



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Single Farm Payment Entitlement Trading
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Rural Development

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over policy decisions that will be important to farmers as they make decisions, so there is no guarantee at all that the extension will leave them in a position in which, when they have weighed up the issues, they have any greater certainty about what the right thing to do is. However, it will at least provide them with a little more time in which to engage with others to discuss what might be the best option for them to pursue. The document that we have given to the Committee outlines the basics, and we are happy to move to questions on the issue, which, obviously, is one of considerable uncertainty for claimants. We recognise that.

Mr Byrne: I welcome Andrew's presentation. I think that the Committee will be delighted to hear about an extension from 2 April until the first week of May, but when will the Department be more certain about the conditions and criteria that apply? I am very concerned about the number of farmers, both those who are landowners and rent out land in conacre and those who are tenants and take land in conacre, who are unsure about how they should put pen to paper before 2 April or, hopefully, the first week of May. Farmers from the Strabane area and other parts are in the Public Gallery today, and they are very concerned about this. The sooner that the Department clears up the uncertainty, the better.

Mr A Elliott: You are absolutely right to say that there is concern about the issue at the moment. There are policy decisions that have not yet been made that could impact on farmers' judgement on what the right decision to make is. Those policy decisions and their precise timing will be the subject, I understand, of discussion with you and my policy colleagues in the Department next week. I cannot really spell out any more than you already know about the likely timing of policy decisions under pillar 1. You will be aware that the absolute deadline for decisions is 1 August, but, hopefully, Ministers in Northern Ireland will be able to come to decisions well before then. The exact timing is not something that I can comment on at this stage, however.

Mr Byrne: Valerie will be aware of the Northern Ireland farming consultants' group. Mr Philip Christie has been in touch with me over recent weeks about the grave concern that there is regarding what is called an 850 category of field, particularly where fields have been amalgamated as a result of fences having been removed. The system seems to recognise that as being possibly the removal of a boundary fence between two farms, even though it could have been removed from between two fields on a particular farm, which are therefore still in the same ownership. That seems to cause great confusion when the single farm payment form is being processed, because the computer is recognising it as an 850 dispute. Can Valerie enlighten us on what can be done to try to alleviate the problem?

Mrs Valerie Bell (Department of Agriculture and Rural Development): Coincidentally, we had a meeting with Philip and two of his colleagues yesterday at which we went through the issue with him. Philip presented us with a list of his concerns, which we said that we will look at. One of the things that we hopefully were able to assure him about is that, in our guidance material for the 2014 single application form (SAF), we have explained to people that the 850 number is simply — I am trying to find the best way in which to say this — a field identifier. The field number was set up last year because we had a particular view when we were looking at our remapping processes, and the view was that, although the fields were claimed by one person, we had other information suggesting that a number of people owned them. Therefore, fields were flagged as being an 850 to bring that to farmers' attention and to make sure that they were managed correctly. This year and going forward, the 850 number will remain, but it simply remains as an identifier for the field. We explained that to Philip and his colleagues. I am not 100% sure that we completely reassured him — I will be honest with you on that — but we have taken his concerns away and will write to him on those.

Mr Irwin: First, I suppose I should declare an interest, being a farmer myself. I welcome the fact that the transfer of entitlements will be moved back a month. I asked that question of the Minister just last week when she was in attendance.

As the Deputy Chair has already said, there is a lot of confusion out there. I know that the Department may not be able to give clear guidance, but I think that it is possible for the Department at least to make clear what an active farmer is or will be in the future and to provide some guidelines. I think that many farmers have no idea, particularly the smaller farmers, and especially the ones that we might now classify as being inactive. They are perhaps not in touch. I have had a number of calls today. When coming down the motorway this morning, I got a couple of calls from people who do not know what the situation is. Is the Department going to send out a letter to farmers that at least identifies the current situation for inactive farmers and what constitutes an inactive farmer? Many of them have no idea.

