



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Single Farm Payment Review: NIACA
Briefing

9 October 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Jo-Anne Dobson
Mr Chris Hazzard
Mr William Irwin
Mr Declan McAleer
Mr Kieran McCarthy
Mr Robin Swann

Witnesses:

Mr Rory Gormley	Northern Ireland Agricultural Consultants Association
Ms Mary McCormack	Northern Ireland Agricultural Consultants Association
Mr David Rankin	Northern Ireland Agricultural Consultants Association

The Chairperson: I welcome to the table David Rankin, who is the chairperson, Mary McCormack, who is the vice-chairperson, and Rory Gormley, who is the secretary.

Mr McCarthy: I declare an interest, Chair.

The Chairperson: David, you and your team are very welcome to the Committee. Thank you very much for your attendance. I am sure that you have a presentation for us. If you want to speak for a few moments on the issues, we will take questions afterwards.

Mr Rory Gormley (Northern Ireland Agricultural Consultants Association): The Northern Ireland Agricultural Consultants Association (NIACA) was formed in 2006. We have over 40 members throughout the Six Counties. NIACA's membership consists of professional men and women who assist farmers with the administration requirements of operating a farm business. The services range from completion of Department of Agriculture and Rural Development (DARD) business forms — FB1s, BC1s, TE1s — and farm modernisation applications online to single farm payment applications and the preparation of records for the nitrates action programme.

All NIACA members are from an agricultural background. They range from full- and part-time farmers to former employees of DARD. The organisation meets regularly to discuss issues such as the experiences and situations encountered by members. Solutions that have been found to solve problems are shared, and pitfalls to watch out for are explained.

NIACA is in regular contact with DARD via its office bearers and submits its opinion on all consultative documents. NIACA members are also in regular contact with local DARD staff at county level in the DARD Direct offices. We are represented in many stakeholder groups, and our chairman is in regular contact with DARD senior personnel.

We have identified problems with the current single farm payment administration. We feel that the main problem is that the rules on which the single farm payment was based and interpreted by DARD in 2005 had been misinterpreted. Since 2005, the goalposts have been constantly moving. We have a few examples of that.

One of the main examples is the change to the 50% rule. In 2005, if livestock could graze more than 50% of a field, the field was eligible for single farm payment. However, the position has changed, and only the actual area that is grazed is now eligible. We have also found that the number of ineligible items seems to increase each year. OT codes increased from seven to 17 by 2011, and ineligible heather was also introduced in 2011. Furthermore, the change in the farm mapping system has caused a lot of confusion. The introduction of orthophotography maps and, later, the land parcel identification system (LPIS) maps has identified incorrect boundaries, etc. Previously, there was no way of knowing whether a boundary was correct. Yet applications were made in 2005 based on the older maps.

Those examples have created situations in which applications made in 2005 are now found to be incorrect. Our members have had to advise farmers that their claims for single farm payment have to be reduced year on year because of the rule changes, yet the size of their actual holding has not decreased. If what is known now was known in 2005, we would not be in this position. Many farmers are having to claim less land and have a lower number of entitlements. In 2011, farmers could not claim on overgrown heather, but NIACA members advised the farmers to write to DARD to have their entitlements recalculated, as the rules had changed. To date, nothing has been changed.

Another problem that we are finding is what arises in the process after an inspection has been carried out, if penalties are applied. The system of penalty calculations is very complicated and cannot be followed by NIACA members. They find it very difficult to reconcile the inspector's report with the level of financial penalties imposed. We got examples from DARD on how the calculations were prepared, but they were found to be incorrect. Penalties can be retrospective. There are cases in which previous inspections had been carried out and the farmer penalised, but NIACA members are finding that farmers can be penalised a second time because of rule changes.

In 2011, there was a delay in inspections. That resulted in many farmers not getting paid until June and July 2012. The Minister said that that would be improved for 2012. However, we have been getting reports from our members that farmers who received inspections in 2010 and 2011 are being inspected again in 2012. In fact, there has been a suggestion that the percentage of inspections carried out in 2012 on farms that were inspected within the past two years could be as high as 40%.

The time limit for the submission of single farm payment applications is getting shorter. Single farm payment application packs were usually issued prior to 17 March. The opening period has recently been as late as the last week in March. That puts farmers and NIACA members under a lot more pressure to make applications in time.

The introduction of the Northern Ireland countryside management scheme (NICMS) onto the single farm payment application has caused a major delay in the ability to complete applications on time in cases in which new entrants are joining the scheme. The majority of new entrants were not getting their approvals until the last week of the application period.

