 µg/l limit for pesticides is based on the limits of detection at the time it was set rather than an accurate assessment of risk. The pesticides limit is currently having a detrimental effect on the agricultural industry with growers in the UK being forced to consider taking land out of productive agriculture or forfeiting productivity in order to meet an unscientific standard. This is particularly acute in cereal production where loss of pesticide actives due to the drinking water standard has resulted in increased difficulties in managing grass weeds in arable rotations. Mixtures or sequences of herbicides with different modes of action are vital to delay the development of weed resistance. The use of a limited range of products at sub-optimal rates promotes resistance and the resulting impact in cereal production has been year-on-year increases in grass weed resistance. Once resistance has developed it does not go away. The result is crop failures, rejection in markets and an increased risk of mycotoxins. This is not consistent with a sustainable approach to agricultural production.



The 0.1 µg/litre EU limit for pesticides should be replaced with a risk based approach with individual values for each approved pesticide. For products like metaldehyde and glyphosate this could make orders of magnitude differences in permitted concentrations and allow water companies and regulators to focus on other, higher risk substances.

#### **9. Rights of way regime:**

This is often seen as inflexible, which makes it difficult for farmers to change routes to fit with farming practices. This makes it harder for some farmers to manage their risks (e.g. by temporarily or permanently diverting cross-field paths to the field edge so that the route can be fenced more easily to reduce the risks associated with walkers and livestock). The main legislation is the **Highways Act 1980**, but provisions are also included in the **Countryside and Rights of Way Act 2000** (which also introduced CRoW access land), and the **Wildlife and Countryside Act 1981**. These domestic pieces of legislation retain some crossover with EU law, including the Habitats/Birds Directives.

There are also some inconsistencies in the different regimes. For example the Countryside and Rights of Way Act 2000 allows farmers to exclude dogs for limited periods in certain circumstances (Open access land and the coastal margin: how to restrict public access - GOV.UK ([www.gov.uk](http://www.gov.uk))), and requires dogs to be on leads of 2m or less around livestock between 1 March and 31 July. However, those restrictions don't apply to footpaths/bridleways even where they cross CRoW access land, so dogs can be taken on footpaths, bridleways etc, or be off lead provided they remain on the right of way, even if CRoW restrictions are in force.

#### **10. Anaerobic digestion - Environment Agency Standard Rules Permit SR2021 No.8 for operating on-farm AD plant (Environmental Permitting (England and Wales) Regulations 2016 – implementing the permitting requirements of over 20 EU Directives as well as domestic requirements)**

This limits the use of inputs to a restricted range of wastes considered low-risk. Solutions include more liberal drafting / enforcement of permit conditions, and a broader range of permitted wastes (e.g. vegetable peel and trimmings from packhouses), resulting in improved resource use efficiency without the need to apply for a more restrictive general AD permit

#### **11. Drones (Plant Protection Products (Sustainable Use) Regulations 2012 – implementing Directive 2009/128/EC)**

Regulation of drone spraying for foliar fertiliser and crop protection products, with HSE currently considering the application of pesticides by drone to be aerial spraying. UK farmers lack access to agri-tech applications available in competitor countries. In falling behind the pace of reform in the EU, UK farmers will not have access to latest precision farming application technology. The permitting of drone application under aerial spraying regulations should be removed and replaced with permitting based on boom spraying, since latest drones can fly over crops at 1-2m height

## **Sector specific issues**

### **1. Livestock and dairy**

- The Animal By-Products (Enforcement) (England) Regulations 2013 (implementing Council Directive 97/78/EC and Regulation (EC) No. 1069/2009) – permit on farm burial of fallen stock in certain circumstances or within guidance and following a risk assessment.
- Remove BSE rule for small ruminants i.e. no SRM removal required in sheep irrespective of age. This would negate the need to age and split carcasses.
- Change beef labelling and marketing standards to allow beef from animals over 8 months to be labelled and marketed as beef (not beef Z which is currently outside retail spec).
- No change to animal transport rules as part of the welfare in transport agenda. i.e. leave overall journey times and vehicle design unchanged. Flexibility when issuing journey logs for import/export alternative routes and apply neutral time.
- Simplify and reduce cattle and sheep ID and movement inspections. Livestock Information Service (LIS) should facilitate reducing the inspection burden with the introduction of bovine EID, removal of paper passports and digital reporting, recording and online herd/flock register.
- Smarter application of the 6-day standstill – delivered through the LIS, which could apply rules to assess high and low risk moves.
- Current approach to Food Chain Information regulations is not fit for purpose for primary production – not relevant to producers and FCI rarely acted upon by FSA Official Vet or Food Business Operator.