Mr A Elliott: The Department has produced questions and answers, and it will be making those available to farmers. We are not planning to send them all out, because sometimes we get complaints from farmers that they do not like getting a lot of bumf either. We will point them towards the right sources of information. There is no doubt that that is an area in which farmers will want to take good professional advice. It is also an area in which the Department is constrained in how it can advise farmers, because every business's circumstances can vary and what people choose to do with their entitlement is ultimately their own affair.

It is probably worthwhile that I outline what for me is the current situation with active farmers. It is important to recognise that, even in the present circumstances, farmers are expected to be active. What does that mean? It does not mean that they have to be productive, but the definition of a farmer that the European Commission employs includes, as a minimum, that they keep the land in good agricultural and environmental condition (GAEC). That means that if somebody is a landowner, for example, and is claiming a single farm payment every year, he needs, as a minimum, to keep that land in good agricultural and environmental condition.

From time to time, we encounter people who are not doing that. When we establish that that is the case, it has quite significant consequences for them and their claim. In fact, it can mean that they lose their entitlements and face penalties, so it is really important that people who are claiming, whether in 2014 or 2015, understand the risks that they are taking if they do not have proper arrangements in place to meet their minimum level of activity as a farmer. The European Commission sees it as a scheme for farmers. They do not have to be productive farmers, they do not have to have animals and they do not have to have crops, but they do, as a minimum, have to keep the land in good agricultural and environmental condition. They cannot rely entirely on the conacre farmer to do that without losing their right to claim. That is an important point to register, because a lot of people do not always read all the materials provided about what they are signing up to when they sign the SAF.

The change in the definition in 2015 is the subject of a delegated Act that has not yet been finalised among the European authorities. The European Commission is leading on the engagement with member states on that. Essentially, the change that that will bring into play means that, for the person who is establishing entitlements, those are to be issued to the person enjoying the decision-making power for, the benefits of and the financial risks from agricultural activity being carried out on the land for which an allocation is requested. As I said, the delegated Act has not yet been finalised, but that is the issue that causes the biggest area of concern and enquiry. People want to know what it means for them if they are, for example, a landowner and have a conacre farmer on their land. In most circumstances, it would be exceptional if it would not mean that the person eligible to establish entitlements on the land would be the conacre farmer and not the landowner. That is the potentially the big change from 2014 to 2015.

Mr Irwin: That is all very well, and I understand that fully, but if you look at the guidelines today for an active farmer, they tell you one thing. However, they do not tell you that circumstances could be completely different in a year's time and that, by that time, you cannot transfer your entitlements, because you are too late. You have to make your mind up before that, and that is the difficulty that I see.

Mr A Elliott: If entitlements are re-established afresh in 2015, the old entitlements will be gone for everyone. New entitlements will be established for everyone who is entitled to them from 2015 onwards.

Mr Irwin: That is still confusing. If they are inactive, they still cannot claim, is that right?

Mr A Elliott: If they are absolutely inactive, they should not be claiming at all.

Mr Irwin: That is the change, but it is the changeover situation that is quite vague for farmers, if you understand what I mean.

Mr A Elliott: Yes. Depending on policy decisions that are not yet made, there could be interest in trading for some people, or no interest in trading in other circumstances. That is a matter that the Department cannot advise on. People may see financial benefit or otherwise in trading, and that is a matter that we really cannot advise them on, especially so in the absence of decisions on policy. People have to weigh up the issues for themselves and make up their own mind. It would be very dangerous for the Department to begin advising on that set of circumstances.

Mr Irwin: I understand that. Thank you.

Mrs Dobson: Thank you for your presentation. I declare an interest as my husband receives the single farm payment. Like other members here, I have met many farmers and landowners in my office recently who are extremely concerned about the looming changes. I have written to the Minister for clarity. I, like others, welcome the four-week extension, but do you feel that we will have a clear picture by 2 May or is this an extension for the sake of appearing flexible? Is the extension a result of pressure in the Department?

