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| Name: | Policy Board | Meeting Date: | 11 June 2019 |
| Location: | NFU HQ | Time: | 09:00 – 12:30 |
| Room: | Knightsbridge | Chair: | Minette Batters |
| Circulation: | Policy Board | Secretary: | Ian Ludgate |
| | | Tel: | 024 7685 8839 |
| | | Ref: | PB984 |

Present: Minette Batters (Chair), Tom Bradshaw, Ali Capper (ACa), Andrew Clark (ACI), Richard Findlay, Terry Jones, Michael Oakes, Stuart Roberts, Michael Sly, Guy Smith and Tom Wornham

By Invitation: Fran Barnes, Thomas Binns, Chris Cardell, Simon Gadd, Andrea Graham, Phil Jarvis, Ian Ludgate, John Pawsey and Nick von Westenholz

In Attendance: Eleanor Griggs, Rebecca Hesketh, Tom Keen, Jennifer Lay, Tori Morgan, Gail Soutar and Richard Wordsworth

Apologies: John Davies, Trevor Foss, Martin Haworth, Richard Lister and John Mercer

Policy Board Minutes – 11 June 2019

1. 8 May minutes & actions [PB972]

The Board found the minutes from 8 May to be a true and accurate reflection of the meeting and the document was therefore approved. The Chair declared that all of the actions from the last meeting had either been completed or were ongoing and read out the apologies for this meeting.

Following a discussion at the last meeting about potential changes to the current format of Policy Board meetings, the Director of Policy put forward a proposal that set out how the format could be adapted going forward. The Board heard that Officeholders had considered three options since the last meeting: keeping the current format, reverting to the constitutional format or finding some kind of middle ground. As the first two options both have significant opposition, it was decided that a third option should be put before the Board in the hope of finding a consensus.

The proposal set out two kinds of Policy Board meeting:

- **Strategy meetings** would focus on Policy Board strategy, Policy Priorities and new policy responses; include only constitutional members of Policy Board; and meet four times per year
- **Coordination meetings** would monitor the delivery of Policy Priorities and coordinate/share policy delivery between Boards and Forums; include both constitutional members of Policy Board and Forum Chairs; and meet two times per year

All meetings would be regularised across the year and strategy meetings would be used to consider emerging policy proposals from Forums. The Board was shown a proposed timetable for strategy and coordination meetings across the calendar year alongside the current timetable.

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It was emphasised that there would be additional opportunities outside of the proposed meeting timetable to facilitate policy development through the establishment of task and finish working groups. Such working groups would include Board and Forum representatives and foster significant member input to NFU policy before it reaches Policy Board. Skype could also be used to convene additional meetings throughout the year to address specific issues that crop up.

Several Board Chairs expressed their support for the proposed changes to the format of Policy Board meetings. It was felt that the proposal would represent a pragmatic step forward, address long-standing functionality issues and allow enough time in-between meetings to fully discuss policy issues in advance. There was also support for extra meetings outside of the strategy and coordination meetings to discuss any specific policy issues that may arise. It was suggested such meetings could be diarised often throughout the year but only convened if necessary, thus avoiding difficulties associated with arranging large meetings at short notice.

Several Forum Chairs expressed their concern about the proposal. Specifically, it was felt that reducing the number of meetings contradicted the rationale for change and Forum Chairs were invited into Policy Board meetings for the duration of Brexit, which has not yet concluded. They felt that such a move would see Forums take a backwards step in the decision-making process. Concern was also expressed around Forum representation on Commodity Boards and a lack of coordination meetings before Brexit in October. In response, there was a consensus among Board Chairs to extend an open invitation for Commodity Board meetings to all Forum Chairs and it was suggested a coordination meeting could be held in September.

A point of order was also raised about whether Policy Board had the power to make a decision on this proposal, given the idea to invite Forum Chairs along to Policy Board meetings was originally floated at NFU Council. However, it was confirmed that the final decision on this matter was taken by Governance Board and, therefore, Governance Board should have the final say on whether to reverse this decision.

