



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

**Departmental Role in the Committee's
Scrutiny Function**

15 November 2011

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mrs Dolores Kelly (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mrs Jo-Anne Dobson
Mr William Irwin
Mr Kieran McCarthy
Mr Oliver McMullan
Mr Conor Murphy
Mr Robin Swann

Witnesses:

Dr Mark Browne)
Mr Gerry Lavery) Department of Agriculture and Rural Development
Mr David Small)

The Chairperson:

I ask Mr Lavery, Dr Browne and Mr Small to come to the table. I also ask that all electronic devices, not just mobile phones, be turned off as they interfere with the recording equipment in Committee rooms. I suggest that members ask only one question, and if need be, we will go round the table again. That will enable all members to ask relevant questions of the gentlemen before us.

Mr Lavery, Dr Browne and Mr Small, thank you very much for attending. You are very welcome. I apologise for our timekeeping, but we were at a joint meeting with our sister Committee in the Republic and had a very useful discussion. I do not know whether you have anything to present to us or whether you want to go straight into questions.

Mr Gerry Lavery (Department of Agriculture and Rural Development):

I can make some brief introductory remarks, if you like.

The Chairperson:

OK.

Mr Lavery:

I am conscious that the main issue today is for me to answer your questions, so I will keep my comments brief. We are six months into the current mandate, and the Committee has had a number of detailed presentations from the Department, so members are familiar with many of the challenges that we face. I am here to assure the Committee that the Department will continue to make an active contribution to its roles of scrutinising the work of the Department and advising and assisting the Minister.

I want to set the context for the discussion by giving members three broad reassurances. First, we are clear in our priorities, which are those that the Minister set out when she appeared before the Committee. We are working very hard on issues such as CAP reform, fisheries reform, the agrifood strategy and the need to have targets and an action plan for that. We are also concluding our discussion on the rural White Paper with other Departments, and the Committee is aware that we are progressing the scoping work for the relocation of the Department's headquarters and of our proposals for the compensation arrangements for TB and brucellosis. Therefore, we are working on a broad range of priorities with which the Committee is familiar.

The second reassurance is that those priorities do not, by any means, represent the totality of what we are doing. I usually find myself before this Committee when issues are difficult, but a vast bulk of work is done by diligent staff who serve the public cheerfully and efficiently, across the College of Agriculture, Food and Rural Enterprise (CAFRE), DARD Direct offices and the fisheries offices. I can perhaps take little credit for that, but I can take some pride in it.

The third reassurance is on events. There are always events, and we try to deal with them as they arise and keep them in proper perspective. So, whether it is outbreaks of *Phytophthora ramorum*, flooding or some of the transactional difficulties that we face from time to time with the countryside management scheme, we try to deal with those events.

All that work is available to the Committee, and as I said, members have had a number of presentations on it. We aim to be as transparent and open to the Committee as possible. Those remarks made, I am happy to take questions, Chairman.

The Chairperson:

Thank you, Mr Lavery. Before I open the meeting to other members, the first thing that I would say is that you know my style of chairmanship. You also know that I have been positive towards the Department and the Minister, and that I have given my support to decisions and moves when they have been the right decisions and moves for the agricultural industry and for rural dwellers. I will always be positive, as long as I believe that the decisions are being made in the correct manner and take us in the right direction.

One thing that grieves me, and I know that the Committee feels the same, is the fact that there are some topics and subjects on which the Department seems to go to the press more quickly than it comes to the Committee. The most recent example was the breaking of the story about the £4 million worth of non-compliance fines; I know that that is not the correct terminology, but you know exactly where I am coming from. That did not catch us by surprise but we were not aware of it.

From the phone calls that I have taken from and the conversations that I have had with other Committee members, I know that they felt aggrieved at not knowing that information beforehand, and when it came to questioning officials on the issue, the Committee perhaps did not receive the correct information or answers that it expected. I know that that is a very complicated subject, that it is very hard to put figures on things and to express, in a form of words, the detail around it. However, we felt that there was lack of communication that would have helped us to understand and to inform our judgement on that issue. That was why we felt that we had to go down the road of tabling the motion and debate that we had in the Chamber yesterday. I feel that there could be better relationships and more outworking of communication with the Committee. How would you answer that, Mr Lavery?

Mr Lavery:

First, that particular disallowance was announced by the European Commission. It has its own processes, and it held a meeting, as I understand it, back around July 2011, when it concluded the conciliation process and arrived at the decision that it announced subsequently. We were not prepared for that particular announcement on the day that it happened. Had we been prepared, we would have wanted to prepare the Committee for it.

At this point, it is important for me to say that we regard the Committee as having a scrutiny role and a primary role with regard to stakeholders. We accept our obligation to ensure that members are alerted to something as significant as a disallowance before other stakeholders or, indeed, the media are informed. From that point of view, I apologise that Committee members were not alerted in advance. However, we were not in a position to do so, nor was there any effort to keep the information back.

On the general issue of disallowance, it is a complicated story because of the nature of the subject. It is complex financially, and as I say, some of the processes are very protracted. As the Minister said, she welcomed the debate and the opportunity to make a statement. She intends to make the statement next week, because we expect then to issue the first of the new maps and orthophotographs to farmers. It was always intended that the Minister would come to the House at that time, make a statement and respect the process in which we are all involved. What happened was not intended.

There have been previous references to the entitlements disallowance, which is the £4 million, but we would have wanted to bring it forward at the correct time. We are not standing on the fact that it was referred to as long ago as September 2010 by the then Minister, Michelle Gildernew, but we would have expected to come to the Committee about that matter.

The Chairperson:

Thank you very much for your answers.

Mrs D Kelly:

You are all very welcome. I appreciate that there were incidents associated with that particular fine, but the nature of previous appearances by officials before the Committee has been

symptomatic of a wider lack of transparency, I suppose, on the issue of the disallowance and fines in general. We do not seem to have got a handle on the amounts yet.