Mr A Elliott: I think that this is an effort to give people more time to think the issues through, but it is not particularly intended as something that will necessarily see us through to decisions on policy, because it may well not. The extension has not been designed with that in mind. Nobody would be happier than me to know exactly what the policy decisions are going to be, because we have to build the systems and have them ready for 2015. However, we have to recognise that there is a process that has to be followed, and those decisions have to be made at ministerial level.

Mrs Dobson: Andrew, you know that many people will leave making changes to the last minute or not make them at all. Indeed, you said that here had been a significant increase in the number of enquiries. Can you guarantee that the extension will provide your staff with the ability to meet the demand for the changes or do you foresee backlogs, and, if so, who will be the losers?

Finally, can you provide some clarity. Is the deadline of 2 May for putting the form into the Department or for the change to the action by the Department?

Mr A Elliott: The deadline of 2 May is for the form to arrive with the Department.

On your earlier point, I think that it is going to be the case that, if there is a large number of trades, and that may or may not happen, it will take us several weeks to process them. That has the potential to impact on the commencement of the inputting of all the data relating to the single application forms. Does that carry a risk of some delay to the cycle that we have to go through with single application forms? Yes, it does. Will we as a Department work hard to mitigate that? Yes, we will.

We will work on trying to do that by first promoting the online applications, as we always do. We expect that numbers will go up again this year because the forms are pre-populated again, and we are promoting that actively. That will help us catch up a bit. Similarly, if we can extend the remote sensing again and have it working more effectively and more quickly this year, that will accelerate the processing of applications. It is a very good question. There is absolutely a risk there, but we think that we can manage it and still have a good payment outcome in December.

Mrs Dobson: I hope so, because, ultimately, the farmers are always the losers.

Mr Swann: Thanks for your presentation, Andrew. A lot of your answers have started with the words, "We have to wait on the policy decision to be made". We have extended the deadline until 2 May. People are not going to trade their entitlements unless they know how much they are worth. Obviously, that cannot be established until the policy decisions are made. When can we expect those policy decisions to be made?

Mr A Elliott: That is a question that has been put a couple of times, and I do not have the answer to it. You will be seeing colleagues from that side of the Department next week, and that will be an opportunity for you to get the very latest position from them on the likely timing of policy decisions. The policy decisions on pillar 1 must be made by 1 August so that the default options do not come into play. How far in advance of 1 August they are made is in the hands of the decision-makers.

Mr Swann: Obviously, you are trying to say that you are not one of them.

Mr A Elliott: That could well be the case, yes.

Mr Swann: The decisions have to be made by 1 August, but we have extended our trading deadline to 2 May.

Mr Elliott: We cannot extend the trading deadline beyond the commencement of the single application period, because that would create other problems. It would be impossible to manage that

kind of situation. It is an attempt to give people some extra time to weigh up the issues. That does not for a moment suggest that they will not be making their decisions about trading or not trading in the presence of perfect knowledge. It is unlikely that they will have perfect knowledge; rather, they will have to make a business judgement on whether to trade and whether the price is right, or whatever.

Mr Swann: The Minister last week said that it was her intention to write to all business holders to give them the information. Is that still the Department's intention?

Mr A Elliott: Yes.

Mrs V Bell: The letter that the Minister referred to was drafted and was more or less ready to go. However, because we needed to have this conversation, we wanted to put a revised trading deadline in the letter. Therefore, the letter is sitting waiting to go on the back of the outcome of today's discussion.

Mr Swann: Will you be doing up another question-and-answer leaflet in the same way in which you did for active farmers on the issue?

Mr A Elliott: The letter will reference the questions and answers, but we will not be including them in the letter.

Mr Swann: Will you update the questions and answers?

Mr A Elliott: They will be kept updated. If people are online, they will see the updates as they happen. If they get a paper version from a local office, they may need to go back to check that nothing has changed.

