

IMPROVING PESTICIDE REGULATION



**The challenges and
opportunities of
transferring EU pesticide
regulation into UK law**





INTRODUCTION

The NFU has identified regulation as probably the most complex and nuanced policy priority for farming during the Brexit process. Hundreds of rules affect farming decisions on a daily basis, with the protection of people, the environment, plants, animals and public money at their heart. Farmers, along with the rest of the public, appreciate the value of such measures, but when it's poorly conceived or implemented, regulation can be burdensome, have unintended consequences, and add red-tape and cost with little obvious benefit. Such requirements can be the direct product of the regulatory text at an EU level, or result from their interpretation and implementation in the UK.

Of all the areas of regulation impacting on the future of farming, pesticides has been one of the most topical and controversial since the EU referendum took place. There is a view that the EU is following an increasingly politicised approach that has less and less to do with evidence. As such pesticides regulation is viewed by many as an ideal candidate for change. We believe the time is right for the adoption of a new holistic approach with the robust and consistent application of scientific evidence at its heart – a characteristic for which the UK regulator is recognised and respected throughout the EU.

Pesticides are an essential, yet often misunderstood part of current farming practice and food production. But farmers recognise their use may involve risks and proactively take steps to ensure their careful and appropriate use. Future UK regulation therefore needs to be fit for purpose – protecting the environment and the public along with effectively supporting productive and competitive agriculture and horticulture. While current EU pesticide policy has aims to deliver on all these aspects, to date the NFU considers the focus has been on the protection, with little regard given to safeguarding agricultural competitiveness or improving agricultural production. The regulation is in its seventh year, yet only six new active substances have been brought to the market in that time. For a regulation committed to help innovation and support the industry, this is a fairly categorical failure that stifles the availability of safer, more effective and lower risk pesticides.

We believe that a scientifically-robust, risk-based approach to regulation would strike a better balance on the issue of pesticides. This paper puts these ideas and fresh thinking to the fore and sets out how this can be done. We highlight the key principles that we believe lawmakers need to consider in developing new UK regulations for pesticides. We look at the current regulations on plant protection products (EC 1107/2009) and pesticides residues (EC 396/2005), where they are effective in achieving their aims, and where they are not. We highlight some of the main challenges we see in transferring EU pesticide law to the UK ahead of Brexit. And we set out the opportunities for change that could achieve a triple win of maintaining the highest standards of consumer and environmental protection, continuing to enable trade, and creating better and more effective outcomes for UK farm businesses and the entire £112bn food and drink sector.

SEEKING OPPORTUNITIES WHATEVER THE OUTCOME

The future relationship between the EU and UK will be crucial in determining how rules on the use of pesticides in the UK may change in the coming years. In the short-term, ongoing Brexit negotiations and talk about a ‘transition period’ or ‘implementation phase’ to avoid the ‘cliff edge’ for businesses, suggest we could be living with EU pesticides regulation until the end of 2020 and likely some time after that.

But this does not mean having to wait several years before seeing changes that will create better regulation that will in turn significantly benefit farmers and growers. While we have major issues with the legislative detail of the EU regulation, which cannot be changed before it is transferred into UK law, we also have significant issues with how the EU regulation is implemented in both the EU and the UK.

In the long-term Brexit does provide opportunity to review failing regulation, do things differently and develop a world leading agricultural policy, with a regulatory backdrop that delivers for UK farm businesses rather than stifling them. **The NFU will lobby hard to ensure changes we want to see in pesticides regulation happen as soon after Brexit as practically possible.** There are many aspects of the current EU regulation we would like to see changed, but the timescale for change will depend on the political climate and the state of trade negotiations or any transitional deal.

Despite the uncertainty, the connection between the closeness of the relationship and the effect this has on rules can be sketched out. One central principle is that in simple terms, the closer the UK and the EU are in their trading relationship, the closer the regulatory integration is likely to be.

POTENTIAL TRADING RELATIONSHIP



During the transition period the UK is likely to retain many elements of EU membership and remain largely, if not totally, aligned with EU rules and process. The future relationship after this however may be more like a Free Trade Agreement rather than direct membership and participation in the Single Market. As a result, pesticide regulation could be on a spectrum somewhere between an aligned approach and a divergent approach. As part of this, the UK's role in the regulatory process could potentially still be quite active, including retention of some direct influence. Alternatively it may be that the UK has no role in the future EU process and be in a similar situation to other non-member countries. However, depending on the nature of the overall Brexit deal, such a situation may also still require the UK to follow rules and outcomes of the EU process.

Mindful of all these possibilities, this paper outlines the opportunities for better pesticide regulation in both aligned and divergent scenarios.

KEY PRINCIPLES OF A NEW UK REGULATION

There are key principles that we believe should underpin future UK pesticides regulation, regardless of whether the future scenario is closely aligned or more divergent.

The main objectives of the current EU pesticides policy are

- to ensure a high level of protection of human and animal health and the environment with regards to plant protection products (PPPs) used in the EU;
- to ensure a high level of protection of human health with regard to pesticide residues on food and feed of plant and animal origin;
- to improve functioning of the internal market for PPPs and for food and feed of plant and animal origin; and
- to safeguard the competitiveness of European agriculture and improve agricultural production.