Penalties are imposed for clerical or simple administration errors. That is a subject very close to the hearts of NIACA members and the reason why professional indemnity insurance premiums are paid. A simple error can cost a farmer his single farm payment for, perhaps, up to three years. Whilst there has to be a penalty regime, we feel that, in this case, DARD has interpreted the rules stringently and does not apply them in the spirit in which they were intended, which was for cases of fraudulent or careless applications. NIACA members often represent farmers who feel that they have been treated unfairly. In cases where a simple error has been made, the current appeal system does not take into account what the farmer's original intention was. Cases are treated as black-and-white issues.

Those are our main criticisms.

The Chairperson: Thank you very much for your presentation. In your submission, you offer solutions. Will you spend a few minutes going through those solutions?

Mr Gormley: The first solution is to get the application period for the single farm payment opened sooner. We are aware that DARD is working to tight deadlines and that there are deadlines in relation to printers, etc, but we feel that our job would be a lot easier and a lot less pressurised if the application period could be opened sooner. We understand that it cannot be extended, but it could be opened sooner.

There has to be a case made for the recalculation of entitlements. We are finding that the single farm payment of a lot of our clients has been reduced, as I alluded to earlier. That is money that is not coming into the local economy. I can give several examples of farmers whose single farm payment has been cut by a quarter, maybe even a half in extreme cases, through the rule changes. That is money that that farmer is not getting, and it is not going into the local economy. There has to be a case made there for the recalculation of entitlements based on the rules, as they are now, in relation to ineligible areas.

The inspections should have a correct cut-off date. The last thing any farmer wants to see is an inspection, and if he sees an inspector coming onto his land in October or November, he knows that there will be no payment until at least June. This year, farmers were getting paid as late as August. Some sort of interim payment system needs to be set up to facilitate an interim payment to a farmer who has had an inspection and has a reasonably clean bill of health.

We think that there should be more dedicated staff at DARD Direct offices to deal specifically with single farm payment problems. We find that, sometimes, when we go to the DARD office to sort out a simple problem, the staff are not as clued-in to the administration of the single farm payment as they should be. We spend a lot of time trying to explain to the staff what the problem is and what the solutions are.

We would like to see a more clearly transparent system of penalty calculations, so that it can be independently checked. At the moment, when a farmer comes to us after an inspection has been carried out and hands us a litany of paperwork that tells him he has been penalised, we find it very difficult to reconcile that in order to check whether the penalties are correct.

Finally, we must have a correct final mapping system, so that we will have correct maps once and for all.

The Chairperson: Thank you very much for your presentation, Rory.

Mr Gormley: Sorry, I have one last point. It is just over the page, so I forgot about it. It goes back to the subject that is very close to NIACA members' hearts. It is that a more simple approach should be taken where errors have been made. A tribunal-type panel should be able to take a decision based on what the farmer's original intention was. The panel should be able to make determinations based on submissions and on the farmer's previous history with DARD. Again, we are finding that, through a simple error, a farmer may lose his total single farm payment. It would not have been his intention at the outset to make an error. So, a more common sense approach should be taken where simple clerical errors have been made.

The Chairperson: OK, thank you.

Mr David Rankin (Northern Ireland Agricultural Consultants Association): I want to add one point, which some of our members have brought up. It follows on from the tragic affair of the Spence family. When somebody in the farming business dies on their farm, it is a traumatic time for the rest of the family. We would like somebody in the Department to look at that more sympathetically and to give the farmer's wife or sons, or whoever is looking after the farm, a bit more help with how to bring the business back into line. Once the person dies, the business dies, the herd number dies and it is a disaster for those left behind. In some cases, the people who are left behind get a letter from the Department. It is a standard letter, and it is not very sympathetic. Maybe we could look at something like that as well.

The Chairperson: OK. You want more of a human face on the Department.

Mr Rankin: Yes.

Mr Byrne: I welcome the presentation from the group. It is very important that we hear from the practitioners who are liaising between farmers and the Department. What would be the best advice to DARD officials to speed up the process and to improve the service from DARD? Quite simply, is the DARD service measuring up for you guys?

Mr Rankin: The DARD service that we get has improved. That is mainly because we have contact with personnel high up in the different sections of the Department. I get e-mails from different branches about the changes that are coming about, and I circulate that information to members.

Mr Byrne: Has the service improved to the extent that you are happy it?

Mr Rankin: You would never be happy with it.

Mr Byrne: Are you professionally happy with it?

Mr Rankin: I would say that it has improved.