In our preceding meeting with representatives of the South's Committee with responsibility for agriculture, they used the example of the fines imposed by Europe on the North as a model of why they had to get on and do it. They had a greater number of farms to sort out in relation to maps, and they resolved very quickly to put adequate resources into the technology and, presumably, the staff in order to avoid fines. Although they had a disallowance, as I understand it, they did not have fines.

I and many others would like reassurance that we are not at risk of further fines and that there are adequate resources. We know already that some staff have moved from planning and the countryside management scheme into mapping. I have to register my concerns about that because it is going to result, as I understand it, in a reduced target for the number of farmers who can apply to, and be successful in, the countryside management scheme. The number is going to drop from over 2,000 to 1,000 in a year. That will be a loss of money to the local economy and, in particular, to that farm family. Therefore, we are long time down the road of having this disallowance and a new fine fiasco. We want reassurance that there are adequate resources and the Department has a handle on the matter.

Mr Lavery:

I do not wish to pre-empt the Minister's statement next week, but I can offer an element of reassurance. We have taken a very structured approach to the issue of disallowance and are addressing it on a number of fronts. The key front at the moment is providing new maps, which will go out from next week. We are satisfied that those will give farmers the opportunity to give us the right information or to confirm the right information on the map. As a result, we aim to be totally compliant with the European Commission requirement.

As far as resourcing that exercise is concerned, we have worked very closely with Land and Property Services (LPS). As part of that exercise, LPS has redeployed a number of former Planning Service officials, which has been very helpful to them as our agents. We also redeployed some staff from the countryside management scheme inspection side, and they have gone back to that area now.

The main reason why the number of new applications progressed to agreement is 1,000 instead of more than 2,000, which is what we had hoped for, is that we had to do a number of additional inspections in respect of the 2010 scheme because our initial inspections found a very high level of non-compliance in the sample. Therefore, we had to do more than 400 extra inspections, which are just about complete, and we will be progressing the 2010 payments to conclusion now. Therefore, it is not to say that there is no link, but the main link was around the level of non-compliance in the scheme.

Mrs D Kelly:

We have heard in the past two weeks that some inspections were carried out by overzealous inspectors who did not allow time for the changes to be made. That was what one of your officials said. We have also heard complaints from the farming community and others about the number of inspectors across a wide range of inspection areas, and I had asked whether there was such a thing as a multi-tasked inspector because, across other public service sectors, staff trained in one job have found themselves having to do two or three jobs. I was told that that was an aspiration, but I would be very alarmed if it were only an aspiration and were not part of workforce planning within the service, particularly given the constraints of the Budget over the next three and a half years.

Mr David Small (Department of Agriculture and Rural Development):

You referred to one circumstance when inspectors did not allow a longer period for an issue to be resolved. My understanding is that it related to one particular aspect in which an inspector made the wrong judgement and was wrong in that one case. However, generally, when we find an example of non-compliance that is quite minor, inspectors will be flexible, and that is how we expect them to behave. That was one particular example of non-compliance. In all other respects, I hope that inspectors are being pragmatic. However, where we find very serious non-compliance, discretion does not exist.

We agree that we want to create a flexible resource whereby inspectors are skilled across a number of areas. In fact, we have been doing some of that by putting in place an inspection resource to deal with a broad range of requirements. We have needed that sort of resource on our single farm payment inspections, countryside management inspections and on some of the land parcel identification system (LPIS) mapping-related work. At the minute, unfortunately, we have an inspection resource that is required to deal with a very wide range of competing pressures.

However, we have begun the process of trying to broaden the resource and to make it more flexible to meet similar pressures that we expect to meet in the future.

Mrs Dobson:

Is it correct that about 60 Planning Service staff work on that issue? If they were to work on just one farm per day, between them they would complete about 12,000 per year. Surely that would be a considerable number of corrections. Why are there still errors in single farm payments and why are they still expected to be there by 2013?

Mr Lavery:

I honestly cannot remember whether 60 staff from Planning Service have been redeployed.

Mrs Dobson:

It would be a fairly accurate number.

Mr Lavery:

It would be of that order. The work that they are doing for us involves translating orthophotography into maps and assessing, from an orthophotograph, whether they are looking at an area of scrub or rushes, recognising the vegetation and transferring that information to a map to allow the calculation of eligible area. As I said, that will lead, necessarily, to the maps going out to farmers who will then have to engage with us on, for instance, whether the eligible area has changed as a result of improvements since the orthophotograph was taken.

We are prepared for a sizeable amount of dialogue, at least, if not corrections to be made between November and March, when we hope to have the pre-populated forms going out to the farmers for their integrated administration and control system (IACS) applications in May.

Mrs Dobson:

Do you agree that if there are approximately 60 Planning Service staff, one farm per day is not a big ask?

Mr Lavery:

We are aiming to cover all farms.

Mrs Dobson:

I know, but that equates to 12,000 a year. It does not seem beyond the realms of possibility that they could cover that.

Mr Small:

It may be useful for the Committee if we highlight the scale of the task that we are trying to take forward. We are trying to put in place accurate mapping for up to 40,000 farm businesses. However, that covers 750,000 — three quarters of a million — farm fields. In each circumstance, we are trying to make sure that the boundaries are correct and that we are clearly identifying eligible and ineligible items in each field. So, we are dealing with 750,000 fields. We have put a large resource in place, including LPS staff, some redeployed Planning Service staff and some of our staff. So, we are putting a major resource to that, but it is a very significant task.

Mrs Dobson:

It is a slow process, apparently.

