



Northern Ireland  
Assembly

Committee for Agriculture and Rural  
Development

# OFFICIAL REPORT (Hansard)

CAP Pillar 1: DARD Briefing

29 April 2014

# NORTHERN IRELAND ASSEMBLY

## Committee for Agriculture and Rural Development

### CAP Pillar 1: DARD Briefing

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**Members present for all or part of the proceedings:**

Mr Paul Frew (Chairperson)  
Mr Joe Byrne (Deputy Chairperson)  
Mr Thomas Buchanan  
Mrs Judith Cochrane  
Mrs Jo-Anne Dobson  
Mr William Irwin  
Mr Declan McAleer  
Miss Michelle McIlveen  
Mr Ian Milne  
Mr Robin Swann

**Witnesses:**

Dr Rosemary Agnew	Department of Agriculture and Rural Development
Mr Norman Fulton	Department of Agriculture and Rural Development
Mr Mark McLean	Department of Agriculture and Rural Development

**The Chairperson:** I welcome Norman Fulton, grade 5 chief agricultural economist; Rosemary Agnew, grade 7 principal officer; and Mark McLean, grade 7 principal agricultural economist. As always, you are very welcome to the Committee. I note that you have been very busy travelling around the country and going to meetings, especially you, Norman — I have come across you a couple of times. I know that you are very busy and that this is a very busy period for you in your section of the Department.

Members have had a chance to read your briefing paper. I ask you to take up to 10 minutes, if possible, to address the Committee. As you will no doubt be prepared for, the discussion will probably be wider than the technical decisions taken by the Minister on CAP. However, Norman, I have no doubt that you will be able to cope with the questions that we will pose to you with your team alongside you. I also ask members to keep their questions concise and to the point. Without further ado, I hand over to you, Norman.

**Mr Norman Fulton (Department of Agriculture and Rural Development):** Thanks very much, Mr Chairman. I will very quickly go through the main decisions that have been announced so far and will leave plenty of time for questions.

Two sets of decisions have been announced so far. The first was on 14 March on entitlements. All existing single farm payment entitlements are to be cancelled at the end of this year and new entitlements allocated in 2015. That is really to restart the system and will provide the opportunity for landlords and non-farming landowners to exit the system at that time. Entitlements held in 2014 will form the basis of the calculation of the initial unit value of entitlements; and the option to restrict the

number of entitlements to the area of land declared in 2013 will not be used. Those were three important decisions that were announced on 14 March to facilitate decisions by landowners and farmers on the trading of entitlements this year.

A second batch of technical decisions was announced on 9 April, the first of which related to eligible land and clarified the position on heather, making it absolutely clear that that is an eligible land use. There were decisions not to apply reduction coefficients for the purposes of either establishing or activating entitlements and making it clear that areas under permanent greenhouses would be eligible for the purposes of establishing entitlements. There was a decision on minimum claim size for the establishment of entitlements and subsequent claims, which was set at three hectares. There is to be no siphon on the transfer of entitlements without land.

There was an important decision on those who have never held single farm payment entitlements but who can be brought into the new regime if they can show that they were actively involved in production activity in 2013. We will have to make provision for new entrants and young farmers under the regional reserve, and we will also have to make provision for cases of force majeure or exceptional circumstances from the reserve.

There was a series of decisions around greening, the first of which was a decision not to use the equivalence option for greening but to stick with the provisions that are set out in the EU regulation. Permanent grassland will be monitored at regional level; that is an important decision, which removes a lot of potential bureaucracy and restrictions for individual farmers and for the Department. We think that it does not create any significant issues for us, given the very stable nature of our permanent grassland in Northern Ireland.

There was a decision not to extend, at this point, the ploughing or conversion ban beyond the areas designated under the habitats and birds directives. However, that will be kept under review so that, should there be an emerging problem, we always have the choice of re-examining that option.

There was a series of decisions on ecological focus areas (EFAs). We will use the conversion matrix that is available to us for the purposes of calculating areas of ecological focus. That is an important simplification. There were decisions around the eligible features and areas that would count towards an EFA. The most significant one for Northern Ireland will be landscape features, particularly hedgerows and field boundaries, which, in many cases, will be sufficient to meet the EFA requirements for those farmers who have such an obligation.

Finally, there was a decision not to use the redistributive payment or the small farmers' scheme. The negative list of non-agricultural businesses associated with the active farmer test will not be extended beyond the mandatory list that exists in the regulation. Tests that would be available to us under the regulation on this issue will not be extended.

Those are the main decisions that have been taken so far. I am very happy to take questions on those decisions or on other issues that you may well have.