Mr Byrne: I want to go back over an issue that cropped up earlier when William was asking a question about the application for 2014. Am I right in saying, Andrew, that the active farmer definition includes landowners who maintain their fencing and drainage and keep their land in good condition, even though they may rent out in conacre to a tenant farmer?

Mr A Elliott: Yes, they could be considered an active farmer if they engage in meeting the GAEC standards themselves; in other words, as long as they are not relying entirely on the conacre farmer to deliver on the good agricultural and environmental condition.

Mr McAleer: Joe pre-empted what I was going to ask. I apologise for having arrived a bit late. I had to stay in the Chamber to ask a question of the Minister of Culture, Arts and Leisure.

I want to deal with the active farmer issue a wee bit. Farmers who have spoken to us are in a dilemma around their entitlements. They do not know whether to transfer them, or whatever. They do not know whether they will be considered an active farmer under any new definition.

I was looking through the Welsh Government document on CAP reform, which includes a very clear flow chart for farmers. The document makes it very clear that there are three definitions for "active farmer": involved in the production, rearing and growing of agricultural products; involved in maintaining the "agricultural area"; and involved in carrying out minimum activity, as set by the Government. That is the clearest example that I have seen. The sooner we can get some clarity to people who are in no man's land, so to speak, the better. Let us hope that we can provide something like that — something clear and legible — for our farmers so that they will know whether they are active farmers. That would be really helpful.

Mr A Elliott: I am grateful to you for drawing my attention to that. One of the things that I have observed in recent weeks is that the Welsh have a lot to teach us. They do things rather well in a number of respects in the areas in which we work, and that is one of the things that we will want to pick up and look at, in order to see whether we can learn anything from the Welsh. Something that I am engaging in actively with colleagues at the moment is on spending time with the Welsh to see whether there is anything that we can do to improve our systems or communications based on what they are doing. Therefore, yes, I am happy to look at that further.

Mr McAleer: Based on the fact that they very clearly explain how they see pillar 1 and pillar 2 working together to modernise the industry and make it more innovative, you can see that it is a very good

document. It is something that I recommend you should issue to our farmers, because it is pretty clear and concise.

Mr A Elliott: We can perhaps have a word afterwards.

Mr McAleer: Yes.

Mr Milne: I am sorry for having arrived a wee bit late. You might have already given answers to some of the stuff that I will ask about.

The farmer does not really have a choice. He will have to sell his entitlements, because is it not a fact that, after May, those entitlements will be lost?

Mr A Elliott: At the beginning of the meeting we were discussing that. The decisions have not been finalised. However, if the decision is made to re-establish new entitlements in 2015, all the old entitlements will be gone, and farmers will be starting afresh. New claimants will have to establish entitlements and begin from 2015.

Mr Milne: Why would they buy entitlements now, if they have to buy them again in 2015?

Mr A Elliott: They do not have to buy them again. They can seek to establish entitlements in 2015. There will be people who, for example, have no entitlements at present who might well be entitled to establish entitlements in 2015, and there will be others who have entitlements at present who may discover that, if the delegated Act goes through as planned, they are no longer entitled to establish entitlements.

The issue for people with trading is that, depending on the decisions made on the pace of movement towards flat rate, there may be certain financial advantages for the conacre farmer having the entitlements from the landowner in the 2014 year, because that could influence the value of their entitlements to some degree in the early years. The closer the system moves towards flat rate, the less beneficial that is. If the system moves quickly to flat rate, that gives the conacre farmer buying those entitlements less benefit than if it moves slowly to flat rate. Again, those decisions have not been made. That is why it is a difficult call. Ultimately, it is why we cannot advise people on the right thing to do, because, to some extent, they are taking a chance on the policy decisions falling their way. Everybody has to look at their circumstances.