Mr Small:

It is, but as Gerry indicated we are hoping to start the process of putting maps out to farmers some time next week, commencing on 21 November. That will begin a process that we expect to run for three to four months when we will continue to put maps out to farmers. We will be communicating with them on this piece of work, asking them to look very carefully at the maps that we are presenting along with the orthophotographs, confirm that boundaries are right and that we have identified properly all eligible and ineligible items, and come back to talk to us when there is an issue. We will be putting a resource in place to facilitate that process. However, this is a significant piece of work, and it is one that we are committed to take forward over the coming months.

Mrs Dobson:

Do you agree that the blame for disallowance fines lies with departmental officials and successive Ministers?

Mr Lavery:

I think that the Minister has outlined the position that there are issues in how the European Commission communicated what it wanted. There are issues for the Department with regard to

the maps that we had in place in 2005. There are also issues for farmers, not all of whom co-operated 100%. I am always reluctant to start attributing blame, but there is a wide group of candidates for it.

Mrs Dobson:

The perception in the industry is that farmers are being penalised for the Department's mistakes.

Mr Lavery:

The penalties only ever apply to farmers who claimed subsidies to which they were not entitled. That is the only circumstance in which we are permitted to apply a penalty. We do not apply them more generally.

Mr Irwin:

Does the Department accept that the single farm payment came out in 2005 and that six years later, we still do not have proper maps? That is unacceptable, and the Department has to acknowledge it. Last week, we were told by one of your officials that the new CAP proposals are much more complex. We are six years into the old system, and we have not got it right. Now, we are on the brink of new proposals that may be even more difficult to deal with. Is it the case that the Department needs to get its act together and to get it sorted out?

Mr Lavery:

I think that where we can make common cause is in that it is essential that we have a robust and precise mapping system as a foundation for the 2014 CAP reform.

Mr Irwin:

Absolutely, but I am sure that you will agree that it has taken too long to get a proper mapping system in place?

Mr Lavery:

I think that it would have been better for us to have got here earlier.

Mr Irwin:

I thought so.

Mr Small:

It is also useful to put this in the wider context. There is a perception that Northern Ireland is alone in experiencing the weaknesses identified and the resulting disallowances. In fact, virtually every member state is having the same difficulty. It is a very complex system to operate. At the same time as announcing our £4 million disallowance two or three weeks ago, the Commission announced very significant disallowance bills across approximately 15 member states for similar weaknesses in the support and control arrangements required to operate the single farm payment system.

I agree with Gerry that we would like to have been where we are now slightly earlier. We hope that we are now close to putting our system right, but it is a difficult process, which is reflected in the fact that other member states are also finding it difficult.

Mr Irwin:

On a slightly difficult issue, but one that should come back to you, Gerry: across the board, I am aware that information from farm inspections as far back as July was not on the system on 1 November because staff were not in place to edit the details and put them on the system. I know that to be a fact; I have it from staff in the Department. Single farm payments will start in a few weeks' time, and it does not auger well for the chances of farmers to be paid in a reasonable time.

Mr Lavery:

We are progressing inspections for the current year, with the objective of having payments made this side of Christmas, and the Minister will make a statement shortly as to the payments timetable. So, that remains our ambition.

Mr Small:

There have been some delays in transferring information to the system, but that was as a result of IT difficulties that we are addressing. There were difficulties with some caseloads.

Mr T Clarke:

You did not turn the computer on.

The Chairperson:

On William's point regarding the time that it is taking to get the new mapping system in place,

how confident are you that the information that has now been gleaned and the system that is, or will be, in place for it will be compatible with the information that you need for the new CAP reform proposals? Are you confident that all this work will be completely utilised or are we back to starting from square one?

Mr Lavery:

The Commission's proposals — and they are only proposals, some of which we sincerely hope to change — continue the drive towards an area-based system. Therefore, as I said, it is important that we have an area-based system; that is, a mapping system in place that is acceptable to the Commission.

The indications that we are getting from the Commission are that what we are doing is what it wants and that we are providing the level of detail and decisions. Therefore, it will play into the new CAP reforms, if that is how the proposals remain.

Mr Murphy:

As far as the disallowance is concerned, in our discussion with the Oireachtas Committee, its members said quite rightly that the Irish Government have had and, I think, continue to have, issues with their mapping process and ensuring that all the information is correct. The Irish Government were never even threatened with fines, yet we were heavily penalised here. I realise that other member states have been fined, but it is interesting that the Irish Government had similar issues to us yet were not fined at all. As one of the members of the Oireachtas Committee said, the Irish Government got down to dealing with the issue quickly, although they have not completed that work yet. At no stage were they under the threat of the sort of fines that we have had.

I want to raise two other issues, lest we get bogged down in the disallowance issue. Having interrogated some of the officials who gave evidence to the Committee on the Moroccan potato issue, it appears to me that they were genuinely caught by the change in the regulations — for whatever reason the change was made — that took place between the shipment leaving Warrenpoint and arriving in Morocco. Uniquely, the growers here were caught. Others were able to move their cargoes on, having dealt with them differently. Three or four suppliers from different parts of Europe were caught at the time, but this was the only place that ended up with a net loss as a consequence. Europe seemed to be quite energised to get the issue resolved and to

get the procedures for allowing imported potatoes back to normal again. I do not know the cause of the temporary differential on the Moroccan side, but Europe seemed quite energised to get it restored. Can any case be made to Europe, given that potato suppliers here were the only ones who lost out? Others were able to move their cargoes on and get rid of them elsewhere and did not suffer a financial loss, whereas people here are, perhaps, facing ruin because of it.

You talked about the inspections for those and the single farm payments. Representatives from the Livestock and Meat Commission (LMC) gave evidence to us about the farm quality assurance scheme. Part of the frustration of farmers is that there are so many inspections and that people see it as red tape and cannot see the benefits. The latest breakdown is being blamed on computer glitches. The LMC undertook to look at duplication in its inspection regime, and I am not sure that we have heard much back from it on that since. Farmers might be more confident about the Department's intentions if there were only the required number of inspections and expected output from the Department, rather than duplication of inspections and very little output on the other side apart from the difficulties that are being created for farmers.