**The Chairperson:** You must be reading my mind, Norman. Thank you very much for your presentation and for keeping within the time, which I appreciate.

Some of these decisions have been made already; some of them are very welcome and are common sense because the farming community has been crying out for them for some sort of assurance so that they can move forward. However, you will know that, when we attend meetings with the wider farming community and the public, we are aware that a state of uncertainty is still rife. People find it very hard to deal with entitlements when they do not know what agriculture will look like this time next year and moving forward through the years of the programme.

What is your role now, Norman, with these decisions having already been made in, if you like, a drip-feed fashion, albeit that they are welcome? What is the process for you now? I know that I have asked you these questions at public meetings. When will the Minister take her proposals, in their entirety, to the Executive for them to assess and make decisions on, so that the farming community will know exactly what they face? Will you explain to us what the process will be from here on in for you?

**Mr Fulton:** Sure.

**The Chairperson:** When will you make recommendations to the Minister; when will the Minister take those to the Executive; and when do you see decisions being made?

**Mr Fulton:** We certainly have an awful lot of decisions to be taken on CAP reform. We have been trying to feed out some of those decisions and move forward on that basis. On the remaining batch of major decisions to be taken, we have collated our policy analysis, taking on board the views of stakeholders, and have made our submission to the Minister. That policy document is with the Minister, and it has effectively entered the political process at this stage. I think that the Minister referred to that during Question Time yesterday. So, from here on in, we will be there to support the Minister through that process with policy advice. However, it is essentially within the political sphere and will move forward within that.

Clearly, we need to have a set of decisions. The absolute deadline for that for making notifications is 1 August. As the Minister indicated yesterday, if we can get decisions in advance of that, it would be very welcome for the Department and for farmers. However, we have that absolute deadline that we need to be very mindful of.

**The Chairperson:** You are right: the Minister mentioned that at Question Time yesterday. That worried me because I believe that those decisions should have been made by now and that we cannot look at that as a deadline and have to have the work done beforehand.

No doubt, you will have been speaking to and advising the Minister for months on these issues. With the submission that you handed to her, was there an advised deadline for when she should go to the Executive?

**Mr Fulton:** Obviously, it is not really our place to do that. We advise the Minister and make her aware of our analysis and recommendations. The Minister is very well aware of the ultimate deadline that exists, but it is for her to take that forward within the political process and to the Executive.

These are very important decisions and a very significant sum of European funding will come into Northern Ireland over the next number of years — up to £2 billion or thereabouts. Clearly, it is right that the Executive take a decision on these matters, and it is very significant for the industry as a whole. I think that it is correct that time is taken to make sure that the decisions are well founded, well based and reflect the overall balance of interests that exist in Northern Ireland. With the reform, it is absolutely inevitable that there will be a major redistribution of support. We will not have a set of decisions that will please everyone. Therefore, it is about trying to take a set of decisions that are right and fair for the industry as a whole. It is a difficult set of decisions.

**Mrs Dobson:** Norman, thank you for your briefing. The Minister's clarification on the technical issues has helped to clear up some of the uncertainty, but, as the Chair said, major decisions are still undecided.

I want to focus again on young farmers. What do you envisage the uptake for support for young farmers and new entrants to be? What will be the likely impact on the basic payment scheme that will be required to fund the regional reserve? I will give you all my questions at once. What is the Department's current position on a suggestion in the consultation of a level 3 qualification for eligibility for the young farmers' scheme? The Minister confirmed to me that she is reviewing that. Could you provide an update on that?

**Mr Fulton:** First, you asked about the uptake under the young farmers' scheme. It is always difficult to predict that. There is an absolute budgetary limit of 2% for the scheme, so no matter how many individuals come into that mechanism, it is limited to 2% of the budget. We will just have to wait and see how many come forward. It is virtually impossible to predict the number.

Initially, the regional reserve can be set at up to 3%. If more is required to meet the demand for allocations to young farmers and new entrants, there is provision to increase that level. This is all working within a single pot, so if any part of the pot is increased, the remaining amount that will go towards the basic payment scheme is reduced accordingly. It is a zero-sum game.

We put the level 3 qualification suggestion out there as part of our consultation. Although there were concerns about whether level 3 might be too high, there was broad acceptance of the principle of trying to encourage and reward those who went to the effort of investing in their skills.

**Mrs Dobson:** *[Inaudible.]*

**Mr Fulton:** That is the right message to send and gives encouragement. It is not a case of just going through a hoop for the purposes of getting access to support; it will be a benefit to the business in the longer term. The principle is right. As I said, there were concerns about the level 3 and that is with the Minister for her consideration.