While the NFU would argue the European Commission has overly focused on the first two areas, to the extent where it has undermined and failed the last two areas, the four objectives would still broadly be valid for a UK pesticide regulation, whether closely aligned or divergent in approach. Clearly **the continuing protection of human and animal health and the environment are priorities. As is the need to ensure availability of necessary plant protection tools and promote innovation in plant protection technology** as part of this process. Lastly, instead of safeguarding the competitiveness of EU agriculture, the focus would be on maintaining and enhancing UK food security, and improving agricultural and horticultural competitiveness and production in the UK.

Under a future UK pesticides regulation, it would still be the case that only approved products would be allowed for use on the UK market, and this approval process could be governed by a framework of three stages of control – at authorisation, use and ongoing monitoring.

Alongside the general objectives above, a new UK pesticide regulation should meet the following principles proposed as important for both industry and regulators.

- **The UK industry must not be disadvantaged by the Brexit process compared to EU competitors**, and new regulation will need to complement the requirements of new trading arrangements.
- Harmonisation with, but not identity with, other regulations. Pragmatic harmonisation with EU and other global authorities could enable effective mutual recognition, with a focus on UK needs that create a level playing field and maintain the ability to trade within the EU.
- **Clear, credible science-based risk assessment, maintaining or improving current standards, is essential.**
- Flexibility in interpretation of guidance documents and use of weight of evidence approaches.
- Proper consideration of impact assessments and the effectiveness of the regulatory system, taking account of socio-economic benefits.
- Proportionality in the decision-making approach.
- Clear legislation and a simple authorisation process.
- Faster, pragmatic decision making process.
- Retain industry charges and fees, but no additional cost or burden compared to the EU.
- Good communication between industry and the regulatory authority, and between the regulatory authority/decision makers and non-experts/the public. **The regulatory system needs to be transparent and open, to respond to public concerns.** Changes will need to be explained and justified to stakeholders and others.
- Monitoring (to assess that products are behaving as predicted by the risk assessment process and are being used correctly) and enforcement (including tackling the growing problem of counterfeiting) needs to be improved.
- An adaptable regulation, open to new technology, supported by government funded research.

All of the above contribute to predictability and certainty in regulatory outcomes, which in turn will create continued confidence in high levels of consumer and environmental protection, stability and opportunity for the users of pesticides, and help incentivise investment and innovation among manufacturers of crop protection technologies.

OPPORTUNITIES FOR A NEW PESTICIDES REGULATION

Creating a new UK pesticides regulation provides a range of opportunities. By making the right choice when presented with these opportunities – decisions that could range from keeping the effective measures in existing regulations to making fundamental changes – the aim should be to develop a better regulation that is right for the UK.

Here we present a range of opportunities, and indicate whether we think realising these is something more likely achievable under an aligned scenario, or under a divergent scenario, or an opportunity that should be realised under both scenarios.

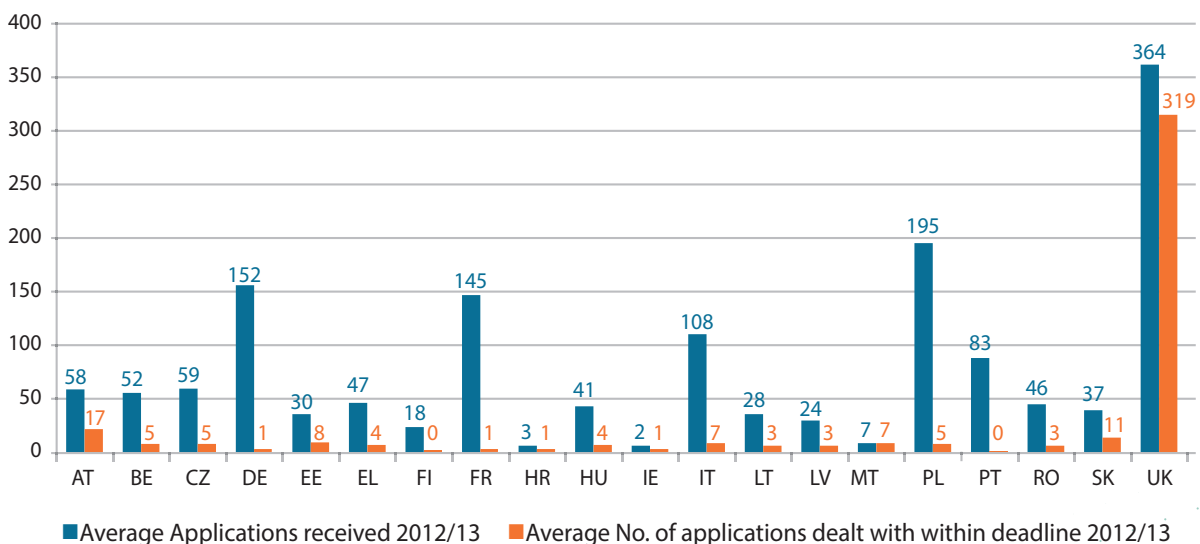
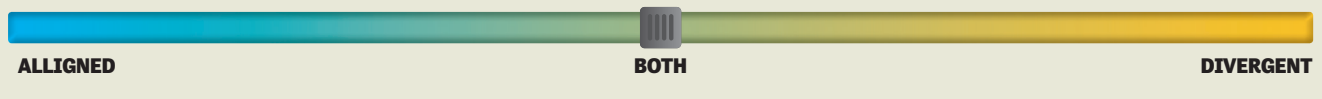
Keeping the good stuff

