

Written evidence submitted by Tenant Farmers Association (Wales) (HIL0018)

1. Introduction

1.1 The Tenant Farmers Association in Wales (TFA Cymru) is the only organisation dedicated to representing the interests of those in Wales who do not own the land they use for agriculture, whether through tenancies or other means. Its membership comprises farms of all types and sizes but active, family farms predominate. TFA Cymru welcomes the opportunity of providing this written evidence to the Welsh Affairs Committee for its Inquiry into farming.

2. Trade with the EU and beyond

2.1 The UK's exit from the European Union will have far reaching consequences for all walks of life in Wales and this will be most apparent for policy towards farming and farm support. TFA Cymru believes that our exit from the European Union brings both new opportunities and new challenges. It is beholden upon the UK and Welsh Governments to work together to ensure that we have in place the right strategic and tactical policies to have the best basis for Welsh farmers and the wider food industry within Wales to capitalise on the opportunities which become available and to respond to the challenges both foreseen and which will emerge as we progress on our journey outside of the European Union.

2.2 For example, with our agreement with the European Union on tariff free access for agricultural goods into the EU, we must work positively to ensure that we have the right administrative structures in place to adhere to the new requirements of these new trading arrangements. Inevitably, as we are now outside the EU Single Market and Customs Union, trade with the European Union will not be as frictionless as has been the case, but we can work to ensure that we have good processes and procedures in place to minimise the negative impact of any additional bureaucracy.

2.3 Equally, environmental and animal welfare standards imposed upon UK and Welsh production to meet public policy outcomes must not be undermined in the way in which we agree trade deals with other parts of the globe. We must not allow goods to enter the UK which are produced to standards which would be illegal domestically. Again, the UK and Welsh Governments must work together to achieve this. However, it is disappointing that the UK position, to date, can at best be described as flaky.

2.4 At the same time, it is essential that we grasp firmly the opportunity that has been handed to the Welsh food industry to enhance and expand exports of Welsh food and drink to non-EU countries so that we are both diversifying our export markets and enhancing the volume of our trade. Welsh food and drink

has a good story to tell and is likely to be in high demand in large parts of the world. It will be important to capitalise on this with appropriate support and assistance from UK Government, Welsh Government and from levy bodies in Wales. Whilst home production may have a higher cost base than the production systems in other countries to which we wish to export, Welsh produce can trade on “brand Wales” as a premium mark of quality.

3. Developing New Farming and Environmental Policy

- 3.1 It is farming, mainly family farms, that has shaped the landscape of Wales and managed its biodiversity over centuries and much of what draws people to Wales in terms of tourism is contained within that landscape. It will be important, therefore, to ensure that policy evolves to secure the continuation of productive and resilient agriculture which can continue to provide the beneficial ecosystems services to the rest of society through farming’s wider management of the environment and its biodiversity. In this respect, whilst direct payments have been a blunt tool, they have been the difference between profit and loss for a large number of farm businesses which have been working hard to achieve wider public benefits alongside private business objectives.
- 3.2 Whilst agreeing with the plan to set out clearer policy goals and objectives which directly improve the way in which public money is targeted to produce public goods, it will also be important to ensure that the UK and Welsh Governments play their legitimate roles in dealing with wider market failures within the food supply chain. This will include improving the legislative and fiscal framework within which farm tenancies operate so that those operating tenanted units can both play their part to enhance the provision of public goods and have a fair platform for the development of their farm businesses.
- 3.3 The development of a new sustainable land management policy for Wales must be conducted in the context of a proper systems approach which deals with market failures, allows the widest participation by tenant farmers and avoids the loss of land from the tenanted sector of agriculture. That said, we should not shy away from looking at sensible areas for restructuring which provide opportunities for individual farmers to retire with dignity whilst at the same time providing opportunities for new entrants and progressive farmers. This could be assisted with the introduction of some form of exit or retirement scheme offering individuals a lump sum payment in place of annual Basic Payment Scheme payments over any intended multiannual transition period. It is disappointing that such a scheme does not form part of current Welsh Government thinking.
- 3.4 it is also important to recognise the extent to which markets have been impacted not only by Brexit but by the global response to the coronavirus pandemic. It will be important not to overstate the extent to which current market conditions will prevail into the future and therefore a cautious

approach will need to be taken as we rebuild our economy in the post Covid era whilst at the same time forging our new path, independent of membership of the European Union. The extent to which we can point to structural change within markets will take some time. There needs to be a renewed focus on food security, protecting domestic standards in trade and correcting for market failures within supply chains. Food security policy should be as much about the quality of food as it is about the quantity of food available both now and into the future for the citizens of Wales.