There are some wider issues, however, that people need to take account of. One is that, as you know, we have spent a lot of money in recent years tightening up our control arrangements, such as putting in place maps and new orthophotography. Over time, that will continue to bear down on anyone who is not properly looking after their land. If there are people in the system who are struggling to keep their land in good agricultural and environmental condition, they may want to reflect on that, because, more and more, we will pick up on that combination of scrub and dense rush that they may not be keeping on top of. They will cause themselves financial problems, and they will cause risk to the Department's fund with Brussels. In a sense, this is an opportune time for people to reflect on their activity as farmers and whether they want to pursue into the future claiming single farm payment, basic payment, greening payment and all the other arrangements that come about. That is something that people have to think about. In other words, the system is now more onerous, and the controls will be far tighter than perhaps they were in 2005.

Mr Milne: If a farmer sells his entitlements before May of this year and has no intention of farming his land for the next two or three years, will he have an opportunity to buy entitlements again if he wants?

Mr A Elliott: Yes. People who wish to purchase entitlements can do so. Are they required to have a business ID, Valerie?

Mrs V Bell: Yes.

Mr A Elliott: They would have to make sure that they still had a business identification to be a purchaser of entitlements. The trading of entitlements will carry on, and it will be possible for people to sell or buy entitlements in future if the CAP reform arrangements go through as planned.

Mr Milne: And the farmer who does not farm holds on to his farm number.

Mr A Elliott: Whether someone will be able to hold on to their business ID, it is probably a little too soon to say quite what the plans are for that. We are working on the issue of control and a control framework that would be relevant to the needs of the active farm or environment. Last year, auditors from the European Court of Auditors raised issues with us about whether the farmer was farming the field. You are standing in a field, looking at the farmer. Are they actually farming that field? Are these paper acres or are they real? It is a live issue for us. As we go into CAP reform, from my perspective we will want to try to make sure that we have as good a control as we can get over such things. That will, I expect, involve us looking at the business ID and the regime within which you can have and hold on to a business ID. I do not think that anyone should assume that the rules will stay the same for the controls as they were in the past.

Mr Milne: I like the idea of what Declan said: that the Welsh example is right. If a farmer keeps his land and holds on to his entitlements or chooses not to farm the land —

The Chairperson: I am sorry; what Declan was referring to is on page 206, if other members want to look at it.

Mr Milne: I will let it go. You have thrown me, Chair. *[Laughter.]*

The Chairperson: I will bring you back in if you get your train of thought.

Mr McMullan: I apologise for being late; I was at another meeting. Are personnel in all DARD offices now equipped to answer questions from the farming community if they have problems with the scheme?

Mr A Elliott: All local offices have been provided with the questions and answers by policy side. Those are with them and they are asking further questions and getting further advice. However, there is a "but": the one thing that they will not be in a position to do is say to a farmer: "Here is what you should do in relation to trading entitlements". It would be inappropriate for them to tell a farmer or landowner what to do. Why? For a start, if the final policy decisions turned out to be different, the farmer or landowner could feel aggrieved that they had come to a DARD office and been given a steer that turned out to have cost them money. We do not want the Department to be accused of maladministration.

Mr McMullan: So you are saying that farmers now need to look at their entitlements, conacre and what they are worth and think about either holding or selling them. There is more and more of a business case for holding on to something historically.

Mr A Elliott: Claimants should be talking to organisations such as the Ulster Farmers' Union, tax advisers and other agriculture consultants, as that is the only way that they can get good advice and perhaps balance the risks. My guess is that it will be about balancing risks, certainly until the policy decisions are made.

Mr McMullan: What are the consequences for the flat rate if we step over the 1 August deadline?

Mr A Elliott: Policy colleagues will be able to take you through the details of that next week. However, in broad terms, I understand that it would lead to a flat-rate entitlement value, among other consequences. That would guarantee a single region, and it would no longer be the choice of the devolved Administration to make decisions on certain things.

Mr McMullan: It will be a flat rate immediately; it is not a phased-in flat rate.