Mr Lavery:

That is one good question.

Mr Murphy:

It is three issues in one.

Mr Lavery:

The first point was about whether Ireland should have faced disallowance in respect of its mapping. To some extent, that is a question for the European Commission and the way that it has addressed whatever levels of compliance it has found in Ireland.

Mr Murphy:

The third prong of your three-pronged approach was to engage with Europe and to explain what you were trying to do. It was to say to Europe that you are trying to get this right and that if you are penalised, that would impact on your resources for getting it right, which will prolong the problem. Obviously, that was the approach taken in the South. They were successful and you were not. Did you make any enquiries? I am sure that it was more than the gift of the gab that got the South through it. There must have been something that the Southern Government were

able to offer.

Mr Lavery:

We have made that argument to the European Commission. We are turning a corner in our relationship with the European Commission. I am reluctant to get into drawing analogies with other member states on other issues, but we take the point that we should learn where we can. The seed potatoes issue was difficult. The Department has a fair track record, in that where we make a mistake, we intervene to put it right financially. We have done that in conjunction with the Committee on issues such as wind turbines. The Minister and I have looked at this case and have not found a basis to intervene. We found that people did the job that they were expected to do in order to certify the seed potatoes. A European working group was formed, which reviewed the actions of our officials and confirmed that they had applied the procedure correctly. We do not have a basis to intervene.

As for our growers being the only group in Europe to have suffered, the unexpected rejection of seed potatoes applied, to an extent, to a number of groups of growers. As you said, Mr Murphy, other groups were able to dispose of their potatoes elsewhere. Some had taken out insurance against their losses. Unfortunately, our group did not take any of the commercial options available to them. We have looked at whether there is any basis, as you said, for going to Europe and looking for an intervention from the European Commission. We have not found one; the provisions are for an exceptional loss, and this does not fit those conditions. We have looked quite actively at it.

As you said, the former Minister, Ms Gildernew, made a number of representations in the United Kingdom and to the European Commission around that, and it was part of what secured the active involvement of the European authorities. That has resulted in keeping the trade open and getting the Moroccan authorities to take a more consistent line on silver scurf and how they examine for it. In practice, people can export to Morocco today because of that intervention. Unfortunately, that is the only intervention that we could make. We have not been able to find a basis for intervening to assist those people financially. I say that with the awareness that, for some of them, it has been a very substantial loss. However, we cannot protect them from it; it is a commercial loss.

Over the next three or four years, we will talk to all parts of our industry about increasing their

levels of exporting, because that is where the markets are; it is certainly where the profitable markets are. There are risks in doing that, and we will have to explore with them whether there is anything that we can do to mitigate the risks. The mitigation will be in the form of improved market awareness and intelligence, but this issue, frankly, was not on people's radars. As I said, it hit a number of member states. Therefore, it was not an area that had been signalled by the Moroccan authorities in advance.

Mr Murphy:

The third element of my question was on the duplication of inspections.

Mr Lavery:

It is easy to say that I am against the duplication of inspections. Where we find any of our inspections being duplicated, we act to synchronise them and to ensure that they are carried out as efficiently as possible. The farm quality assurance scheme is a voluntary scheme into which producers enter with the objective of securing a commercial advantage. We have flagged up with LMC that we are happy to disclose our inspections so that it does not duplicate any of our work. I have talked to Ian Stevenson about that. So, I am confident that the work will progress. I do not have an update today on exactly where we are, but we both recognise that that is an issue.

Mr T Clarke:

I was amused earlier: I thought that you were going into comedy today when you cited the Department's good track record, especially given the example you used. If you are suggesting for one moment, Gerry, that coming to the Committee screaming and kicking to resist paying farmers in relation to wind turbines is a good track record, you should be in comedy as opposed to being the permanent secretary of a Department.

As regards the 2005 maps, and given that a lot of the blame has been apportioned to the maps and that someone was employed to facilitate the drawing of the maps and to present them for or on behalf of the Department, has the liability of the person who supplied the maps been explored?

Mr Lavery:

First, I do not recollect coming kicking and screaming —

Mr T Clarke:

I did not think that you would.

Mr Lavery:

I do not even recollect saying that we would not compensate. I do recollect arriving here and saying very forthrightly that we were committed to a review —

Mr T Clarke:

That is certainly not the case.

Mr Lavery:

The review led to our making a number of payments, which I thought was fair and honest, and we would do that again.

As regards the maps, in 2004, we had farm maps. There have been farm maps in Northern Ireland for a very long time, and the Department had a suite of farm maps and ordinance survey maps, and it is not the case that somebody was commissioned to produce a new suite of maps. The existing maps were digitised, and I am not aware that that has given rise to a particular problem. The problem appears to be the data contained in the original physical maps which were digitised. We have not been looking at the liability of the agents who carried out the digitisation.

Mr T Clarke:

Have you or any of your officials, particularly those who are here today, taken time to look at the problem with the maps?

Mr Lavery:

I am happy to look at it again, but my understanding is that the information contained in the maps prior to digitisation was at fault, not the digitisation process.

Mr T Clarke:

I was involved in an unfortunate exercise of spending half a day with a farmer walking around his fields with an inspector who had an aerial on his head — I think that is the best way to describe it — who was trying to suggest that the farmer's lane, which had been there for 50 years, was in the wrong place because, according to his map, it was 20 yards into a field. So, after walking around

for about half a day, they realised that there was an overlay problem in the maps. Surely, the problem has nothing to do with digitisation; the maps were overlaid incorrectly. The person employed to do that piece of work got it wrong. You cannot take an aerial picture and then find that something has mysteriously gone missing or has appeared. The problem identified was that stills were being taken and overlaid on the maps, but the maps were overlapped. Did anyone find out whether the person concerned was liable, given that I am sure that they were extremely well paid to do that piece of work and given that we are now facing huge fines because of it?