- 3.5 Recognition must be given to agriculture for the services that it is already providing to tackling the climate emergency and in its ability to both sequester and store carbon in soils, grassland, hedgerows and farm woodlands. Care must be taken not to allow domestic sources of food, particularly red meat and dairy, to be diminished only to be sourced for consumers from abroad from countries who are less efficient in terms of carbon management, thereby offshoring our emissions of CO₂. Equally, farming should not be the scapegoat for the rest of society in having to sacrifice vast amounts of land for tree planting in order to soak up carbon emissions from other parts of society including transportation and energy production. Red meat and dairy production are often popularly, but wrongly, castigated for their impact on carbon emissions when in fact through their grassland and soil management they are doing much to benefit our net carbon position. It will be important to ensure that we avoid knee-jerk reactions which could make our net carbon position, on a global basis, worse rather than better.
- 3.6 TFA Cymru recognises the need for high standards for maintaining high levels of public health outcomes. However, it is not always possible for farm businesses to invest in the necessary fixed equipment needed to comply with new or enhanced regulations as the cost of compliance is not often factored into the return they receive for their farm products. Some of this will have been bridged by the direct payment system but as that disappears, it will be necessary to find new ways to ensure that public health outcomes can be maintained at high levels through grants and supply chain management. TFA Cymru would argue against simply raising the regulatory bar on these issues without providing the mechanisms for individuals to be able to comply with those new levels of regulation.
- 3.7 On animal health and welfare, it is well known that Welsh farmers are already operating to high standards. However, on bovine TB, Welsh dairy and livestock producers are unable to work to control disease within their herds due to Welsh Government policy restricting their ability to control TB infection within wildlife populations, most notably badgers. TFA Cymru believes that all tools must be used to control diseases such as bovine TB including the culling of infected wildlife.

- 3.8 Overall, in bringing forward new legislation and new policy, both the UK and Welsh Governments must take a thoughtful, considered and evidenced systems approach which avoids knee-jerk reactions and the unintended, negative consequences that can occur as a result.

TFA Cymru holds that public support will continue to be needed to deliver a sustainable farming environment in Wales into the future. Whilst there may be room for change in the way in which we have done things in the past, any change must be carried out at a considered pace to allow as many farm businesses as possible to adjust to the new environment. It is vital that Government policy provides a balanced framework allowing for economic, environmental and socially sustainable development. Keeping profitable farm businesses across Wales is important for the Welsh economy, the Welsh environment and Welsh culture and language. Equal weight must be given to the ensuring both the profitability of farm businesses and the way they care for, manage and enhance the environment and animal welfare.

- 3.9 There is a responsibility to ensure that all farm businesses are given equal opportunity to be part of the new future. Many farm tenants operate under restrictive and insecure tenancy agreements which will present them with huge barriers to participation. TFA Cymru does not believe that Welsh Government has done enough to address these issues. With matters relating to agricultural tenancies fully devolved, we would hope to see Welsh Government taking a rather more innovative and bespoke approach to assisting the tenanted sector of agriculture in Wales rather than simply following policy in England which seems to be the standard position currently.

4. Developing a New Regulatory System for Farming in Wales

- 4.1 The Welsh Government has signalled its intention to develop a new regulatory framework based on a set of national minimum standards. TFA Cymru is concerned to ensure any new framework is evidence-based, proportionate and non-discriminatory. One area in which we fear that these criteria are not being met is in relation to the new pollution control regulations introduced by Welsh Government.
- 4.2 Given the small number of declining pollution incidents in Wales, action should be taken to better enforce the existing rules rather than tarring every farmer with the same brush adding significant and unnecessary costs to the industry. Raising the regulatory bar will do nothing to convince those who already flout the current laws to change their behaviour and will unfairly penalise all those farmers who are doing the right thing. The decision to introduce new regulations in this area is also contrary to the advice of the Natural Resources Wales Land Management Forum Pollution Subgroup which has met on at least 40 occasions over the past few years to look at this issue and has come down firmly to the view that better enforcement and promotion of best practice is the better way forward.

4.3 TFA Cymru is also concerned about the impact of the Regulations on the tenanted sector of agriculture. Whilst assurances had been given by Welsh Government that the specific issues impacting the tenanted sector would be addressed, sadly, they were not. From the beginning of the involvement of TFA Cymru in the pollution subgroup it had consistently raised concerns about the difficulties for tenant farmers in being able to comply with new regulations. Lessons must be learned from this to ensure that this is not repeated as we move into the development of wider, national minimum standards. This

5. **Forestry and woodlands**

5.1 Trees and woodlands provide obvious benefits in terms of timber, landscape, biodiversity, access, health and wellbeing and carbon management. However, specific consideration must be given to trees and woodlands in the context of farm tenancies. On the one hand, it will be important to ensure that tenant farmers are able to participate in tree planting, on the other they need to be assured of protections against potential notices to quit from landlords who wish to take advantage of tree planting opportunities themselves.

5.2 In most cases farm tenants are barred from planting trees on their holdings by the terms of their tenancy agreements. This will either be due to the imposition of blanket clauses requiring tenants to use their holdings for agricultural purposes only, or clauses which specifically ban the planting of trees. Any trees which do exist, or are planted (excluding fruit trees), are usually reserved to the landlord. It is therefore very easy to see how tenants could be disenfranchised from participation in new planting schemes.