Mr A Elliott: I understand that that is the case.

Mr McMullan: There is a great deal of information floating about on different aspects of that, but the point is that, once it goes past 1 August, it becomes a flat rate immediately.

Mr A Elliott: Yes, I gather that that is so.

Mr McAleer: I know that DARD cannot have any influence on the transfer and entitlements and what they might cost. I see farmers whose entitlement is perhaps three times more. One farmer has

inherited some entitlements that were three times lower than the value of his existing ones. What value can be placed on those if he tries to trade them? How is that determined?

Mr A Elliott: It is determined by what someone is prepared to pay for them. It is a market place. That is all I can say. That will, in turn, be affected by how confident individuals feel that certain policy decisions will be made. It will be a judgement call for people playing the market.

Mr McAleer: The comments that Mr Orr sent to the Committee summarise many of the issues facing farmers. For example, under a conacre arrangement, a lessee may not be willing to invest heavily in land leased for only a year or two from a landowner. There are many issues that need to be addressed.

Mr A Elliott: Not everywhere in Europe has a conacre arrangement. People need to reflect that the land in this country is very transitory in the sense of the period for which it is available to a farmer. That is an interesting and fairly uncommon situation on the island of Ireland, and we have particular circumstances because how we have deployed the common agricultural policy in the northern part of Ireland.

The Chairperson: This issue is having a massive impact on the market and on agricultural work. It seems to be down to our conacre and how we plan business here. There are two dates: 1 April and the August date, which is much more final. There is a parallel line of policy, and everybody is looking for answers and looking towards the policy to see exactly how they will fare.

This has a massive impact for the potato men, who are up in arms all over the place because they do not know what to do. Much of the land used by potato men will not be their own land; most of it will be conacre, but not the same conacre, due to crop rotation. You do not put potatoes in the same field, year in, year out. This could have a massive ramification for that and for other production.

Mr A Elliott: Indeed. CAP reform is something on which potato farmers, cereal farmers, and so on, should be very careful to take good advice, because the rules that will govern the greening arrangements, for example, even after they have established their entitlements, will be onerous for some of them. It will be very important for them not to fall foul of penalties in relation to the proportions of one crop to another, and so on.

The Chairperson: Yes, but my point is that the potato men's destiny will never be known, because it will be up to the landowner to sell the entitlements to them. Even then, they will not want the entitlements for a long period. What is to stop a landlord who has a massive amount of land and who has not farmed it getting a few head of cattle or sheep that do not need to be maintained and claiming on 1 August? That will seriously hurt production.

Mr A Elliott: People can choose what they do with their land. The rules will come into play. Some people will be advantaged by that and some will not, but certain rules will have to be determined. You are right: some of the more challenging situations involve people who use different land each year. They will have to try to find a way of managing the land and to secure the entitlements that they need for the appropriate area.

The Chairperson: As we go into convergence to flat rate, if a farmer or landowner, so as not to complicate it, keeps his or her land in good environmental and agricultural condition, what will they be entitled to?

Mr A Elliott: They will be entitled to a rate that relates to the value of their entitlements before CAP reform. Again, it depends. Many of those who are merely keeping their land in good agricultural and environmental condition have very low-value entitlements, so, if there is a gradual move to flat rate, those entitlements will begin to move progressively higher. On the other hand, some farmers have gone out of active production during the current CAP period, and some of them may have very high-value entitlements. Just like the productive farmers with high-value entitlements, those entitlement values will progressively come down as each year passes after CAP reform. Again, that is assuming that there is a progressive rather than an immediate move to flat rate, which would mean everyone's entitlements would be of the same value in 2015, if that were to happen.

The Chairperson: What incentive is in there at present to farm?

Mr A Elliott: The common agricultural policy is not designed to incentivise production; that is not what the policy is about. I cannot add much more than that.

The Chairperson: Out of all CAP reform, this could be the issue that makes or breaks the industry. There is a fear that it could break the industry. Do you agree? This is probably the biggest fault line.