**Mrs Dobson:** I know from personal experience that my son is superb at handling animals and working on the farm but he could not have gained a level 3. That would have automatically ruled him out, and he is not the only one, from what I am hearing. The bar is set very high for that. We do not want to discourage —

**Mr Fulton:** Sure.

**Mrs Dobson:** — so we will wait with interest to see the outcome of that, because you did say that she would review it. It is vital that it is reviewed. We cannot just eliminate some young farmers because they are not up to level 3. They are excellent young farmers.

**Mr Fulton:** That is absolutely right.

**Mrs Dobson:** His skill in cattle-handling and bookwork is superb, yet he would not have attained that level.

**Mr Fulton:** Sure.

**Mrs Dobson:** Are you concerned, Norman, at the criticism from some that the consultation questions from the Department on the CAP implementation were vague at best? Those would, obviously, impact on the answers. I am asking because this issue has been raised with me by so many young farmers. They deserve to receive additional support to become established and remain in the industry. Could you give us an assessment of the possibility of a capital grant scheme being brought forward by the Department along the lines of Scotland? That is an issue that I have raised in this Committee many times, and it would also help to retain young farmers. Everywhere I go, I am asked this again and again and again: where is the encouragement and the parity with Scotland to keep them in the industry?

**Mr Fulton:** With the questions in the consultation document, we tried to focus as much as possible by making suggestions. There were two ways we could have gone: we could have left it very open and simply said, "Here is the policy framework; what do you think?".

**Mrs Dobson:** It was vague.

**Mr Fulton:** That would not have given us an awful lot. Making suggestions and saying, "We suggest we do this" served to focus the responses around those suggestions and gave us a much more useable response from our consultation than would otherwise have been the case. You do not want to close off possibilities, but at the same time you want to provide direction and focus so that you get a useable response from stakeholders. That is the line you try to tread in a consultation. We got a good response to that consultation. I think that it was the right thing to do. I think that a lot of stakeholders appreciated that approach to try to set out, if you like, a suggested or a recommended framework that we would apply. It did serve its purpose.

The capital grant scheme is a pillar 2 issue. We are not directly involved in that, although Rosemary has been involved in looking at specific issues around young farmers. We had our own new entrants scheme that we operated as nationally funded state aid for a number of years. That provided us with a useful evidence base to look forward at what such a scheme could do. We put that as part of the consultation on pillar 2 last year. The conclusion that we came to was that it is perhaps not as effective as you might think. It creates a lot of bureaucracy, and, on holdings that are coming forward for significant support for capital grant, you probably find that they will tend to have succession issues already addressed in the business or that they will have successors coming along in the business.

**Mrs Dobson:** They could do such more for the young farmers if they had the capital grant in place, surely.

**Mr Fulton:** Yes, and the consultation on pillar 2 looked at a tiered approach to capital grants, so you were looking at some quite high levels of capital grant being available compared with the current programme, which, under farm modernisation, was quite a small level of capital grant. We are really looking to use the capital grant scheme to develop a business, and, therefore, in return for access to significant capital to support the business, there needed to be a clear development pathway for that business based on a business plan etc to move the business along. So, it involved taking much more of a business focus around the whole issue. I think that that ties in very well with a young person on the farm. They have that longer term perspective.

**Mrs Dobson:** You can understand the frustrations, Norman. They have the business plan and know where they want to take their business. They just do not have the funding. They look at Scotland and see the support that the young farmers are getting there. Anywhere I go, I am asked constantly why we do not have it here when we have it in Scotland. We could do so much more with growing businesses if we had that scheme.

**Mr Fulton:** Sure. That is something that is really being considered in the new programme. Also, the fact that you will have additional support for young farmers under pillar 1 is an additional injection of support into the business that does help in those formative years where the young person is taking over the reins of the business. For the first five years as head of holding, they could qualify for this additional level of support. So, it is a very important time to get them established in the business, and that will be available under pillar 1.

**Mrs Dobson:** Finally —

**The Chairperson:** I will come round again, Jo-Anne.

**Mrs Dobson:** It is the same point.

**The Chairperson:** I will come round again, because you have had a good stab at it.

**Mr McAleer:** On the decision to extend the single farm payment to people who do not hold entitlements but who present verifiable proof that they were engaged in agricultural activity on or before 30 May 2013, are you able to give a bit more clarification on the nature of the verifiable evidence that is required?