There are aspects of the current EU regulatory regime and the way it is operated in the UK worth keeping because of their current effectiveness in meeting what would be the general aims of a future regulatory regime. These include

- The influence and involvement of the UK competent authority – the Chemicals Regulation Division (CRD) in
 - maintaining an effective voice and influential role in the EU (past roles include as Rapporteur Member State/ Co-Rapporteur Member State, standing committee participation, guidance development).
 - maintaining a role in the European and Mediterranean Plant Protection Organization (EPPO) – an intergovernmental organization responsible for cooperation in plant health.
 - maintaining a role in the Organisation for Economic Co-operation and Development (OECD), including in the development of OECD guidance documents for pesticide registration.
- CRD providing open communications, stakeholder consultation, and PPP training and events.
- Retaining CRD’s widely recognised expertise and efficiency - no other member state competent authority comes close to delivering the volume of evaluation work that the UK completes.
- Mutual recognition - with an option to extend this to countries or groups of countries beyond the EU.
- Good provision for minor uses and speciality crops, including mutual recognition, no efficacy requirements, and working with the EU Minor Uses Co-ordination Facility.
- An emergency approvals/essential uses system for tackling unforeseen problems, quarantine pests and diseases, and to support resistance management strategies.
- Integrated Pest Management (IPM) – encouraging pesticide use to be considered as part of a wider integrated approach to pest management.
- Uniform principles for evaluation, and tiered risk assessments.
- Testing of pesticide application equipment and promoting responsible use.

The promotion of IPM approaches ties in with actions under the Sustainable Use of Pesticides Directive (2009/128/EC). This paper focuses on pesticides regulation and not this Directive, which the NFU considers is generally working well. However we look forward to working with Government later this year when it intends on reviewing its approach under the Directive.

Aligned or divergent?: We believe all these effective and valuable aspects of the current regulation and its implementation should be kept under both an aligned and divergent future scenario. Extending mutual recognition to countries beyond the EU should be possible, but would represent a more divergent situation.



UK deals efficiently with more pesticide applications than any other EU country. Source: European Commission

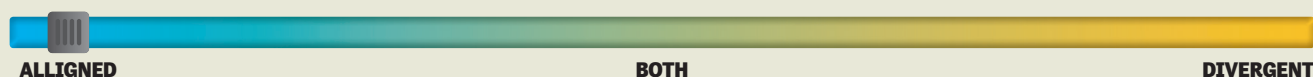
Fixing inoperabilities

The immediate opportunity to make changes to pesticide regulation comes as it is transferred into UK law, though the extent of change is limited by the European Union (Withdrawal) Bill (EUWB). There are areas of EU law, for instance referring to EU institutions or processes, which wouldn't be operable post-Brexit. These 'inoperabilities' will be fixed by secondary legislation, but there will be choices around how to fix them.

There are currently processes undertaken by EFSA, the Commission, or member state peer review that would need to be assigned to UK entities. There are also inoperabilities around timescales. Removing these simplifies the process but doesn't change policy. In tackling inoperabilities it's necessary to think about how much of the current process is about collective decision making or harmonisation - the implication being this won't be required because of the UK's departure - and how much is about expert input. There may also be functions not required at all. The aim should be to make the operation of the UK legislation as simple as possible.

The NFU is keen to engage with Defra on the issue of inoperabilities in pesticides regulation, which will need to be fixed by exit day.

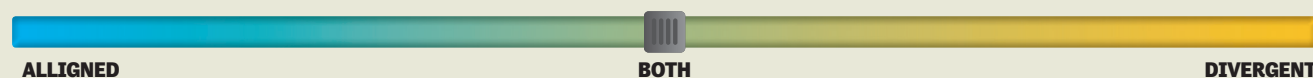
Aligned or divergent?: Fixing inoperabilities presents the earliest opportunity to simplify the regulation. Changes are limited to making the regulation functional under UK law, without changing what the regulation delivers – so it is in keeping with a fully-aligned scenario.



Taking a rigorous risk-based and science-based approach

The UK has taken a strong risk-based and science and evidence-based approach to decision making in the past and often disagreed with EU decisions – particularly as they become increasingly hazard-based, precautionary and politicised. But once decisions become EU law, the UK has had to adopt them. After Brexit, the UK can rein back on the EU direction, to take a more risk-based approach underpinned by science and evidence. The future process could be to establish the CRD view, establish an independent expert view, and then where necessary put the views to the Minister for decision, particularly on more sensitive issues.

Aligned or divergent?: Rigorous scientific assessment should underpin future UK regulation regardless of the scenario. However, following a stronger risk-based and science-based approach could quickly result in significant divergence from the EU, depending on future EU approach. It's currently unclear what appetite or opportunity UK Government will have to implement regulation differently from the EU in the early days of EU exit.