Mr A Elliott: I could not say. I think that the world is much more complicated than that. At present, there are multiple farmers farming in Northern Ireland with differing values of entitlements, for example. Indeed, some are farming without any entitlements whatsoever. There is always the factor of how efficient and innovative your business is and how good you are at getting good produce to the marketplace. Those factors will always be there and will always be important. However, the levels of support —

The Chairperson: We have to make a decision on the specifics of that date today. This may be a silly, obvious question, but I will ask it anyway: you say that you want to push it back from April to May because of the application for this year's single farm payments.

Mr A Elliott: That is in order to provide more time for people to consider their trading options.

The Chairperson: What is to stop you giving people a full year to reflect and have a deadline of April 2015?

Mr A Elliott: That option is not available.

The Chairperson: Why not?

Mr A Elliott: There is no advantage to anyone, for example, in a situation where, after the 2014 claim has been made, those entitlements are finished, essentially. If we move then to establishing new entitlements, it would be difficult to envisage why someone would want to trade at that point because it would not be relevant to any decision-making thereafter. It would not provide benefit to anyone. Am I right in that? Valerie, you might want to add something.

Mrs V Bell: What we are looking at here is the position in the 2014 scheme year. As Andrew said at the outset, trading happens every year. Entitlements are traded; people buy and sell. In previous years, we have asked for those applications to be with us by 2 April. That allows us six weeks before the single application form closing date on 15 May to process those applications so that people know at the outset what they do and do not have. This year, we are still looking at the 2014 scheme year. It is important to remember that. We propose, as Andrew said, to extend the date this year for four weeks to give people more time to consider their options, especially with a letter going out that may raise more thoughts in people's heads. The applications then have to be processed for the 2014 scheme year because those are trades that will affect 2014.

Mrs Dobson asked about the implications for payments. As I say, Orchard House colleagues work very hard to clear applications in the six-week period so that people know whether they have been accepted or rejected. If we extend the deadline this year, it is unlikely that we will be able to clear them within the six weeks. That will happen in slower time as well. However, they have to be sorted out for the 2014 scheme year. This is the deadline for the 2014 scheme year. As Andrew says, depending on what happens with entitlements, if they are reallocated, there would not be trading in 2015 because the information — probably a bit like in 2005 — would not be out in time, et cetera. Trading would start after that point. It is likely that it would start for the 2016 scheme year. So trading could still happen. With regard to their bringing it into play, and people cannot trade until they know what their entitlements for 2015 will be, when they have them, potentially there will be a process to allow them to trade in time for 2016.

The Chairperson: What you are saying is that it is not as critical for the whole CAP time.

Mrs V Bell: I suppose that if people are bound up in that active-farmer debate, it allows them to say that they would actually now like to trade those in time for 2014 because they may not be able to claim them in 2015. It is about those sorts of decisions, as Andrew said.

Mr A Elliott: If that is what they judge they should do; we are not suggesting that they should do that.

Mrs V Bell: It is the business case; as Andrew said, the risk and the options for them.

Mr A Elliott: Perhaps I should also say that if the final policy decision were that the current entitlements should carry on — I have not seen very much support for that, but it could happen — people could trade as usual from year to year into the future.

Mrs V Bell: It depends on what happens to the entitlements.

Mr McMullan: For those looking for entitlements for the first time, is there a pool that they can apply to?

Mr A Elliott: We expect that there will be some arrangement, a national reserve, for example, to which people will be able to apply if there is a special reason why they need to be considered. We would want to make arrangements for that. The details cannot be settled until we know where we are going.

Mr Milne: It is very confusing. On the one hand, you are saying that farmers should get good advice, but you are not telling them what to base that good advice on. You are being very vague. If a farmer is encouraged to sell his entitlements before May and he buys them at x pounds, are you telling him that next year those entitlements could come into a flat rate where they are cut? Is that not what you are saying? Is it not putting the cart before the horse? The rates should be established and then the farmer could make a business case.