**Mr Fulton:** For the most part, we should be able to derive that from our own records. Most farm businesses in Northern Ireland have livestock, so, if we know that the business exists and there was an active herd in that business and there were animals on the holding, I think that that is pretty clear evidence of agricultural activity. That can be driven largely from our own administrative systems. So, we already have that evidence available.

There may be businesses involved in potato production or cropping, for example, for which we may not have a direct link to that type of evidence. I think that, if those individuals are genuine farmers and were involved in production in 2013, it should not be significantly difficult for them to present evidence of what they have been doing. They will have had purchases of fertilisers and inputs, and they will have had sales of cereals, potatoes, horticulture or whatever. They will have all the evidence that they would need to show that they were actually involved in production in that year. So, I do not see it as being an insurmountable hurdle for those individuals to prove that they were involved in production.

**Mr McAleer:** You said that the value of your entitlements held in 2013 will inform the value of your entitlements in 2015. Will you elaborate on how definitive "inform" will be? Will it be the case that the actual value will be rolled over to 2015? How will it be calculated? I have one more wee thing related to that. Take farmers who, this year, are not actively engaged in production and agricultural activity for some unforeseen reason, such as a medical matter, but who, in 2016, 2017 or further in the future, may well be in a position to engage actively in agricultural production. Will they be eligible to apply for entitlements at a later stage? Or, is 2015 the definitive cut-off year?

**Mr Fulton:** The first issue is entitlements held in 2014. We recognise that many farmers hold more entitlements than they currently claim. They will always have slightly more, which, I suppose, goes back to an historical issue. Back in 2005, they may have been entering land that was not strictly eligible, so many farmers will have slightly more entitlements than they will actually be claiming. Using

entitlements held allows them to recycle or keep the value of those entitlements alive as we move into the new regime. Effectively, the process will be that, coming out of 2014, farmers will hold a pot of support. We are not so much interested in the number of entitlements that they have as the total value of those entitlements. Initially, that is rolled forward into 2015 and will be spread across the area of land declared in 2015 to create the number of new entitlements that they will be allocated and to set their unit value. Then, in that year, you start the first year of progression towards flat rate at whatever pace is decided upon for that progression towards flat rate. That is the mechanism. Obviously, if we were to go flat rate immediately in 2015, that becomes irrelevant.

On your second issue regarding farmers, 2015 is the year in which entitlements will be established. That is the key year; that sets everything up for moving forward. Beyond 2015, the only entitlements that would be allocated would be entitlements, out of the regional reserve, in the cases of new entrants or young farmers. That is the only mechanism that we would have beyond 2015 to allocate new entitlements. I suppose that it depends on whether certain people fall into the definition of new entrant or young farmer as to whether they will be able to come to the reserve and make an application from it, beyond 2015.

There is also the provision for force majeure, or exceptional circumstances. I think that that would probably apply primarily in 2015. It is difficult to envisage that there would be circumstances that would extend beyond 2015, so it is what exceptional circumstances, or force majeure, prevented an application being lodged in 2015. I cannot see that that is going to extend beyond that year, given that 2015 is the year in which the system will be established.

**Mr McAleer:** Thanks, Norman; thank you, Chair.

**The Chairperson:** Can you elaborate on what "exceptional" means? What are the things that could come up?

**Mr Fulton:** I suppose it is difficult. There could be some catastrophic event and somebody would not have land available to them, or there could be some sort of major health crisis, for example. I think that each case would have to be examined on its own merits, so you could not really give guidance as such at this stage. It is about dealing with the exceptional circumstances, and you will know about exceptional circumstances.

**The Chairperson:** Does that basically mean that it will be tested at the time?

**Mr Fulton:** Yes, effectively. Exceptional circumstances and forces majeures are things such as a severe natural disaster gravely affecting the holding; the accidental destruction of livestock or buildings on the holding; and epizootic or plant disease affecting part or all of the livestock or crops. There is a range of issues that are probably more relevant to coupled support, for example.

**Mr Irwin:** You are very welcome. The previous questioner covered my question somewhat. In my area, quite a few orchard apple growers never received single farm payment. Of course, they were very active. They were told, although not by yourselves, that there is no way of getting in other than through purchase entitlements. Now you are telling us that there is a possibility, and you accept that you will provide entitlements so that they can prove that directive in May 2013. When is the deadline for them applying for that? Do they have to make an application before May 15?

**Mr Fulton:** I think that orchards were brought in under the health check in 2008. They were not part of the regime in 2005, but the 2008 health check allowed the orchards to come in. At that stage, a decision was taken to allocate the basic value and entitlements on those areas at €78 for each hectare. Orchards will continue to be in eligible land use moving forward into the new regime.