Assessing impacts and benefits

As the UK takes control of its pesticide regulation, we would like to work with Government to take the opportunity to ensure proper assessment of costs and benefits when considering action. This should include assessment and consideration of the socio-economic benefits of pesticides as well as risks. Assessment and consideration of the cumulative impacts of changes to pesticide authorisations and other regulation impacting on availability of actives should also be made, taking a whole crop approach.

Aligned or divergent?: The NFU is often critical of the EU's increasingly precautionary approach. But this shouldn't be read as criticism of using the precautionary principle. The concepts of proportionality and assessing the benefits and costs of action lie at the core of the precautionary principle. However, these aspects are often sidelined when the EU interprets the principle. Proper assessment of impacts and benefits should underpin regulatory decisions, regardless of the future scenario. This is about following the same principles, but 'doing it better'.



Improving timelines

From day one of exit there is a significant opportunity to bring new active substances or new uses to the UK market much quicker by speeding-up the assessment and authorisation process through a) removing the need for collective decision making, and b) undertaking processes in parallel rather than sequentially (as done at the moment). New actives and technologies provide an opportunity for lower risks and better control of pests and disease.

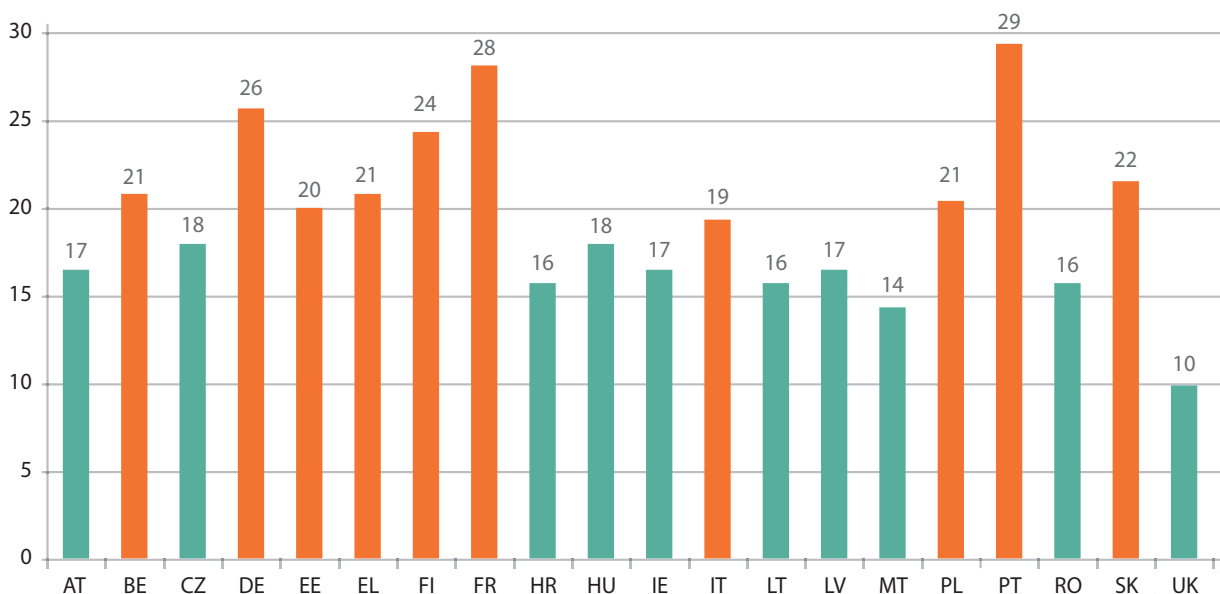
CRD has the expertise and processes enabling it to complete assessments quicker than any other member state. However, when these assessments go back into the EU for the collective decision making process, timelines extend significantly. The NFU believes CRD, if provided a good quality application package, could complete a substance authorisation in 12 months (it currently takes the EU 30-44 months).

Other options for reducing timelines could include using provisional approvals, and providing the option for companies to pay for 'fast tracking'.

Regarding parallel processes, the Commission does not start the MRL decision process until after the active ingredient decision process has been completed. There's no reason why the two could not be assessed under a UK regime at the same time, based on UK dietary assessments, so the MRL decision is made in parallel with the active decision. This would in effect create a UK MRL.

The significant issues with interdependencies between trade of produce, pesticides and MRLs will only be resolved when the trade deal between the UK and EU is negotiated. The NFU is keen to further explore the issue of MRLs under a future UK pesticides regime with Defra.

Aligned or divergent?: Undertaking assessments quicker and in parallel would be achievable under an efficient aligned scenario. However, the caveat to this whole opportunity of improving timelines would be how a UK MRL would affect trade into the EU and how acceptable it would be. For new substances the EU could agree to an import tolerance if there are residue issues, but it is unclear how quickly it would do this. MRL issues could also be managed in part by farmers growing to different protocols for different markets. Once outside the EU, Government should consider how it could better use MRLs generated by other regulatory regimes, such as Codex Alimentarius – the series of international food standards and agricultural product standards. Greater UK participation in and use of Codex is needed, but this would fall under a more divergent approach.