Mr A Elliott: I entirely sympathise with the point of view that it is not as easy for people to make decisions at present as it would be if they knew what the future policy would hold, but that is where we are. We are trying to give people a little more time. We are debating today whether to give people a bit more time to trade while recognising completely that it is not an easy environment within which they as farm businesses have to make those decisions.

We know that there will be loads of questions, and we also know that the Department will be somewhat constrained in answering them. It is important to get the message to farmers to take professional advice elsewhere and not to look to the Department to give them certainty. If they want to make the best decision, it will probably be based on the best professional advice that they can get, recognising that the impact of this can make a difference to them for several years.

Mr McAleer: The CAP is not designed to centralise production. Under CAP pillar 2, a suite of business improvement schemes is proposed to help businesses to develop to meet the future demands of the agrifood market. Surely the schemes that are proposed are aimed at helping production. Is that not the case? Secondly, given the lack of clarity around that decision at present, under the current policy it is possible to lease entitlements. Would it be possible to advise farmers that in the absence of a clear policy, they could lease them until the policy becomes clear, or would that prejudice the ownership of entitlements down the line?

Mr A Elliott: Taking the common agricultural policy first, I was really referencing pillar 1 payments to farmers where there are trade-based constraints on the European institutions in relation to how they fund farming. I could do with a wee reminder of your second question.

Mr McAleer: If we are unclear on the policy and we are all about trading entitlements, would it be a safer option to lease them until we see how the policy shakes down?

Mr A Elliott: Again, I cannot provide advice on that. However, if someone who owns entitlements chooses to lease them in 2014, that would not have any impact on the subsequent value of the entitlements that the person who leased them would have in 2015 were all the various policy decisions to fall out in that order. In other words, things can happen as a result of selling the entitlement that cannot happen as a result of leasing it. The buying and selling is likely to be the major issue of debate around 2014.

Mrs V Bell: The existing rule, when we talk about trading, is that you can sell your entitlements with or without land or you can lease your entitlements. If you lease your entitlements, you have to lease the land. So, it is sell with or without and lease with. There is a difference there, but as Andrew said, individuals have to choose how they play this.

Mr Byrne: I congratulate Andrew on skilfully differentiating between the administrative function and the policy function. In coming to a policy determination on pillar 1, and bearing in mind that the default deadline of 1 August is a cliff face, does the policy have to be provided by the Minister herself, with senior policy officials advising? Secondly, does that mean that there will have to be communication with DEFRA in London? Thirdly, will there also have to be negotiations with Brussels to finally determine whether we wish to have such defined before 1 August?

Mr A Elliott: I know that there is lots of ongoing negotiation on the detailed regulations. As delivery colleagues, we feed into that about the details of the regulations and we try to have an impact, which means working alongside colleagues in DEFRA and those from other member states to some extent to try to get the right outcomes and make some of the detail work properly. There is a lot of activity at that level.

Decisions for the Minister is a question that is the subject of considerable consideration in light of the December court case and so on. Obviously, those decisions that need to go to the Executive will be taken to the Executive and those that do not will remain with the Minister and the Department. That judgement will be made by the Minister, advised by policy colleagues.

The Chairperson: There are no further questions. We have discussed this for quite a while. The Department is asking for our opinion on this. Does the Committee agree that DARD should extend the date for trading payments to 2 May 2014?

Mr Byrne: Yes, Chairman, but we should qualify that slightly. We should also ask that DARD should helpfully clarify the advice pertaining to the 2014 obligations.

The Chairperson: OK. Are members content with that?

Members indicated assent.

The Chairperson: Thank you very much, Valerie and Andrew, for your time here today.

Mr A Elliott: We will now move to get the statutory rule to you for amendment as quickly as we can.

The Chairperson: OK. Thank you very much.