**Mr Irwin:** What about those who did not receive entitlements or did not act in 2008? I am talking about those who are active but who did not receive entitlements or never claimed single farm payment.

**Mr Fulton:** They could come in in 2013 due to being involved in active production. That would get them through.

**Mr Irwin:** Is there a deadline for applying to that?

**Mr Fulton:** They would apply into the regime in 2015. However, if they have never claimed single farm payment before but have eligible land that includes orchards and are involved in that production in 2013, that will get them through to join the regime in 2015.

**Mr Swann:** Thanks for your presentation. In the Minister's answer to me, I think, yesterday, she said that there is now a political process and a process of government to go through. The Question Time before that was OFMDFM, and the First Minister said that his SpAds are talking to the deputy First Minister's SpAds. Is the Minister of Agriculture and Rural Development still in control of that political process, or has it gone into a bigger political sphere?

**Mr Fulton:** You are asking me a question that I am simply not in a position to answer. It is within the political sphere at this point. There is a political process, and it will come to the Executive for a decision. I am not privy to those discussions.

**Mr Swann:** Do you have any idea when it is due to come before the Executive?

**Mr Fulton:** No.

**Mr Swann:** So, where policy advice to date is concerned, you have put forward your paper, and, as far as you are concerned, it is handed over.

**Mr Fulton:** That is correct, yes.

**Mr Byrne:** I welcome the three officials' presentation. I can empathise with them. They are in the same club: the "a verbal attack by Harry club". The vexed issue is that the current level of entitlements are largely determined by the residual relic of 2005. Maybe there could be a fuller explanation of how that fits the bill. Some farmers who have come into farming since 2005 feel very aggrieved that they have not been able to avail themselves of what they regard as fair treatment. Whatever we agree, will we reach the stage of having a level playing field for entitlements?

**Mr Fulton:** That has always been the big issue with decoupled support. We had it in the run-up to 2005 and the model that we deployed at that stage. Moving forward, it is about what a fair distribution of decoupled support is, given that decoupled support is not linked to production and does not have that purpose. It is there as an income support; that is its primary purpose. So, what is the best way of distributing that support? The issue that we face at this point is redistributing that support.

The clear direction that is being set in Europe is that we are moving towards a flatter rate of support. We have a minimum level that we must achieve by 2019, and that has been set out in the overall agreement. We can certainly move faster than that. Some regions have decided to move considerably faster than that. For example, in England, they are already operating a flat rate regime. So, each region has taken decisions. We are on a pathway towards levelling out support.

The big question that we face at this point is the pace of transition and how fast we should move along that pathway towards transition. I think that that is probably the most significant issue in the reform. How fast do we move along that pathway, given the competing positions and needs of individual farmers? Some farmers would like to move faster. We would like to see faster progression for those who have a lower-than-average level of support for each hectare. That is a natural expectation. Similarly, half of active farmers are above the regional average. For them, it will be a difficult adjustment to their business moving forward. They need appropriate time to adjust the business to the challenge of dealing with less support. So, it is a matter of judgement about what is the most appropriate pace of transition that steers a pathway between those competing interests while always progressing towards a flat rate.

**Mr Byrne:** Am I right in saying that one of the anomalies is that the current entitlements are based on coupled payments prior to 2005? In other words, there was a connection between actual production and land use in 2005. A farmer could have built up x plus y entitlements, with x being his own land and y being conacre, and he has still enjoyed the benefits of that entitlement even though he may be farming less at the moment.

**Mr Fulton:** That is correct. The system that was established in 2005 in Northern Ireland largely linked back to claims activity during the reference period 2000-02, and a level of milk quota was held on 31 March 2005. Those are the key aspects. We had a hybrid system in Northern Ireland, whereby we



also had an area-based component in our system. That was €78 euros for each hectare. The reason for having that system was to try to correct what we identified as a problem in the beef sector, where producers of calves were selling the animals clean-eared, for example, or were maybe selling a single-punched animal to someone else further down the marketing chain who would claim the support. However, the value of that and the fact that that animal was eligible for support was reflected in its market value, which fed back to the seller of the calf. With decoupling of support, that chain would have been broken, and, effectively, you would have had a windfall gain for the beef finishers and a significant loss of revenue for the calf producers and suckler producers, as well as for the dairy producers. Therefore, that area-based component was designed to try to offset that effect and to deliver an outcome that better reflected the distribution of support directly and indirectly under the old coupled regime. In 2005, we recognised that that was seen as the fairest distribution, but we also recognised that, over time, it would be seen to become increasingly unfair. That is why at a European level the same situation exists and, therefore, the move towards flat rate over an appropriate time has been required to start to address that issue.