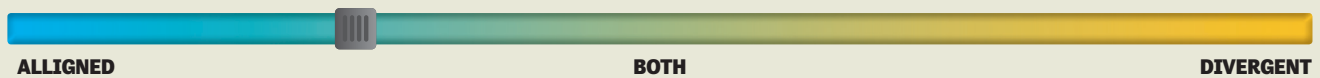


Average decision time on pesticide applications (in months, for 2012/2013) is quicker in the UK than in other EU countries. Source: European Commission

Increasing flexibility

There is significant opportunity to create additional flexibility while fixing inoperabilities. Currently timelines are written into the EU process to raise performance of slower member states, but they in turn hold back the fastest member states. While it might remain important to include a maximum timeline in the legislation as a regulatory 'backstop', the NFU considers that defining specific timescales might not be necessary for a UK regulation - instead these could be put into a statement of service standard, with clear published commitments. This could enable a more open discussion with stakeholders, with the ability to regularly have debate and make changes in a more dynamic and responsive way than if legislation had to be amended.

Aligned or divergent?: The opportunity to be more flexible, reduce bureaucracy and enable a more open and responsive process with stakeholders should be embraced under any future scenario, but it would be more important to make the most of this opportunity if we continue to be closely aligned with the EU.

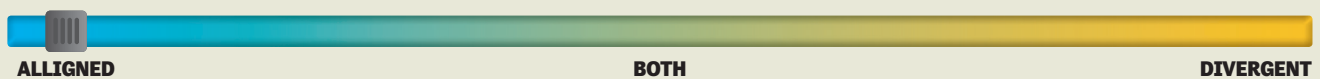


Removing national requirements

Active substances are approved at an EU level. However, before a product containing that active can be placed on the market, the product has to be approved in each member state. To do so they conduct a risk assessment based on product and substance data, proposed conditions of use, and in some cases national requirements, which lie outside the regulation, and consider national and local environmental and climate factors. Levels of protection to humans and the environment under the EU regulation have increased over time, overtaking national requirements. No bar has ever been set regarding the level of protection we actually need, and without knowing where to set the bar it is difficult to balance priorities. In most cases the level of protection is already sufficient, and while the bar continues to get raised it is not possible to actually measure any additional benefits of doing so.

There is a view the current regime is more than sufficiently protective overall, with enough flexibility in the underpinning regime, and being so comprehensive that national requirements have in effect become redundant. Considering national requirements do not add benefits in terms of protection, but they do add bureaucracy and barriers to opportunities like mutual recognition, they are no longer needed.

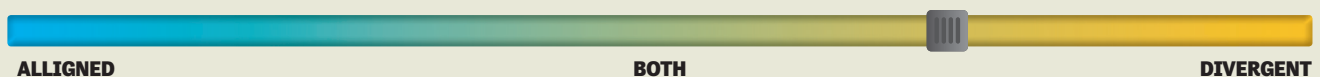
Aligned or divergent?: As national requirements lie outside the regulation, removing them fits well with a future aligned scenario – particularly if we are looking for better regulation for the UK. Removing national requirements would streamline the process - this also fits with an aligned scenario because it would in effect mean highlighting where UK requirements are covered within the current EU process.



Simplifying the regulation

Discussions with industry have suggested a range of ways in which future UK pesticide regulation could be simplified, including simplifying efficacy assessments (with a view to potentially removing the need for these completely in the medium term) and simplifying the assessments for minor uses, biopesticides and low risk products.

Aligned or divergent?: While all opportunities to make the EU regulation simpler and more efficient as it is transferred into UK law should be grasped, to create better regulation, it is likely that some of these are going to require a more divergent future scenario to be realised.



Being proactive

Going forward with a UK pesticide regulation presents an opportunity for a more proactive approach to this policy area – horizon scanning and identifying critical gaps in pest control practices for particular crops. At the moment the system is very reactive, but with some more resources (but not necessarily much more) a more proactive horizon-scanning approach could be taken that would deal with challenges earlier, potentially avoiding the need for more significant and onerous reactive approaches later. Such an approach would ask what the key control gaps are; ask whether non-chemical options could be used, or whether chemistry is the answer; and ask what the options are if chemistry is required.

Taking this approach has already delivered some success with the collaborative proactive action taken in response to the threat of Spotted Wing Drosophila by UK researchers, industry, AHDB and Plant Health authorities and agencies. As a result of taking this approach with this new pest, a national pest monitoring scheme was established a year before the pest started damaging crops, and when crop damage did occur, new pesticide approvals were granted to aid control where absolutely necessary.

Government could also adopt a more strategic approach on pesticide availability generally, for example ensuring new improved actives, where available, are authorised before the older actives they replace are withdrawn. All new actives should also include consideration of minor use and speciality crops as part of the initial dossier planning.

Aligned or divergent?: Taking a more proactive and strategic approach is all about doing things better within the current rules, and as such is an opportunity that should be realised within a future aligned approach, as well as being a better way of working that would be taken into a more divergent scenario.