ACTION: AC to take proposal on changing the format of Policy Board meetings to Governance Board at the next available opportunity

FOR DISCUSSION AND ACTION:

2. Opening remarks from the President [Verbal] (*Minette Batters*)

The President thanked all those present who had taken part in Open Farm Sunday on 9 June. The event attracted members of the public who had never been on farm before and NFU members put in a huge amount of work to make it a success.

Members of the Board agreed it was a success and highlighted the added benefit of helping tackle loneliness among farmers. It was said that a visiting farmer from New Zealand had indicated he would now attempt to launch a similar event in his home country. NFU staff members were also thanked for their efforts in making the day such a success.

3. Brexit – preparations for October No-Deal [PB974] (*Nick von Westenholz*)

The Board was provided with an update on the NFU's 'no-deal' planning in light of the new timetable for Brexit. It is important that the organisation learns any lessons from the lead up to the previous Brexit date in March and adapts its 'no-deal' work ahead of the current Brexit date of 31 October accordingly.



The circumstances of leaving the EU without a deal in October will be different to those in March and the NFU must also take this into account.

The Government is unlikely to make much progress on Brexit over the coming months due to summer recess and party conferences, and along with institutional changes in the EU, the prospect of a freshly negotiated deal by October is unlikely. However, Parliament has also rejected a 'no-deal' Brexit before and may do so again, which would put the country in a similar position in October as it was in March. That said, it is important that the NFU prepares thoroughly for a 'no-deal' Brexit.

The Board was presented with a graphic that showed the respective 'no-deal' stances of the Conservative Party leadership candidates. An overview of the election process was also given and it was noted that it is due to conclude shortly before the summer recess starts.

The Board was also presented with a number of key concerns for the NFU in planning for a 'no-deal' Brexit in October, including the UK's Applied Tariff policy, EU Tariff wall and trade continuity (roll over agreements), and briefed on the NFU action plan.

The Board discussed the likelihood of various scenarios playing out over the next few months, including the opposition calling a vote of no confidence, a further extension to Article 50 and the Government proroguing Parliament. It also discussed the reasons for the NFU having revised down the time needed to get organic exports recognised by the EU in a 'no-deal' scenario, the likely impacts of a 'no-deal' Brexit on road haulage arrangements and whether the NFU should focus on domestic producers or importers when it comes to the horticulture sector.

The Board heard that the continued uncertainty over Brexit continues to harm the industry and this is likely get worse over coming months. The Board gave its full support to the NFU action plan for 'no-deal' preparations over the coming months.

4. Brexit – agricultural transition [PB975] (*Nick von Westenholz*)

The Board was shown a graphic that sets out the key milestones before and during the upcoming agricultural transition, with reference to BPS, CS/HLS, ELMS and RDPE. It heard that the NFU needs to give full consideration to the impact of delays to the Agriculture Bill and Brexit on the phasing out of BPS and move to a new system based around ELMS, and to decide whether it should call for the transition to be delayed. In the short term, the Board heard the NFU must also decide whether or not to continue to call for the simplification of BPS in 2020.

The Board was presented with a table showing the pros and cons of not calling for and securing simplification of BPS 2020. After some discussion, the Board broadly agreed that the NFU should no longer call for simplification of BPS in 2020, instead calling for clarity on how BPS 2020 will operate and the rules claimants will be required to observe. However, the NFU must clearly communicate the reasons for this decision to members, as some may view it as a missed opportunity to make their lives easier. In terms of timing, there does not seem to be a reason why the NFU cannot make this decision public right away.

The Board was also presented with a table showing the pros and cons of delaying the agricultural transition, due to start in 2021. The Board heard there may come a time when a delay is inevitable on legal grounds due to the Agriculture Bill not having been enacted in time. After further discussion, the Board broadly agreed that the NFU should call for a delay to the beginning of the transition, while also calling for the duration of seven years to be maintained. The need for members to make business decisions years in advance, the readiness of Defra to manage the transition and evidence provided by a recent NAO report were all cited as reasons for why a delay is needed. Some members of the Board

said it would be best to make the call for a delay before a new Conservative Party leader is elected but others said it may be best to wait until the current Secretary of State is replaced. It was agreed to review the issue at the next Policy Board.