Mr Lavery:

We will look at that element and come back to you. It is a technical point, and we will give you a direct reply on that.

Mr Small:

I am aware of some positional improvement requirements as regards some of the older ordinance survey maps that were used. There are slight positional inaccuracies in them that could perhaps explain a lane appearing to be in one location but the proper location being slightly to the side. My understanding is that it is down to positional difficulties with some older ordinance survey maps. It could well be linked to that.

Mr T Clarke:

I hope that you do not mind me teasing this out, Chairman. When the inspector was standing in the field, he said that the pictures did not lie, because this was a picture from a satellite. He was standing 20 yards into a field looking for a lane that was not there. It was 20 yards over, with mature hedges and a concrete lane, and it probably predated my first birthday, never mind my forty-first or forty-second birthday, as I think it was at that stage. I am confused as to how that is supposed to be an actual picture and a capture of what is on the ground. I was told that the satellite positioning actually tells the inspector the location of where he is in the field at a particular time. He was at pains to understand what was wrong until we were walking across the field later that day, when he looked at his map and saw that it actually jumped. It went from something not being there to something actually appearing. It was only then that the inspector realised that something was wrong in how the map had been overlaid. I would like you to look at that, and I would be interested in a response.

Mr Buchanan:

I have the same concerns as my colleague. I am a wee bit surprised that you have not even looked at this issue yet. During the questioning on the disallowance, I remarked that some of you referred to other member states being in the same position as we are. I suggest that rather than looking at them, you need to set your own house in order first. It is important to get our own house in order before we start looking at other member states. Although they may be in the same position, it is important that, as a Department, you folk get your own house in order so that those penalties do not occur year after year.

Has the Department any idea of what it will cost to get the new maps produced and put out to the farmers? Are you confident that the new maps will be accurate and that when the farmers follow the maps, they will not incur any penalties? What is the Department doing to prepare its staff to be able to deliver CAP reform when it comes in? A lot of work has to be done to prepare and to train the staff to ensure that they are up to speed so that they can deliver when CAP reform comes on stream.

Mr Lavery:

I agree, Mr Buchanan, and our focus is on getting our own house in order. We refer to the problems faced by other paying agencies only to illustrate that this is a difficult issue.

With regard to the entirety of the project to create a firm foundation for the single farm payment, we had an allocation of £4.8 million last year. In the current year and next year, we have an allocation of just over £19 million. That gives members an idea of the scale of the effort going in to try to resolve the issue.

With regard to what we are doing to prepare our staff for CAP reform, it is early days as that is still at the proposal stage. At this point, the heavy lifting lies with my friend Mark to get the policy work under way. He will be setting up the stakeholder engagements. We have begun the process of consulting the industry, and we will then have a number of groups in the Department to bring together the policy people and the delivery people to discuss how we would implement the reform. However, a lot depends on where the proposals go. As the Committee is well aware, some of the proposals in and around the “active farmer” definition and the greening requirement in pillar 1 would impose further requirements on the farmer and the Department. As the Minister said following her meeting with the commissioner yesterday, she is pursuing the line that we

really do not want to be drawn into asking farmers about their income, which could, as I said, impose a whole new layer of bureaucracy on farmers and the Department. We are preparing, but we are still a little way out.

The Chairperson:

Just with regard to the Minister's visit yesterday, Gerry, is it your intention or the Minister's intention to let the Committee have sight of the agenda and minutes of any of yesterday's meetings?

Mr Lavery:

I will refer that to the Minister. I will have an opportunity this week to discuss it with her.

The Chairperson:

I think that that is very important.

Mr Irwin:

With regard to the seed potato issue, as far as I am aware, the Department charged the growers for inspecting those seed potatoes at the farm and again at the docks as they went for shipment. Growers were charged a fee by the Department for that. When the seed potatoes went to Morocco and were turned down, the Department washed its hands of the situation. The only logical conclusion that I can come to is that the Department charged those farmers for absolutely nothing. It charged them a fee for doing something that, at the end of the day and when the chips were down, the Department walked away from. So, why were the growers charged that fee?

The Chairperson:

Sorry, just before you came in, I explained that a letter, which relates to the Morocco incident and is in the members' pack, was received this week from the Minister.

Mr Irwin:

The Department must surely bear some responsibility for that.

Mr Small:

I have two points to make. My understanding is that the fees were charged but, as is normal, the growers were fully reimbursed. It is an odd arrangement, but there is a process that involves

imposition of a fee and it being fully reimbursed. That may be addressed in the Minister's letter.

The other point is that we are fully satisfied that the inspection process that we carried out was appropriate and carried out in the proper way. There was no failure of that inspection process, or failure in our duty of care. On that basis, we do not see a failing by the Department in the process that it carried out.

Mr Irwin:

With regard to the inspection fee, is it always the case that the fee is returned to the grower?

Mr Small:

It is always the case with inspection of seed for export.

Mr Irwin:

It seems a peculiar way to do business.

Mr Small:

It is a peculiar arrangement. I do not recall the background or origin of it, but it is the normal process.

Mr Lavery:

Mr Irwin, you say that the Department washed its hands of the matter. First of all, the then Minister took it very seriously, made representations and secured some movement in the position for the way ahead. That is not of great comfort to those particular growers; I know that that particular company is not trading at the moment.

