

## **EFRA COMMITTEE CALL FOR EVIDENCE**

### **Introduction**

1. NFU Scotland (NFUS) is the leading agricultural organisation in Scotland. Our members have all kinds of land tenure and scale of farms and crofts.
2. Representing more than 9,000 farmers, growers, and crofters, our members provide and support thousands of jobs and deliver significant economic, social, and environmental benefits across Scotland. Agriculture is the lynchpin of rural Scotland and is an important part of Scotland's booming food and drink industry.
3. We support the principle of fair dealing, and we welcome the Committee enquiry into supply chain fairness. A functional supply chain that gives primary producers confidence to invest and make long-term business decisions is vital for underpinning economic growth. The Grocery Code Adjudicator (GCA) and new Agricultural Supply Chain Adjudicator (ASCA) are vital for a prosperous and transparent supply chain.

### **Summary**

- We would welcome extending the scope of GCA and GSCOP to monitor trading practices.
- We would welcome reducing the current threshold to bring more retailers in scope of the GSCOP and further embed the principle of fair dealings
- The introduction of fair dealing regulations will help address supply chain contract issues experienced by our primary producers and we support a sectoral approach.
  - Defra must be adequately resourced to ensure that this can happen at pace.
  - It would be helpful to have clarity on Defra's vision for how GCA and ASCA will work together across the supply chain.
  - We wish to see this extended to cover the cereal supply chain.

- We support the new ASCA role and feel that this should be reviewed every five years.
- There must be information sharing between GCA and ASCA to ensure full coverage of the supply chain and opportunity for monitoring practices and learning.

### **The effectiveness of the Groceries Code Adjudicator to enforce the Groceries Supply Code of Practice**

4. Some of our larger members sell directly to retail, whilst most sell to third parties who will then sell to retailers. The direct effectiveness of the GCA enforcement is mostly based on the confidence that it provides to processors, packers and manufacturers who purchase from our members.
5. The gap between primary producers and retailers means that there is still scope for retailers to exert pressure through this part of the supply chain. Whilst this doesn't limit the ability of the GCA to enforce the GSCOP within the current parameters set, it does limit the current effectiveness of ensuring fair dealing across the supply chain.
6. While the GCA ensures anonymity, our members continue to have concerns that this can be compromised because of the limited number supplying directly to retailers in Scotland. If the scope of the GCA and GSCOP was to be extended this would provide further assurances for our members. We would also support a greater profile for the GCA to highlight its good work and enhance confidence in the role.
7. We support the introduction of the Agricultural Supply Chain Adjudicator role (ASCA) and urge Defra to keep pace with developing the other sectoral fair dealings regulations. Whilst the ASCA role is still relatively new, we welcome the visibility and publicity that has surrounded this role to date. We believe it will help improve the effectiveness of the GCA if it also increased its public profile.

8. We support the structure and principles of the GCA, which allows it to maintain impartiality and to be seen as a neutral arbiter. We also support the approach of collaboration and information provision ahead of enforcement. We feel this helps to ensure the effectiveness in applying the GSOP.

### **The potential merits and demerits of expanding the scope of the Groceries Supply Code of Practice**

9. As noted above, the remit of the GCA is limited by the scope of the GSCOP. Whilst we welcome the fair dealings work being undertaken by Defra, we feel that extending the role further would help ensure that there are not unfair practices between primary producers and intermediaries in the supply chain. This would help to underpin the fair dealings regulations as they are worked through-and ensure monitoring of their effectiveness and impact.
10. As an example, a total 12% of beef, lamb, and pork and 15% of poultry processed in the UK directly supplies the food service sector. As this is out of scope for the GCA, this underlines that this is a vulnerable point for suppliers with no protection from unfair trading practices.
11. We don't consider that there are specific demerits of expanding the scope of the GCA and GSCOP. Whilst there could be some cost to exploring and expanding the role, we feel that the associated increase in confidence in the supply chain helping to underpin investment makes this worthwhile.