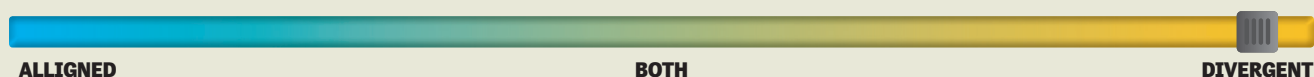


Strengthening the risk-based approach to regulation

The NFU has long disagreed with the EU adoption of a hazard-based approach and argued for the regulation to be changed to being risk-based to help ensure sustainable production. Accordingly, we would want to see the following changes be made to a future UK regulatory regime for pesticides, but we recognise these as medium to longer term opportunities.

- Removal of hazard-based cut-off criteria.
- Removal of candidates for substitution and comparative assessment.
- Active substance reviews guided by necessity for review not timeframes.
- Make greater use of the 'risk envelope' approach and a realistic approach to risk mitigation. The risk envelope is a concept aimed at reducing assessment workload by grouping uses by certain criteria (e.g. crop, application rate, number of applications, timing).

Aligned or divergent?: Removing some of the most contentious parts of the current EU pesticides regulation would represent the most significant divergence from the current EU situation. While many in the industry would regard this as positive progress, others are likely to view this as an attack on protections. Some of these changes could also impact on the negotiation of a trade deal. The NFU believes these changes are needed, but protections can still be maintained. However we recognise such changes will only be realised under a robustly divergent future scenario.



Why the current regulation needs to be changed

The NFU has long held the view that the EU has an overly-precautionary approach to pesticides that is damaging agricultural and horticultural competitiveness and production. It is increasingly clear that the current regulations, and the way they are implemented in the UK compared to other member states, are failing farmers and growers. In countries outside the EU, pesticide regulations would generally be meeting the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, which is based on an assessment of risk – not an assessment of hazard.

As well as EU- level decisions hampering the availability of pesticides, there are also problems that impact at UK level and result in an inequality in availability between member states. For example, should farmers need them, there are around 60% more actives available for use on apples in Germany than in the UK, and around 7% more actives available for use on rye in Germany than in the UK. There are other examples on other crops. On pesticide availability, the EU is far from being a level-playing field for farmers growing the same crop in different countries.

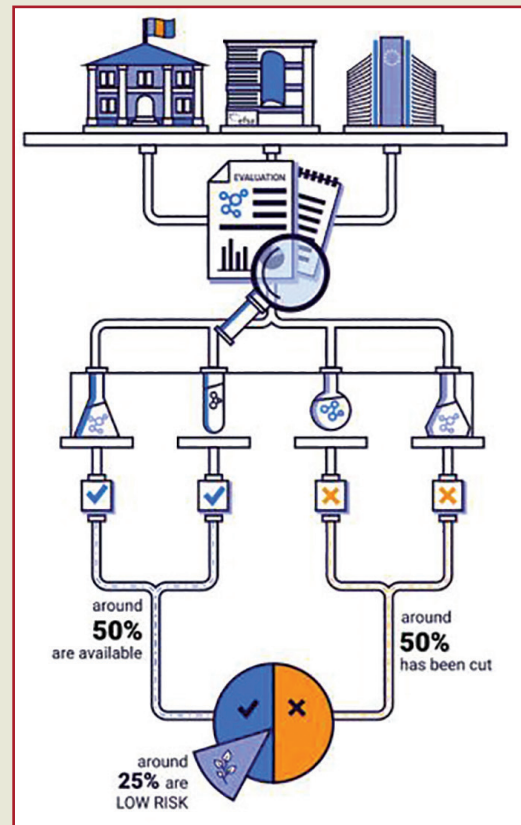
Reliance on fewer actives across the EU and within the UK is compromising the ability to control certain crop pests, weeds and diseases, and puts pressure on resistance management strategies, with many weeds and insects now showing high levels of resistance to certain actives. In some cases, particularly with speciality crops (horticulture), there are very limited choices for pest control and this threatens the economic viability of some crops.

Why is the current regulation failing to bring new actives to the marketplace and why are there such inequalities between member states?

Politics aside, the regulations are failing in a number of areas:

- By focussing on hazard rather than risk - ignoring available evidence around risk and failing to undertake socio-economic as well as environmental impact assessments.
- By holding-back innovation and opportunities to effectively tackle the huge issue of resistance.
- A zonal system that has failed to capture the opportunities of harmonisation and mutual recognition.
- A lack of transparency and trust between member states, and between them and the Commission.
- Increasing regulatory uncertainty and precaution, e.g. by using Guidance Documents (detailed instructions on how to implement regulations) that aren't finalised or agreed by member states; by failing to meet procedural deadlines; and by allowing inconsistent approaches on emergency authorisations.
- Their time-limited support for the unique needs of Minor Uses and Specialty Crops (horticulture).

If the current regulation is to ever deliver on its objective to safeguard European agricultural production and competitiveness, then an urgent and major re-think of the regulation is required. This is the message the NFU has delivered recently in response to the European Commission's REFIT evaluation of the EU legislation on plant protection products and pesticides residues.



There used to be more than 1000 active substances on the market. The EU review process over the last 25 years has reduced these by more than 50% to around 400. In the UK there are even fewer. Source: European Commission.