Secondly, when we were alerted to this, inspectors travelled to Morocco and undertook a reassessment of the rejected cargo. They even adopted the practice of washing the consignment, despite the fact that it had then been in transit for over a fortnight. The inspectors found that the consignment remained largely within the international tolerance for the skin blemishing diseases, including silver scurf. It is not that we walked away. We intervened as far as we could, and will continue to do that. As David says, the difficulty arises when you look at an issue, such as making an ex gratia payment, because the Department has to be satisfied that its officials have failed in some way in their duties before it can look at a case to make some financial

commitment. At the end of the day, we are using taxpayers' money. It is not our role to mitigate entirely the commercial risks that people take in their normal business.

Mr Irwin:

You can fully understand the dilemma that those growers found themselves in.

Mr Lavery:

Yes.

Mr W Clarke:

Did the conditions or opportunity exist to sell the produce after it was refused in Morocco? Was there an opportunity available to the growers to sell it in another marketplace?

Mr Lavery:

I believe that they could have made efforts in that direction, yes.

Mr W Clarke:

So there was an opportunity, instead of dumping?

Mr Lavery:

Yes.

Mr Small:

There may have been an opportunity, but a decision was taken, as I understand it.

The Chairperson:

With regard to the potato industry generally, it has been put to me over the last number of weeks by people in that industry that the official Department of Agriculture and Rural Development (DARD) inspections are not up to as high a standard as those of other member states, including the Republic. I have no evidence at the moment to suggest that, but I am certainly looking into it. Would you like to make any comments on that at this stage?

Mr Lavery:

I can only say that we believe that our inspections are appropriate and carried out by competent

people. The international review that I referred to brought together experts from a number of member states. They reviewed the procedures that had been carried out by all the affected parties, including our officers, and they found nothing wrong or deficient in them. We take some comfort from that. I am disappointed if the industry believes that our inspections are less effective than others. It is not the case that there is any history of rejection of seed potatoes from other member states, including by Morocco, with which we have been trading now for around 20 years. That trade has been sustained by government assistance, to the extent of trade missions to try to build relationships and receptions hosted by the United Kingdom representation in Morocco, and so on. We have tried to assist that trade, and Morocco is a well-known destination for seed potatoes. The history that would make me concerned about the quality of our inspections is not there. We are not seeing any protracted history of assignments being rejected. It is an unexpected and, I hope, single event.

Mr Small:

I do not think that we can accept that suggestion. We believe that our inspections are carried out by very experienced inspectors who meet all the requirements.

Mr T Clarke:

Making a statement like that sounds like a burglar putting himself forward for prosecution. It is the same thing. They are hardly going to say that they are bad. Any review that they have had has been internal. There should have been an external review of their processes. How is the Department going to find against itself? It is absolutely ridiculous.

Mr Lavery:

We have exposed our processes to a review by the other —

Mr Small:

By a group of European phytosanitary experts.

Mr T Clarke:

I am talking about the processes here in Northern Ireland, how the inspections are done and how they did not know that the particular problems in that shipment were going to be a problem in Morocco.

The Chairperson:

Sorry, you are talking about the Morocco shipment.

Mr T Clarke:

Yes.

The Chairperson:

I am talking about a more general sense. People in the industry have approached me to provide me with evidence for what I have suggested. As I said, I have not finished that process yet, but I intend to, and if I have evidence of any kind, I will certainly bring it to you so that you can look through it and investigate it thoroughly.

Mr Swann:

Gentlemen, I apologise for missing your presentation and introductions. It is important to have the level of DARD officials that we have here. The title of this session is ‘Departmental Role in the Committee’s Scrutiny Function’. We have often heard from senior civil servants about the open, transparent and supportive attitude that the Department will have towards this Committee and farmers. Unfortunately, gentlemen, my personal experience is that a number of your officials have been obstructive, obtrusive and, at times, belligerent towards the Committee. We have had difficulty having an open conversation with your officials. I think that that is actually reflected in greater measure the further that officials’ dealings go with farmers on the ground. Farmers now see the Department as a police force. That phrase has been used time and time again. Is the Department taking any steps to work on how it is portrayed to the industry and to be supportive, open and transparent? You have become obsessed with paperwork and creating paperwork for the sake of it. I know that you are shaking your head, David. I am talking about perceptions. That is what I am hearing from people on the ground; from farmers. Perhaps if you do not see that perception, that is part of the problem that needs to be addressed.

My family’s personal experience of letters from DARD is that you take a legal, bureaucratic and, sometimes, threatening tone, even in what should be the simplest advice letter. The Department could work on how it presents itself and how it works with the industry. We talk about the agrifood business growing, expanding and all the rest. As we move forward, the Department needs to look seriously at how it is perceived and its role, which is supposed to be supportive towards the industry rather than prosecutorial.

Mr Lavery:

Well, I certainly do not dismiss your concerns. We do have those two roles. On the one hand, our role is to offer advice and support. On the other, our role is inspection and ensuring that the requirements of legislation are met.

Mr Swann:

Gerry, the perception of the balance between the two is that you are now more into inspection and prosecution than support.

Mr Lavery:

I concede that we are not doing enough to communicate what we are doing by way of advice and support. However, it remains the case that probably the bulk of our expenditure is on advice and support. I have mentioned the work that is done at CAFRE and the development service that we have provided for many years. However, we are not communicating that. The perception appears to be gaining ground that we are taking the regulatory side of the Department to an extreme. I do not think that we are taking it to an extreme. Our inspections are based on what is required by law; most often, by European law, particularly in and around the single farm payment. I mentioned earlier that we try to ensure that inspections are proportionate. Where defaults are minor, they are dealt with by advice and are not listed as a major error.

I am happy to look at any ideas that the Committee has for improving the perception of what we do. I take the point about reviewing our letters and how we approach people. I am happy to commit to looking at that. We have looked, for instance, at restructuring, which has worked to an extent in, say, England, where all rural payments are dealt with by a separate agency. However, the difficulty with restructuring is that it consumes an enormous amount of energy. During that time, it is actually hard to focus on anything else. We are going through CAP reform, which is where we really want to put our energy at this point, both in preparing the policy, and in implementing it and getting the delivery right. Therefore, we are very reluctant to go down the restructuring line. However, if there are other issues on which we can actually focus, we will aim to open ourselves up more to the farming industry and to ask for its ideas on, for instance, better regulation and what we can do without.