### **2. Poultry**

- Alternative proteins – EU authorised processed animal proteins derived from insects (insect PAPs) in poultry and pig feed, Aug 2021. Legislative barrier to the re- authorisation of PAP (Processed Animal Protein) and PIP (Processed Insect Protein) remains in GB so producers have a more restricted choice of feed proteins than EU competitors. Both PAP and PIP have merits in offering an alternative to soya (so, depending on source, could also give environmental/net zero benefits) and could be used in the poultry diet where other raw materials may not be available or have increased significantly in price.
- Auditing – inspections under Egg Marketing regulations (Commission Regulation (EC) No 589/2008) appear to be on farm more frequently even when no issues to follow up. 6 week average visit cycle for packing centres, more frequent if issue identified. Visits are lengthy and resource-intensive, with knock on impact for businesses with labours shortages.

- Should make greater use of sensor and camera technology, would also be more biosecure.
- Marketing regulations, particularly for eggs – review to improve resilience and adaptability, especially in light of increasing outbreaks of avian influenza. Explore potential to align free range with the organic regulations (Council Regulation 834/2007) so marketing status is not lost as long as the bird has access to a range area for a third of its life (as opposed to losing free range status after 16 weeks under a government housing order).
- Phasing out cages – Government consultation expected. Producers need incentives to move to barn/free range or to come out of production altogether (currently being considered under payment by results section of the animal health and welfare pathway). But consider impact on affordability of eggs and consumer food security, and lack of land available for the range area for some producers.

### **3. Horticulture**

- The EU Fruit & Veg Aid Scheme (governed by about 5 different pieces of regulation<sup>1</sup>) currently being phased out anyway and must be followed with effective and fit for purpose system.

### **4. Animal Health & Welfare**

- UK Veterinary Medicines legislation - VMD (Veterinary Medicines Directorate) planning consultation this year on new UK vet medicines regulation following Brexit. VMD state intention to diverge little from new EU VMR (The Veterinary Medicines Regulations 2013 (required by Article 9 of Regulation (EC) No 178/2002) ), which includes a ban on administration of antibiotics to groups of healthy animals. NFU believes prohibitions on veterinary medicines bad for animal health as can prevent vets and farmers from appropriately treating sick animals. NFU supports and promote voluntary approaches based on Responsible Use of Medicines Alliance (RUMA) responsible use principles.
- UK Government developing regulatory framework for animal welfare following Brexit, stating it must be future fit, practical and evidence based. NFU supports intention but concerned principles won't be followed. Within this framework is Animal Welfare Sentience Act 2022, Animals (Penalty Notices) Act 2022, Animal Welfare (Kept Animals) Bill, reforms to the Welfare of Animals (Transport) (England) Order 2006 (implementing Council Regulation (EC) No 1/2005) and an amendment to The Protection of Animals at the Time of Killing (Amendment) (England) Regulations 2022 (implementing Council Regulation (EC) No 1099/2009) NFU concerned re. tendency to gold plate animal welfare regulations beyond the reach of scientific evidence with impact of damaging competitiveness in international markets.

See Regulation (EU) No 1308/2013 laying down and establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation); Regulation (EU) No 2017/891 and 2017/892 laying down detailed rules for the application of Regulation (EU) No 1308/2013 in respect of the fruit and vegetables and processed fruit and vegetables sectors;

Commission Regulation (EC) No 1828/2006 detailing the specific eligibility rules for operational programmes.  
The Conditions of Operational Programmes section of this guidance provides details about the requirements of this regulation; and  
The Common Agricultural Policy (CAP) (Protection of Community Arrangements) Regulations 2014 (SI 2014 No 3263) providing details on the protection of Community arrangements under CAP.

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