5. De-linking of BPS – developing the NFU’s policy position [PB976] (Richard Wordsworth)

The Board heard that official information on the move away from the current BPS model to a new delivery model for these direct payments of delinked payments is limited. However, it is clear that direct payments will end at some point down the line. The Board heard that there were a number of policies being pursued at this time. Firstly, there was the reduction of BPS payments during the Agricultural Transition (currently suggested to be from 2021 to 2027); secondly, how such BPS payments could be delivered within this period; and thirdly, where the Government wants to move towards delinked payments from the current rule book and approach in the hope of saving money and reducing the bureaucracy on farmers as well as industry change. The NFU understands the Government is looking to base the level of new payments on historical payments and perhaps make them monthly rather than annually. There may also be an option for farmers to take a one-off lump sum instead of annual delinked payments, which they could use to invest in their business or help fund their retirement. A formal consultation is expected from Defra later this year on how it will move from BPS to delinked payments rather than if it will move.

Since the Government last touched on the issue within the Agriculture Bill and associated policy statement on 14 September 2018, the Treasury has committed to moving towards this new payment delivery model, but there has been little information due to the distraction of Brexit and other political activity. However, this matter at the current time has not gone away.

The Board discussed the Government’s plans to move from BPS to delinked payment and expressed a number of concerns. For instance, it would be difficult to support the move amid such an uncertain trading environment, progress on a future environmental land management scheme has been slow and there could be a budget gap between old and new schemes if monies are taken too quickly off BPS to fund this new scheme. The Board considered that the lack of detailed information on these proposals made it difficult to arrive at an NFU policy position at this present time. However, concerns were raised about possible tax implications, the capacity of government to fund it and the lack of evidence for it to improve structural issues. It was, however, also acknowledged that the idea of a lump sum payment could appeal to many farmers.

The Board were also informed of other government activity where they had appointed Lord Bew to review the current allocation of additional CAP funds to the UK which we received following the 2013 CAP reform financial settlement. There is pressure from Scotland for these additional BPS monies post-2020 to be allocated to them. The NFU has argued that this current allocation approach should be maintained on the basis of agricultural activity.

The Board were also warned that currently, BPS payments are linked to the euro-sterling exchange rate, but this link will be broken at some point in the future. This move could have a significant impact on the level of payments going forward, but it could also bring some stability as payments will no longer be affected by fluctuations in the exchange rate. The decision on how and when to move away from the euro is understood to be tied-up with the current Government Spending Review. The NFU will be aiming to avoid an unfavourable funding level in sterling when the separation occurs.

6. Tenancy reform consultation [PB977] (Eleanor Griggs)

The Board was briefed on current tenancy reform consultations from both Defra and the Welsh Government, which were issued on 9 April and close on 2 July. The consultations set out proposals that are largely derived from a list of suggestions put forward in 2017 by the Tenancy Reform Industry Group, of which the NFU is a part. Broadly, the proposals are aimed at removing barriers and improving productivity as well as ensuring that the policy framework for agricultural tenancies is fit for the future.

The Tenants Forum met with Defra on 15 May to discuss the consultations and members of NFU staff have since organised a series of meetings with members across England and Wales to gather evidence for a response. At this stage, the consensus of the membership seems to be broad support for the proposals, with one or two areas of concern. The Tenants Forum is likely to meet again to discuss the final draft response before it is submitted.

The Board considered some of the more contentious proposals set out in the consultations. On the proposal to remove the commercial unit test so farmers that already occupy a commercial farm business can succeed to an Agricultural Holdings Act (AHA) tenancy, one member suggested the change could be open to abuse from landlords who do not want succession. However, the proposal could also provide significant benefits for members. It was also suggested members of staff could work closely with the Deputy President and the Next Generation Forum Chair to factor the skills agenda into the NFU response on this proposal.