People are saying that there is a perception there, and I cannot deny people's perception.

However, specifics about what to change are harder to come by. I am by no means saying that it is the Committee's role to tell me what to do. However, I am looking at the issue, because I am concerned about it. I think that it is unfair to some of the people down the line.

Mr Swann:

Do not get me wrong, I was going to say that you have some good staff. On the whole, they are there to do a job. I am concerned about your comments on restructuring because there will always be something else in the industry that is as significant as CAP, the common fisheries policy, forestry or animal disease. There will always be something else. If you are serious about restructuring, that is the decision that you have to take. One of the things that you can do to help farmers — I hear this day and daily — is tell them what is wrong before the final inspections take place. At the moment, there are no pre-inspections and no advice or guidance is given. I know people who have been in the countryside management scheme for three years or four years and who have got the final inspection and the two weeks' notice letter telling them what they have done wrong. That is where there should be more advice, rather than in the final letter. That is where DARD could portray a friendly side. However, it is a long time since I heard anyone say that DARD is a friendly Department.

Mr Lavery:

We will have a look at that. I think that you may underestimate the extent to which we are constrained by European rules. European rules often require us, for example, to carry out unannounced inspections, even in circumstances where we would be more comfortable with an announced inspection, because with an announced inspection, you can guarantee that the person will be on site, and so on. We often find that we are told not just what to do but how to do it.

Mr Swann:

There is nothing in the legislation to say that you could not pick, at random, another 20% of the farmers who have applied for the scheme and go to their farms, not to carry out a final inspection and to say whether they are compliant but to give them guidance and to point out simpler errors. Instead of going down the line of saying, "This is an unannounced inspection that is required by Europe. That is why we are here", you could send people out from CAFRE to give guidance to farmers.

Mr Small:

We can certainly think about the advisory role. On the issue of the countryside management scheme, I am conscious that this round of inspections has revealed high levels of non-compliance. We would like to establish why that non-compliance has been identified.

Mr Swann:

Do you want to know why there has been non-compliance?

Mr Small:

One of the reasons might be that we are not providing sufficient advice.

Mr Swann:

The countryside management scheme guidance booklet says that training will be provided. I had a meeting with a DARD official who said that the Department is obligated to provide training for a seven-year scheme. However, as long as the training is provided within seven years, the Department has met that obligation. If people operate a scheme for four years and receive training just before the scheme completes, there will be non-compliance. If the Department had delivered that training at the instigation of the scheme or before the move from the old scheme to the new one, non-compliance would not have happened.

Mr Small:

There are some instances where that may be down to a lack of training. In some cases of non-compliance —

Mr Swann:

I am not saying —

Mr Small:

That is a different situation.

I have just one last point. You commented on the fact that I was shaking my head. That was not out of disrespect or total disagreement with what you were saying; it was more out of disappointment. If it is the case that we are not getting our messages out in the way that we would like to, I am disappointed. I head the CAFRE side of the Department, which takes

forward a massive range of advisory, developmental and education services. I am disappointed if that element of our work is not being properly recognised or appreciated. As Gerry says, we may not be promoting or highlighting that sufficiently. We will look at it. So, my shaking my head was more out of disappointment.

The Chairperson:

I ask that questions and answers be succinct and brief because I am afraid that we are running out of time.

Mr McMullan:

I have two things to ask about. I have sympathy with what Robin was saying about strict letters, but I am a great believer that a bark is far better than a bite in getting things sorted out.

On the training issue, the majority of people get it right. There is help out there for those who cannot get it right, through their local organisations or whatever in their local areas. We had a presentation this morning from the farmers from the Oireachtas. The opposition that they encountered was very vocal but they carried on and got it done. If there is disallowance on the one hand, you have to have reasonably strict compliance on the other. Otherwise, how will you ever steady the ship? If there is something happening out there, you can stick so many people out there to make sure that it is all done and quantified when it comes back to you: there has to be that element in it. We all have a role to play in this. We can bat the ball one way all the time but when the ball comes back, we have to be big enough to lift it, to run with it and to share the problem.

On the potatoes thing, I have raised this from day one. It was interesting to hear what you said, Gerry. I suppose it is not a legal requirement, but in the case of a business like that where you have an agent, is there not an onus on the agent to have insurance to cover a cargo? I know that that is not a legal requirement, but to my mind, it would be a basic business requirement, not only in case anything happened but to assure the customer that although they are shipping the product such a long way, it will arrive in pristine condition.

We talked about the inspections that you did — one on the farm and one on the docks — but am I right in saying that there was another inspection in Morocco? There was to be another review of that cargo by the Moroccan authorities who then, for some reason, reneged on that.

There were members of the potato growers' organisation at that inspection. Am I right that they were in agreement that the cargo was in a fit condition? Also, could it be that there was a game of political intrigue by the Moroccan authorities? There were other countries caught up in the same thing. If I remember rightly, there was a cargo of tomatoes somewhere. I think that, through no fault of their own, the potato growers here were caught up in a game of political intrigue by the Moroccan authorities.

The Chairperson:

Mr McMullan, there are about four or five questions there, so I ask the officials to be very succinct in their answers because we are struggling for time.

Mr Lavery:

Mr McMullan makes a good point: if our inspections were as draconian as is made out on occasion, we would not have incurred criticism from the European Commission, which said that it was concerned about the rigour of our on-the-spot inspections. That was one of the complaints that it made in 2008. Since then, we have improved the consistency of our inspections and the training of our inspectors to sort out that issue. As regards the seed potatoes, we provide the certification that gives the reassurance to the agent. On this occasion, I am sure that the agent was taken aback when the seed potatoes were rejected despite having the necessary seedling document that confirms that a consignment is fit for export and meets the requirements, in this case, of Morocco. The agent has acknowledged that the Moroccan customer for the seed potatoes was satisfied with the seed potato quality. The Moroccan plant health authorities rejected the consignment, not the customer, who would have been satisfied to accept them.