5.3 Whilst this exclusion needs to be addressed, we are not arguing for farm tenants to have carte blanche to plant trees anywhere and everywhere on tenanted holdings. Any relaxing of restrictions on tree planting must be against the backdrop of landlords being able to object on reasonable terms. Providing farm tenants with too much scope to carry out tree planting on their tenanted holdings wherever they like, could have adverse consequences for the supply of land into the tenanted sector of agriculture.

5.4 In allowing for statutory and contractual clauses to be relaxed, specific guidance will be required to set out what is reasonable for farm tenants to do and what would be considered as reasonable objections from the landlord. For example, it should be deemed reasonable for tenants to take part in tree planting schemes which involve them planting up field margins, scrubby areas, difficult field corners, shelter belts, hedgerows and other unproductive areas of the holding. Outside of these areas, small-scale woodland planting on other areas of the holding should be allowed and grant aided. However, it would be reasonable to allow landlords to object to unilateral, widescale tree planting by their tenants on open areas of grass or arable land.

- 5.5 Some success will be achieved by landlords and tenants reaching agreements but there will always need to be the fallback to legislative provisions. The new legislation within Wales must provide opportunities for farm tenants on both Agricultural Holdings Act 1986 tenancies and Farm Business Tenancies (FBTs) to object to their landlord's unreasonable refusal to allow them to take part in a relevant Government financial assistance schemes including those relating to tree planting.
- 5.6 it is acknowledged that tree planting is a long-term commitment which could be a struggle for farm tenants occupying land under short term FBTs. There is a significant and urgent need to move these metrics to create a longer-term horizon to ensure that farm tenants can play their full part in delivering the Government's strategy for trees. There is a growing consensus that the taxation environment within which landlords make decisions is encouraging a plethora of short-term interests in land and that this is leading to unsustainable economic and environmental outcomes. This cannot be allowed to perpetuate. Long-term land use change, such as tree planting, will require longer security of tenure. It has been over 25 years since the introduction of the Agricultural Tenancies Act 1995 and the evidence to date is that the market is unable to deliver the sustainable outcomes required. It is time for the UK Treasury to use its fiscal levers to encourage longer term tenancies.
- 5.7 Another potential option is to allow woods and hedgerows planted by tenants with the consent of the landlord is to be treated as "tenants' improvements" and thus be assessed for compensation from the landlord at the end of tenancy, under the standard provisions, rather than the current arrangements where the tenant will receive nothing.
- 5.8 Landlords with agricultural tenants may wish to resume land for tree planting purposes. This can occur through negotiation with farm tenants, using notices to quit or awaiting the termination of existing agreements. However, we want to avoid situations where tenants are forced to give up land or to leave their holdings for tree planting to take place. We are already seeing situations in Wales where landlords are using the threat of taking land back for tree planting as leverage to require tenants to pay higher levels of rent for their continued occupation of land.
- 5.9 Whilst landlords are unable to use tree planting, which does not form part of a wider planning consent, as a reason for serving an incontestable notice to quit under Case B of the Agricultural Holdings Act 1986, they might choose to use the route of a standard notice to quit and argue their case based on the principles of sound estate management. Tree planting can be used to bring FBTs to an end using contractual clauses within tenancy agreements.
- 5.10 Landlords may be encouraged to pursue notices to quit against their tenants if they are incentivised to do so through the availability of grant aid for tree

planting. TFA Cymru argues that landlords should not have access to grant aid for tree planting unless they have the consent of either an existing tenant or a tenant who had been in occupation at any time in the 12 months prior to the application for the grant being made. This would implement the same procedure already successfully applying within the Class Q Permitted Development Regulations in England which allows for the conversion of farm buildings into residential use. This is also not without precedent within Woodland planting grants. Previous versions of the Woodland Grant Scheme have had provisions which prevent a landlord from claiming grant aid in circumstances where they have resumed land from a tenant who has contested a landlord's notice to quit.

- 5.11 Giving farm tenants greater rights in this respect should encourage landlords to be more willing to discuss tree planting schemes with their tenants rather than seeking to impose them. Without such rights being afforded to tenants, we fear that many will face eviction with consequential damage to their farm businesses, homes and family life.
- 5.12 Flexibility should be built into the felling licence requirements so that there is no longer a slavish adherence to the idea that once an area has been planted with trees it must always be planted with trees. We must not perpetuate the mistakes of the past. A badly planted wood, in the wrong location and perhaps causing wider environmental problems should not have to be replanted if it is felled. There will also be less resistance from landlords in allowing tenants to plant trees if there was the possibility that the land-use change is not considered permanent.

6. **Conclusion**

- 6.1 As we develop our international trade and environmental policies for the farmed environment it is vital that a balanced approach is taken to ensure that the need to maintain profitable, resilient farm businesses go hand in hand with the achievement of wider public benefits in terms of landscape, biodiversity, animal welfare and social and cultural considerations. Fully respecting different land occupation types will also be essential.

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