**Mr Mark McLean (Department of Agriculture and Rural Development):** I will also add that it is not necessarily the case that those who have the highest value of entitlements for each hectare necessarily have the highest income for each farm. If you take the severely disadvantaged areas (SDA) beef sector, you will see that it has a value of entitlements for each hectare of about twice the SDA sheep sector, yet the income figures show that the SDA beef sector has a lower income than the SDA sheep sector. If we are talking about whether you have an historic payment or a flat rate payment and how much of each you have, you will see that the further that you move away from the historic base of 2000-02, the more difficult it becomes to justify that link back. It is a judgement call about when it is no longer justifiable, but if you get to 2020, it is certainly less justifiable than in 2005, and if you get to 2030, it is even less justifiable again.

**Mr Byrne:** I would like clarification about the siphon.

**Mr Fulton:** Yes.

**Mr Byrne:** Has a final decision been taken that there will be no siphon in Northern Ireland? Is that the definitive call at the moment?

**Mr Fulton:** That was announced as part of that package on 9 April. There will be no siphon on transfers without land.

**Mr Milne:** Thanks, Norman, for your presentation. You talked about England going flat rate and the pace at which that happened. Why should the rate here be any different to that in England if it follows that same route, and what effects, if any, has it had on farming in England as a whole?

**Mr Fulton:** We can look to England as an example, although other member states, such as Germany, have gone flat rate in the Länder. England did it over an eight-year period. From looking at England's experience, we have seen that the industry has been able to adjust and adapt to that approach. The model that was chosen was to split England effectively into three regions: a moorland region; an SDA outside the moorland; and another region. Going forward into the next phase of reform, it has been decided to combine the other SDA and other area into one. It was announced just on Friday that England is almost doubling the level of support in the moorland.

The moorland in England is very different from what we might see here in Northern Ireland. It was operating at about €35 for each hectare, so it is looking at areas in which there is very low level intensity of agriculture going on. That does not really carry through into Northern Ireland, because we have a different scenario here. Nevertheless, England has identified an issue with activity in the moorland, and, therefore, it has decided to double that rate of support up to €70 for each hectare. England will have a two-region model: moorland and other. So, the model there is being adjusted this time around. However, the pace and progression towards flat rate was achieved over an eight-year period.

**Mr Buchanan:** Obviously, only the land that is linked to production is eligible to entitlements from 2015. How are you going to protect against the scenario where a person is letting the land but will let the land only on the condition that the person who is taking the land claims the entitlements and pays them to him, meaning that he is getting them as well as getting the rent for the land? Obviously, he is compelled, if you like, to take it if he wants to keep on farming. We have a number of farmers who

take quite a bit of land in conacre, and, if they want to continue to produce, they are compelled to either do that or to go out of business — it is one or the other. How can you protect against a situation like that?

**Mr Fulton:** When the entitlements are allocated in 2015, they will belong to the person to whom they have been allocated; they will not belong to a piece of land. So, if a farmer rents land in conacre and uses that conacre land to establish entitlements, those entitlements belong to that farmer, and he can then use them on any piece of eligible land going forward. That means that they are his entitlements, and he does with them as he wishes thereafter. I suppose market forces in the land market will come into play here. If landowners are excluded from the system, we generally expect that there probably will be some upward adjustment in conacre prices. That is the inevitable consequence of pumping money into agriculture. No matter how you do it, whether through coupled support, decoupled support or whatever the mechanism, it always feeds through to inflated land prices. That is a very well-known consequence of agricultural support, and we simply cannot avoid it. Ultimately, the entitlements belong to the farmer.

**Mr Buchanan:** Fair enough; OK.

**The Chairperson:** Just on that point, will the fact that the threshold is coming down from 5 hectares to 3 hectares make it easier for someone who is not an active farmer but has the land to try to dabble in active farming to the detriment of production?

**Mr Fulton:** I do not actually see any significant issue with that. Think of somebody just starting up for whom it is almost like a hobby —

**The Chairperson:** I am thinking of someone whose sole intention is to keep hold of an entitlement, so they are forced to try some sort of farming that gets them over the qualification threshold.

**Mr Fulton:** Yes, bringing the threshold down from 5 hectares to 3 hectares makes it easier for them to do that.

**The Chairperson:** It may tempt them more into trying to actively farm, but they may have no capacity or intention to do so.