### **Other potential reforms to the Groceries Supply Code of Practice, including potential benefits and risk of lowering the turnover threshold for which retailers are covered**

12. The current threshold sets a turnover of £1 billion to bring a retailer into scope of the GSCOP. This regulates the largest retailers, who should be leading by example, but it doesn't regulate those below this threshold. We think that the scope should be reduced to bring more retailers and food service companies into scope. As noted earlier, a significant proportion of beef, lamb and pork goes directly to food service.

13. This would have the benefit of building on the success of the GCA to date, whilst also enhancing its influence across the supply chain. The more confidence that supply chain businesses have, the more likely they are to make business investments that enhance innovation and productivity.

**Adequacy of reviews into contractual practices in agricultural sectors and effectiveness of introduction of fair dealings under the Agriculture Act**

14. We welcome the investigation of contractual practices in the agricultural sectors. For many years, our members have reported concerns over opaqueness and unfair practices. As primary producers, our members are price takers who are often required to take risks without any guarantee of the level of return. We support any work which strengthens the position of our members in the supply chain.

15. We welcome the introduction of the Fair Dealing Obligations (Milk) Regulations 2024. Work in this sector is significantly further ahead, although we are aware that Defra officials are working on policy around pork and eggs, as well as fresh produce. We understand that there are longer term plans for considering broiler production, along with red meat.

16. After many years of campaigning from NFU Scotland and other UK farming unions on unfair practices, The Fair Dealing Obligations (Milk) Regulations passed in 2024.

17. Unfair milk contracts have been an area of concern for the dairy sector for many years. A significant proportion of the calls that UK Unions receive, are from farmers with issues which relate to their milk contract. With the lack of processing in Scotland and reduced options with regards to business purchasers, dairy farmers in Scotland experience many vulnerabilities.

18. The Regulations are good news for dairy producers and should lead to fairer business dealings between farmers and milk processors whilst paving the way for similar regulations in other sectors. However, we would like to see more protection for producers when raising a complaint to the Agricultural Supply Chain Adjudicator (ASCA).

19. The notable omission from fair dealing discussions to date is the cereals sector. This sector is significant for Scotland and the UK and underpins a whisky industry that is worth more than £5.6 billion in exports. There is concern that some primary producers are receiving malting barley prices that are currently below the cost of production. This is exacerbated by tight margins across the whole sector. Whilst regulation on price is not within scope of fair dealings, we are concerned that there are some unfair contractual practices currently taking place. We feel there could be merit in considering this issue further.

### **Benefits and risk of a sector specific approach to the introduction of fair dealing powers**

20. We support the principle of a sector specific approach to fair dealing powers. The sectors are unique in nature and this approach provides the opportunity to look at them in depth and consider the impacts of unfair practices on each. Oversight of the ASCA is key to the enforcement of these regulations once they are agreed. An in-depth sectoral review will provide a significant benefit because it will provide an evidence base. We hope that Defra will continue with significant stakeholder engagement to ensure that primary producers can feed in their individual experiences directly.

21. We believe that the risks are minimal, however, the downside of such a forensic method is the time required to work through the sectors. Defra has a small team working on this and we would welcome additional resources to ensure that it can keep pace and deliver Ministers aspirations.

22. For example, we would welcome a discussion across Defra, Scottish Government and industry to understand how best to use the powers in the Agriculture Act (2020) to benefit livestock farmers in the short to medium term. We believe a different approach to the Fair Dealings (Milk) Regulations would benefit the livestock sector, building on the processors code of practice and the introduction of mandatory sheep carcass classification. We recognise that sheep carcass classification is underway, however we reiterate the importance of this being progressed during 2025.

## **Scope for collaboration between the Agricultural Supply Chain Adjudicator and the Groceries Code Adjudicator**

23. In our early engagement with ASCA, and at the GCA conference, the potential for collaboration between the two was noted. It is important that the systems and mechanisms are in place for them to share information easily, and to ensure learning. This is particularly true for the ASCA, which is a new role, whilst the GCA is much longer established.
24. There is scope for GCA and ASCA to have a monitoring role as retailers implement workstreams around sustainability. There are related discussions around farm data, sustainability and farm assurance which both ASCA and GCA should keep abreast of.

*24 January 2025*