Mr Gormley: Although we have contact with DARD at a senior level and have a clear understanding, sometimes we have difficulty in getting that on the ground. Hence our reference to more specific personnel at DARD Direct offices, who would deal with the single farm payment specifically. We have had cases where some of us have been in the local DARD office and have been asked for our opinion on a certain situation because the DARD staff there are not as familiar with the problems on a day-to-day basis. Mr Rankin would agree with me. DARD Direct staff can be dealing with veterinary problems one minute and something else the next. However, when it comes to a specific single farm payment problem, they may not have the experience necessary to sort out a farmer or one of our members.

Mr Rankin: I will give you something positive. As Rory said at the start, as well as doing the single farm payment, a big percentage of our members will help farmers to complete the nitrates action programme calculations and all the record keeping. The first thing that we need, if a farmer is not a client, is to get a copy of their single application form to see what land they had in 2007-08 right up to date. That was a problem in some offices and with individual staff. We had a meeting with the Department, and that has now been sorted out. We get the information that we are looking for within one or two days. A year ago, that was not the case for everybody. That is one area where the Department has listened to what we said and improved the system.

Mr Byrne: Secondly, given that you are a representative body — a professional body — how often do you meet formally with the Department in relation to the issues that crop up between you guys, the farmers and the Department?

Mr Rankin: I would say three or four times a year. I am on the nitrates action guidance group with DARD, the Department of the Environment and the Ulster Farmers' Union. However, we meet with the Department about three or four times a year. At the same time, if we see a problem and contact the Department to have a meeting, that meeting would happen very quickly after we requested it.

Mrs Dobson: Thank you for your presentation. I declare an interest as I am married to a beef and cereal farmer. I think that you covered most of what I was going to ask in your brief, and it is very good. I know the valuable service that you provide to farmers in helping them with their single farm payments. Have you encountered farmers who are suffering because of late payments? What is your take on that? What assistance and advice do you provide to them?

Ms Mary McCormack (Northern Ireland Agricultural Consultants Association): Let us take it a step back. A lot of the farmers whom we deal with are in an age group where they were brought up doing spadework. That has now turned to paperwork. To be honest, it is completely over their head. They do not understand it, and they are depending on organisations like ours. The problem is that a lot of those farmers, in light of the year that we have had and other years and the way that farming has been going this past while, depend on a cash flow — something coming in December. A lot of land is let as conacre — conacre is sometimes paid at the end of November — and a lot of people are waiting for the money coming in. Suddenly, they have an inspection, and they know that the money is not coming. We are seeing physical and mental stress out in the countryside, and that seems to be increasing year on year.

Mrs Dobson: You are a counselling service, really, as well.

Ms McCormack: Absolutely. Farmers may ring up and ask whether there is a grant for something, and, by the time you get to the end of the conversation, you find that there is a much deeper problem. However, cash flow is the biggest problem at this time.

When farmers have an inspection, they do not understand. The inspection report is 20-odd pages long, and they sign it. They are not really quite sure what they are signing, but they do know that there is an implication down the line. We have seen cases, especially this year, where an inspection may have been done in 2008 or 2009, and another inspection was done in 2011, and farmers are being penalised back to 2005 and, in some cases, have lost their single farm payment completely for 2005. They say to us, "We had an inspection in 2009, but the Department says that it is the inspection in 2011 that goes back". The single farm payment is proving to be an added stress in the farming community.

Mrs Dobson: Very much so. You have outlined quite well the major concerns that farmers have. Is there anything else that is not documented? That is it fairly up to date. I thought that it was quite accurate when you said that the penalties applied are very draconian. You have summed that up very well in the report.

Mr Rankin: One of the positive sides is that, in providing a professional service, we are not just form fillers. Anybody can be a form-filler. Most of our members actually go out and check the land, and the LPIS maps were a big help to us because we have them on the computer and we can see them. No matter how often you tell farmers to walk their land, they will not walk it, but we have to do it because we are claiming a payment on their behalf, and, if they are inspected, it will come back on us.

The other problem, which Mary mentioned, was around the countryside management scheme. I think that the payments have started for 2011, but if you claim something in May 2011, you have to wait nearly 18 months to get the money and you have to spend money to finish the 2012 year. That is the problem. If farmers do not have the money, they cannot get the work done, and they do not realise that they have to tell the Department that they cannot get it done.

Mrs Dobson: There are issues with the banks as well. They were always sympathetic and would have seen the farmer through, but that is not the case now.

Mr Rankin: A farmer may not understand the online system for single farm payment. The Department is working on a system that will enable us to track a farmer's payment. I have been told that that will probably be online at the end of this month or the beginning of November. Therefore, if a farmer rings in to ask about when a payment will be coming, we can look into it for our clients and tell them that it will be coming in early December, for example. If we see nothing there, we can check up on that. Hopefully, it will not be like last year when they got an inspection in November or December.