CHALLENGES IN TRANSFERRING EU PESTICIDE REGULATION INTO UK LAW

The EUWB identifies how Parliament will delegate powers to UK Government to transfer most EU law into UK law through secondary legislation - around 800 statutory instruments (SI). Some of these, like those dealing with pesticides, will be complex. These SIs will need to go through a parliamentary process to allow proper scrutiny. There will be a balance between allowing sufficient scrutiny and dealing with the volume of secondary legislation in the time available. The NFU is calling for proper scrutiny to take place. It's also important for stakeholders like the NFU to be involved at an early stage in the development of secondary legislation on pesticides.

While it is clear the EUWB is about transfer of law rather than change in law, there are opportunities at exit to improve the regulatory regime for pesticides and we have set some of these out in more detail in the 'opportunities' section of this paper. There are however some significant challenges, worth highlighting, that could stifle the ability to realise these opportunities. Here we discuss such challenges and indicate whether we think they are more relevant under an aligned scenario, or under a divergent scenario, or a challenge relevant under both scenarios.

Culture change

To fully realise better, more effective pesticides regulation, there needs to be a culture change across Government departments, agencies and executive non-departmental public bodies, such as HSE, and this change will need to be driven from the top-down. These departments and bodies include many experts, but the departments and some specialists themselves have been following much the same approach for 20 years.

There has been a call from across industry to improve agronomy expertise in CRD and on the Expert Committee on Pesticides (ECP) to ensure appropriate safety assessments are related to the reality of uses.

Aligned or divergent?: Culture change is about a different approach that delivers better pesticides regulation and more effective outcomes for everyone. As such, this is a challenge that will need to be addressed regardless of whether the future scenario is aligned or divergent.



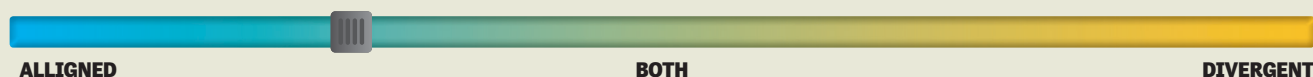
Maintaining the UK's capability and influence

While the UK remains part of the EU it is essential that, right up to the day of exit, UK Government continues to engage and participate fully in EU processes and committees around pesticide regulation. And to do this in a way that is consistent with the strong science-led approach and high level of expert input that the UK has used to date, and for which it is widely recognised and respected throughout the EU. It would be hugely concerning for the NFU if Government took a general approach of abstaining from the EU decision-making process, despite the UK being fully subject to EU law and despite the opportunities to create better EU regulation that could then be transferred into UK law.

As we approach EU exit the UK Government needs to maintain its influence in Europe, and as we exit it needs to ensure the expertise and capacity in organisations like CRD is also maintained. As well as undertaking UK regulatory work, future options for CRD could include providing expert services into the EU. Even outside of the EU, if CRD and the UK are attractive to companies for assessment work and the authorisation of new substances, and if the UK takes decisions quickly and on the basis of evidence, the UK could continue to be of influence as this approach will ripple across and act as a driver in the EU.

There is also the challenge of working out the role of other Government agencies in pesticides regulation post-Brexit. For example the issue of MRLs is currently the policy responsibility of the Food Standards Agency (FSA), although in practice the technical expertise in this area is in CRD. Going forward there is the question whether or not the FSA would get involved in a significantly different way to how it is now. Because of the importance of MRLs to the trade of produce, it will be essential for the organisation leading future policy in this area to have a detailed understanding of the commercial implications.

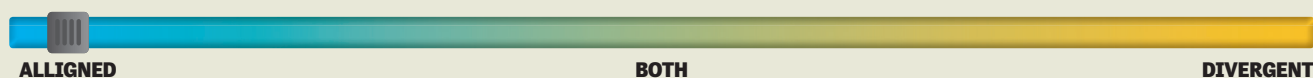
Aligned or divergent?: The UK will need to maintain its expertise and capability in the area of pesticides regulation regardless of whether the future scenario is more aligned or divergent. However, it is clear that maintaining a level of influence will be a more important challenge to overcome if the future UK regulation remains closely aligned with the EU regulation.



Transition or implementation periods

Within the EU the UK often argues for pragmatic harmonisation. When the UK leaves the EU, and if no other country is arguing for this, the risk is that there's likely to be more differentiation and politicisation in Europe's approach on pesticides. This could prove particularly damaging for the UK if there is a long transition or implementation period, when the UK is subject to EU rules but without any influence. During any potential transitional arrangements agreed with the EU, the NFU urges Government to secure the means for continued UK influence on committees, councils and the entire regulatory process.

Aligned or divergent?: Being effectively subject to EU regulation, while not having a say in its development or direction is a major challenge the UK would face under an aligned future scenario.

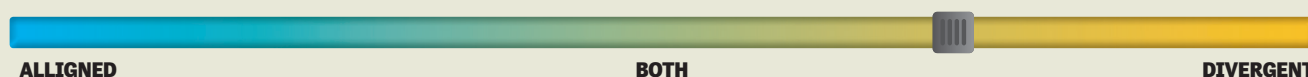


Devolution

The current approach on pesticides regulation is that a common UK position is taken up by the devolved governments. While there is some assumption this approach, followed for the last 30 years, will continue, this is a significant assumption. After the UK exits from the EU, it is essential there is a coherent single pesticide regulatory regime that applies across the whole of the UK. Removing collective decision-making from the regulatory process offers a significant exit dividend as we leave the EU, which would be lost if the replacement regulation did not apply across the whole of the UK.