**Mr Fulton:** Think of the scale of these operations: 3 hectares is 7.5 acres or thereabouts. For anybody with that size of land holding, the easier thing to do is to simply rent it out, maybe at a slightly higher rent than previously, and to allow the active farmer to take on all the hassle with filling in the form and making sure that the grading and cross-compliance are all correct. They would simply take the conacre rent at the end of the day and would not be bothered with all the administration and paperwork that they would otherwise have.

**Mr Swann:** Do you have any further intention to add anything to the negative list for the definition of an active farmer, or is there anything that you can see in it?

**Mr Fulton:** No, that was one of the decisions that was announced. We do not see any particular reason to add to that negative list. The negative list comprises businesses such as waterworks, real estate services, railways and airports. You can add similar types of business — the important word is "similar". We do not think that we will have very many of those. Given the existence of the active farmer alongside the issue of conacre, we think that what will happen in most cases is that the likes of airports or whatever will rent out their land anyway. That means that they will not be part of the regime. It is only if they had a farming enterprise that they would then have to go through the active farmer test. When you add all that together, you see that there are probably very few instances where you would have to apply the active farmer test, which is of very minor significance in our case.

**Mr Swann:** Is there a definition of the minimum agricultural activity that has to take place on a holding for the owner to be declared an active farmer?

**Mr Fulton:** The minimum activity is to maintain the land in good agricultural and environmental condition. That is the minimum threshold that is set out in the regulation.

**Mr Swann:** So, if somebody who was renting out land in conacre stopped doing so, would they still be an active farmer, even if they were taking only silage or hay off the land?

**Mr Fulton:** That is sufficient as long as nobody else is involved in carrying out activity on that land, the only activity on that land is by that individual, and, as a minimum, the land is maintained in good condition. Of course, by doing that, the individual is forgoing any conacre rent that they would otherwise get.

**Mr Swann:** How does the inclusion of greenhouses and the ground under greenhouses tie in with the active farmer test? Maybe my interpretation of greenhouses is different than —

**Mr Fulton:** First, it is commercial. There is a 3-hectare minimum payment requirement, and I do not think that that has really changed from what we have currently — it has just been carried forward from what we had previously. If you have a farmer who has 3 hectares-plus of greenhouses and that is all that he had, I think that he could be considered a very substantial farmer.

**Mr Irwin:** I should declare an interest, as I receive a single farm payment myself. Am I right in saying that, as we move towards collaborative payment, it looks as though the larger landowner will benefit and the small or medium-sized farm in Northern Ireland will, in the main, be the loser?

**Mr Fulton:** I do not think that you get that correlation. Remember that this is flat rate for each hectare, so —

**Mr Irwin:** Many small landowners received a reasonably sizeable payment to allow them to produce. I have a neighbour, who is a farmer, and he owns 2 acres and has 150 cattle. He receives a fair size of a single farm payment. What I am saying is that, in the main, those farmers will lose and the large landowner will benefit. Is that right?

**Mr Fulton:** I think that it depends on his situation. Back in 2005, many farmers decided to stack their entitlements on the area of land that they owned because they knew that they had that land going forward and therefore would not be relying on conacre land. In 2015, farmers need to declare all the land that they are farming, which includes land rented in, and they will establish their entitlements across all that land. So, in that particular example, it may well be that that farmer is farming quite a substantial area of land, and therefore the pot of money that he will take out of this year into the new regime will be distributed across all the land that he is farming in 2015, and it will then progress towards flat rates from that point. It really comes down to individual circumstances, the choices that farmers made back in 2005 and what they will do in 2015.

**Mr McLean:** The analysis that I have looked at suggests that, as we move towards a flat-rate payment, by business size, the small and very small farms will gain modestly. I suspect that that is because large and medium-sized farms will have the most production as such and therefore would have claimed the most subsidies in the past, so you will get that sort of modest shift towards small and very small farms. That is looking at it by business size, and it does not quite correlate with the number of hectares, but there are probably some similarities.

**Mr Byrne:** Has DARD finalised the areas of natural constraint (ANC) land designation, whether it is on townland, majority soil type or data envelopment analysis (DEA) determination of majority soil type?

**Mr Fulton:** That is very much still a work in progress. We have had some discussions with the Commission, because we still have some technical issues to be resolved in all that. We have not really moved much beyond where we were in December when we published the indicative maps, which were based on the latest information that we had at that stage on the website. However, I stress that that was very much a work in progress and that we still have to take it forward.

**Mr Byrne:** Has the work on that been stalled until there is a determination on whether it is a single-zone, two-zone or three-zone region?

**Mr Fulton:** No, the issues are not correlated in any way. The ANC designation is driven by, first, a set of criteria that are set out in the rural development regulation for the primary designation criteria, and a fine-tuning exercise has to follow that up. So, it is an entirely independent process.