The point about tomatoes has been raised in the Scottish Parliament and the European Parliament. The answer from the European authorities in particular has been an outright denial that there is or has been any trade war between Morocco and Europe. They have specifically denied that there has been any trade war to do with tomatoes. I want to add my confirmation that that allegation should not be pursued.

Mrs D Kelly:

To follow on from what Mr McMullan said, at the end of the day, the buck stops with the Minister. I know that we all have to be team players and bounce balls around the place, but that is where it stops. I appreciate that we have officials here today, but, no doubt, we will have the

opportunity to question the Minister on other occasions.

I have two or three points to make because I am very conscious that the Department's responsibilities extend far beyond agriculture. At the outset, Gerry, I am somewhat alarmed to hear you talk about having discussions with stakeholders, including farmers, about better regulation, given that the Minister and her predecessor gave a commitment to the House that they would issue a statement on the Department's plans for better regulation before the end of this calendar year. We look forward to hearing more about that over the next few weeks.

I am conscious that the Programme for Government will, it is alleged, be issued later this week. It is my fervent hope that it is somewhat more challenging than what was contained in the civil servants' draft and in the annual plans of your Department and its agencies, including the Forest Service. Are you in a position to inform us about any of those matters? Can you give us any insight into tackling rural poverty and a budget for rural childcare? Also, you might actually say something about the increase in on-farm accidents, given that the numbers of those fatalities are at their highest levels ever. What actions will the Department be taking to educate people about accidents and to prevent them?

Mr Lavery:

I, too, have read with interest the story in the media that the Programme for Government is about to be published. That will, I hope, allow us to bring our draft business plan to the Committee and to seek its views before bringing the plan to a conclusion.

We are working up a programme of commitments on rural poverty, and the Minister will be keen to pursue issues such as rural broadband and childcare. We expect to be able to share that with the Committee very soon.

What was your third point?

Mrs D Kelly:

There was rural poverty, rural childcare, better regulation, the Programme for Government and farm accidents.

Mr Lavery:

The question of farm accidents is in our minds because of the unfortunate accident reported in the press this week. Unfortunately, agriculture is now the number one industry for accidents in Northern Ireland, which is a source of worry and concern.

Mrs D Kelly:

Is there any analysis of why that is the case?

Mr Lavery:

We have been working with the Health and Safety Executive, and we will work with it to answer that question. I am very happy to share that answer with members when we have looked at it. We have completed a number of initiatives around improving training in areas such as tractor-driving and animal-handling. We have encouraged farmers to have better facilities, including for animal-handling. It appears to be a real difficulty for the industry. Like you, I am not sure why, but we will try to see what more we can do to help. It is not an area in which it is proper for any public body to say that it does not have a statutory role. We do not but we have an obligation because of the level of accidents.

Mrs D Kelly:

I appreciate that. I had a neighbour who was killed last year in an accident, and a neighbour's son had a near miss when clothing got caught in a machine. Part of that is due to some of the demographics. There is no real enforcement, but you have a mixture of a lot of older people, who maybe are not just as quick as they once were and continue to farm and take a risk because they have been at it a long time, and at the other end of the spectrum, some very young people being allowed to drive farm machinery. It is a complex issue. I certainly lend my support and plead for an urgency to be given to the work and analysis that your Department is undertaking.

The Chairperson:

I will let you go, gentlemen. I had a range of questions but I will leave them because we are struggling for time. One thing that I will say is that we had a very important debate yesterday and we expect the Minister to come before the House next week to inform us of her plans around the maps and everything else and of the very important specific issues that were raised yesterday by members of the Committee and Members of the Assembly. You will have an input into what the Minister says, and I know that some of your officials will have looked very carefully at the debate

yesterday.

My point is about the 2011 resource accounts general report by the Comptroller and Auditor General for Northern Ireland. For the first time, there are items on that with regard to the European Commission, and he deems that to be irregular. I know that the Department disagrees, but the Minister should address the points that I raised yesterday during the debate. I ask you, as far as is possible, to ensure that that will be addressed by the Minister next week.

Mr Lavery:

I am happy to do that.

Mr Irwin:

Just a quick question. Are all cross-compliance inspections detailed from Europe or does the Department make up some of those inspections? A lot of people do not realise that some of the penalties are very severe for some very minor breaches. I know one guy who was told that he did not send in an MC1 after his cross-compliance inspection on tags. He did not send in one MC1 movement permit. The same guy sends in a couple of hundred a year; he is a farmer and a dealer. He was fined almost £2,000 for not sending in that one MC1. He appealed the fine and because it was proved that he was right and that he had sent in the form, he was reimbursed. However, that farmer has a bad taste in his mouth. You can understand that. Is our Department making those rules or is Europe demanding that all those inspections be carried out?

Mr Lavery:

In the example that you quote — cross-compliance inspections — the number of inspections is determined by Europe. Indeed, what is inspected is determined by Europe.

Mr Irwin:

I have information from inside the Department that some of the items in the compliance inspections were to be dropped. That is why I want to know whether it is Europe or our Department making the decisions.

Mr Lavery:

I will try to track down the issue but I am not aware that we are reducing the number of items for inspection or that we have the discretion to do so.

Mr Irwin:

Not the number of items; I was told that some items within an inspection would be dropped.

The Chairperson:

OK. Thank you, Mr Lavery, Dr Browne and Mr Small for your attendance today and for your answers. Thank you very much.

Mr Lavery:

Thank you.