Health and safety is devolved in Northern Ireland, but not the rest of the UK – so there is an HSE NI and HSE covering Great Britain. Government position papers on Northern Ireland and Ireland have suggested aiming for regulatory equivalence on agri-food measures ‘where the UK and the EU agree to achieve the same outcome and high standards, with scope for flexibility in relation to the method for achieving this’. It’s not yet clear what this approach would mean for pesticides. A ‘same result, different methods’ approach should apply at the level of residue limits in food.

Aligned or divergent?: The challenge of devolution becomes greater the more divergent the future pesticides regulation scenario becomes, particularly with regard to Northern Ireland.

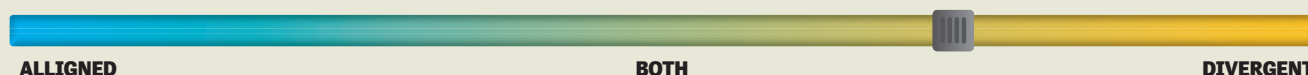


Guidance documents

There is a challenging question about how EU guidance documents will be interpreted under a future UK pesticides regulation. These guidance documents are separate to the regulation; are for guidance only and are not intended to produce legally binding effects. While they provide detailed instructions on interpreting the regulation, much of their current function is to ensure the highest possible level of harmonized interpretation and implementation across the EU.

They are also challenging because there are highly contentious guidance documents – such as EFSA’s guidance on risk assessment for bees, which underpins the Commission’s neonicotinoid restrictions, but has not been agreed by member states or formally adopted by the Commission. There are other guidance documents that the UK did not agree with, which are generating additional requirements for pesticides. As the UK exits, there is no longer the need to harmonise the implementation of the process with 27 Member States, so this should create opportunities to use guidance documents more flexibly.

Aligned or divergent?: The purpose of the guidance documents is basically to limit divergence in interpreting regulation, to enable greater harmonization across the EU. Under a future aligned scenario it will be important to have an understanding of these guidance documents to facilitate alignment. However, as the UK develops its own pesticide regulation, underpinned by robust science-based risk assessment, there will be the opportunity to improve guidance documents and in doing so they are likely to diverge away from the EU position.





SUMMARY

- ✓ Pesticides are an essential, yet often misunderstood part of current farming practice and food production. Farmers recognise their use may involve risks and proactively take steps to ensure their careful and appropriate use. Regardless of whether the future scenario is one where we are closely aligned to the EU regulation or more divergent, **the future UK pesticides regulation needs to be fit for purpose – protecting the environment and the public**, while **effectively supporting productive and competitive agriculture and horticulture**.
- ✓ With the EU viewed as following an **increasingly politicised approach** that has less to do with evidence, the issue of pesticides is seen by many as **an ideal candidate for change**. We believe the time is right to adopt **better regulation** with the robust and consistent application of **scientific evidence at its heart**.
- ✓ Brexit provides opportunity to **review failing regulation**, do things differently and **develop a world leading agricultural policy**, with a **regulatory backdrop that delivers for UK farm businesses** rather than stifling them.
- ✓ The NFU will work to **ensure changes in the UK regulation** governing pesticides happen as soon after Brexit as practically possible.
- ✓ The continuing **protection of human and animal health and the environment are priorities**. As is the need to ensure **availability of necessary plant protection tools and to promote innovation in plant protection technology**.
- ✓ The **UK industry must not be disadvantaged** by the Brexit process compared to EU competitors, and a new regime will need to **complement the requirements of new trading arrangements**.
- ✓ Clear, credible **science-based risk assessment**, maintaining or improving current standards, is seen as essential.
- ✓ The UK needs to retain and build on the Chemicals Regulation Division's widely recognised **expertise and efficiency**, to maintain **influence and capability**.
- ✓ Considering pesticide use as potential option in a wider **integrated approach to pest management (IPM)** is a valuable aspect of the existing regulation that must be kept and promoted under a future UK regulation.
- ✓ On pesticide availability, the EU is far from a **level-playing field for farmers** growing the same crop in different countries. In the short-term, while we are aligned with the EU, there are significant opportunities to **bring UK farming businesses in line with their EU competitors**. Reliance on fewer actives is compromising the ability to control certain crop pests, weeds and diseases, and puts **pressure on resistance management strategies**.
- ✓ Realising better regulation for pesticides will require a **culture change across Government departments, agencies and executive non-departmental public bodies**, driven from the top-down.
- ✓ New UK pesticide regulation presents an opportunity for a more **proactive approach** to this policy area – **horizon scanning and identifying critical gaps** in pest control practices for particular crops.
- ✓ By developing a better, more efficient, **risk and science-based regulation**, under both aligned and divergent scenarios we believe there is the opportunity for the UK to achieve a triple win of maintaining **the highest standards of consumer and environmental protection**, continuing to enable trade, and creating **better and more effective outcomes for UK farm businesses** and the entire £112bn food and drink sector.

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