**The Chairperson:** Surely, though, with ANC being such a massive part of the payment, whether it is pillar 1 or pillar 2, it must have a massive say in your pillar 1 determinations and even your pillar 2 determinations, depending on where it sits. Surely it had to be part of the advice that you gave to the Minister.

**Mr Fulton:** I suppose the issue is independence, in that the reason for having ANCs is that you recognise that certain areas suffer constraints because of the conditions in which they farm. That is why you have the option of pushing additional income support into those areas, but that is above and beyond what the pillar 1 basic regime would do. Therefore, it is, in many ways, an independent decision. It stands or falls on its own merits as to whether you should be pushing additional income support into those disadvantaged regions.

**The Chairperson:** You have different deadlines for deciding pillar 1 or pillar 2. Will you remind us what those deadlines are?

**Mr Fulton:** Yes. If you wish to have an ANC top-up using pillar 1, it would have to be notified by 1 August, but you have the option of reviewing that decision by 1 August 2016. That is the pillar 1 approach. Pillar 2 is simply part of the rural development programme, so I suppose there is no deadline per se for putting forward an ANC regime. You have much more flexibility in pillar 2, in that you could run with an ANC for a period and then withdraw it from your programme, or even the other way around — introduce it to your programme. You have flexibility to introduce or withdraw things from your programme over time, so you have a much higher level of flexibility there.

**The Chairperson:** OK. No one else has indicated that they want to ask a question, so a final one from me. You talked earlier about England still using regions, whereas one of the main debates here has been about one region versus two regions, and some even talk about three regions with regard to moorland. How do you think negotiations will go in future when you look at the UK carve-up if we are the only region with a single region? How does that look when GB looks across?

**Mr Fulton:** I do not think that that issue in itself will have any real significance in the overall distribution of support. The fact is that Northern Ireland enjoys a significantly higher level of support per hectare on average than any other part of the UK, or even the Republic of Ireland or the majority of member states. We sit out on our own. I do not think that it being a single region or two regions will have any real bearing on that future debate, as and when it may emerge. For example, if we were to go to a two-region model within Northern Ireland, in the lowland region, the average payment would be €379 per hectare. If you were sitting in Scotland and it had a two-region model — it may have more — it would probably be sitting at about €240 for a lowland farmer. England and Wales would also be sitting at about that level, yet the Northern Ireland lowland farmer would be getting 50% higher. How is that any more defensible if you have people in precisely the same position — lowland producers — but, in one region, the rate of support is 50% higher? I do not think choosing a two-region model for that purpose offers you any defence. You have to judge those things on their own merits rather than on what it might or might not give you in that bigger debate.

**The Chairperson:** You talked about the difference between moorland in England and moorland here. What is the real difference? Is it the fact that we do not have the capacity to measure it?

**Mr Fulton:** Wales is a very good example. First, Wales has an established moorland map. However, within the model that they are deploying, they are saying that moorland above 400 metres will attract a payment of €20 per hectare. About 12% of Wales's moorland would fall within that. If you applied that definition to Northern Ireland, only something like 15,000 hectares of about one million hectares would be above 400 metres. We simply do not have the very significant moorland and very low productivity land that they have in other parts of the UK. In the moorland map that we created, we identified roughly 100,000 hectares just on land cover. The average payment was €186. So, you can see that we face a very different scenario in Northern Ireland. We need to focus on delivering on a model that suits our conditions rather than looking too much at what is happening in other regions, because they are in a very different scenario from us.

**Mr Swann:** There are 100,000 acres of moorland in Northern Ireland.

**Mr Fulton:** In the map that we constructed simply for the analysis, which is in the consultation document, it is slightly under 100,000.

**Mr McLean:** It is 100,000 hectares.

**Mr Fulton:** Yes, it is hectares.

**Mr Swann:** What was your definition of moorland taken from?

**Mr Fulton:** A land cover map.

**Dr Rosemary Agnew (Department of Agriculture and Rural Development):** The land cover map 2007 that was part of the 'Countryside Survey'.

**Mr Fulton:** The land covers included in that are acid grassland, fen, marsh and swamp, dwarf shrub heath, bog, and montane habitats. So, it is a land cover classification. There are many different definitions that you could apply to moorland. However, if you applied the Welsh one, for example, we would have virtually none.

**The Chairperson:** OK. There are no further questions. That was a long session for you. Thank you very much for your presentation and all your answers to our questions. I am sure that you will be no stranger to the Committee in the coming weeks and months.