Mr Irwin: Thank you very much for your presentation. I declare an interest as a farmer. You have raised a number of issues that many of us are aware of. In respect of inspections and advice given by DARD in 2005 in relation to eligible land, is it not the case that DARD retrospectively changed the rules a number of years later, and the inspection means that they go right back to 2005? Do you feel that DARD has treated farmers very unfairly and that it did not take responsibility for this matter?

Ms McCormack: Yes. When we meet, we often say that the rules changed. That is why it is so unfair to take the single farm payment completely off some farmer in 2005. Whoever filled in the form on that date with the map that they had at that time did so to the best of their ability. We can assure you, through our experience, that 99.9% of the farming community are trying to meet with the regulations that are set down.

Mr Irwin: The big issue is that DARD gave clear guidance on what was eligible.

Ms McCormack: That is correct.

Mr Irwin: That is the big issue for me. Subsequently, a number of years later, it changed the rules and came back and fined and penalised farmers. That has been very unfair, and the Department should have been held to account for that.

Ms McCormack: Rory has the guidance with him, and it states clearly the 50% rule on grazing and how that has changed. In 2005, we, as an organisation, were instructed to put all the land in for single farm payment. Where I come from in Tyrone, there is a lot of bog land and mountain, and this has come back to bite people. They have lost out. The flat rate of £45 a hectare is not much, but the history that is built on that is really causing this problem. If we, as an organisation, had known what we know now, we would not have advised people to put entitlements on that type of land.

Mr Gormley: As a professional organisation that deals with farmers who have not yet had an inspection, we find that we are the ones delivering the bullet. I have an example where the land was entered in 2005 because it was deemed to be eligible at that time. Over a quarter of that farmer's single farm payment is not being applied for now. He has taken the decision based on our advice that he cannot claim that land anymore, and he is prepared to take the financial penalty. He is suffering that financial penalty, and his local economy is suffering that financial penalty, because a payment that he was spending every year has now reduced by a quarter. If we had an inspection, it would be a doomsday scenario for him anyway, but, as an organisation, we sometimes save farmers a lot of penalties. However, it is back to the same story again about land that was eligible in 2005.

Mr Irwin: It is very difficult for farmers to know what is eligible if the Department does not seem to know what is eligible.

Mr Gormley: I think that I speak for the three of us when I say that we have lost clients because they did not like what we were telling them. They were prepared to take their chances with DARD, and we could not advise that. That scenario is out there as well.

Mr Irwin: I understand.

Mr Swann: Thanks, folks, for your presentation. What percentage of farmers do you make applications for?

Mr Rankin: Most of our members now do it online. Some still do it through paper copy. We did about 70% of the online ones last year, but the numbers are growing every year. Some people have a small number, and others have big numbers. I do about 500. Other members do up to 1,000, but there are maybe two or three of them. I worry that, if we go down the online route, there will not be enough professional people out there capable of doing it.

Mr Swann: Is your business increasing?

Mr Rankin: Yes.

Mr Swann: The Department says that it is making the process simpler, but the number of professionals having to intervene on behalf of farmers to complete their forms is increasing. So, there is a greater reliance on that, and we are creating an industry to fill in forms. The Department seems to be driving that even though it is preaching to us that it is simplifying the process.

Mr Rankin: I should declare that I was in the Department.

Mr Swann: Did you start this?

Mr Rankin: No, I left before it came in. I sometimes laugh and say that if it was not for bureaucracy, we would have nothing to do. That is the problem. Once you get a name for doing a job well through bar talk and mart talk, you will get clients and you will not have to advertise at all. A lot of our members are now finding that. We are doing a good job, and farmers realise that.

Mr Swann: I have one final point. If you put in an application, the farmer is penalised and it turns out to be the fault of one of your members, what recompense does the farmer get? Do you stand over the error?

Mr Rankin: I have paid out, and my insurance company has paid out. My excess is £1,000. So, if the claim is over £1,000, I will pay the first bit. It is up to me to make sure that I do it as best I can. We cannot just say that the onus is on the farmer. You cannot just pass the buck and say that the farmer

did not tell you something. You need to check everything. We spend time checking their land to make sure, in our own mind, that it is done right.

Mr Swann: Thanks for that. It proves again the disparity between your members and the Department. The Department will penalise for an error, whereas your insurance stands over it and compensates the farmer.

The Chairperson: No other members want to ask a question. Thank you very much for your time, presentation and answers. It is very helpful.