On the proposal to remove succession rights for eligible relatives when the tenant is 5 years past the state pension age, there was agreement that it must be adopted with the proposal to remove the minimum retirement age for AHA succession or not at all.

On the proposal to enable dispute resolution if the landlord and tenant cannot agree on the variation of a restrictive tenancy clause, one member of the Board queried who would mediate in such resolutions.

ACTION: EG to work closely with the Deputy President and Next Generation Forum Chair to factor the skills agenda into the NFU response to the current tenancy reform consultations

7. Abolition of Section 21 for Assured Shorthold Tenancies [PB978] (Eleanor Griggs)

The Board heard that the Government had recently announced its intention to abolish the section 21 'no fault' ground for evicting a tenant from a dwelling. Currently, landlords can serve a two-month notice and tenants usually vacate properties before or on the date this period ends. The 'no fault' ground was introduced to allow landlords to regain possession of property quickly and easily and therefore stimulate the private rental market. If section 21 is abolished, the landlord will need to find a ground under section 8, but this is not always possible and some are met at the discretion of the court. It is illegal to evict a tenant without a court order and this process can take up to nine months. A quicker transition may be needed by members if say an employee resigns and their dwelling is needed by their replacement.

MHCLG seems intent on pressing ahead with the abolition of section 21 but it is considering reviewing the court process to make it quicker or potentially avoid it altogether. The NFU would like to see ground 16 around ceased employment elevated to mandatory status and an exemption for tenant farmers who sublet properties and then have to return them empty to their own landlord when their own tenancy ends.

The Board was asked to prioritise NFU asks around this issue and members suggested ensuring possession could be obtained easily and swiftly in the event employment of the tenant had ceased and the property was required for an incoming employee. Also, ensuring that a non-agricultural tenant could be given notice within a short space of time, allowing a family member to return to living on farm.

The Board also expressed concern about a potential conflict of interests for the NFU when it comes to protecting retired farmers from being easily evicted and enabling farmers to easily evict employees when needed. The Board also raised the prospect of tax implications for members who are inadvertently encouraged to let their properties out to non-workers.

FOR INFORMATION ONLY:

8. **BPS update [PB979] (*Richard Wordsworth*)**
9. **CS update [PB980] (*Alisha Anstee*)**
10. **Legal update [PB981] (*Nina Winter*)**
11. **Irrigation prospects report [PB982] (*Paul Hammett*)**

The Board welcomed the commentary on the role of water companies in this paper. One member commented that there was plenty of water during the agricultural drought last year but it was under the control of water companies. A fair balance between water for the public and water for farmers would need to be struck in the future.

The Board was provided with a verbal update on a recent meeting of the Government's National Drought Group from the Director General. Defra says water companies must be ready to help farmers and some water companies do seem to be making more water available to farmers. Nevertheless, the NFU has been talking to the Environment Agency since March about new ideas on how to get more water to farmers. There may also be a role for the NFU in helping consumers understand that water supply is limited and the organisation may wish to take a radical stance on water resource reform.

The Board discussed the merits of their respective water companies, the work of the Environment Forum to seek out future opportunities around flood management, the good work being done around water in the Netherlands and the potential for a water infrastructure project.

ACTION: Diane Mitchell to coordinate a collaborative effort between the Environment Forum and relevant Commodity Boards to set an agenda on water infrastructure and licencing

12. **NFU consultation response to an EU implementing regulation on market transparency [PB983] (*Rohit Kaushish*)**

ACTION: The Board members was asked to send through any "showstoppers" with the proposed draft response to Ruth Edge by close of play that day

AOB:

The Board was provided with an update on the issue of general licences from AG. Defra has decided to replace the licences that were issued by Natural England following the retraction of the original licences. Indeed, the department is redrafting the original licences and returning to a multi-species per licence approach in doing so. It is considering removing some species from the licences altogether, such as the jay and the feral pigeon. The redrafted licences could arrive at any time and the NFU Land Management team is ready to respond when they are released. The team's Chief Adviser is talking with Defra on an almost daily basis and recently fed into an EFRA Committee inquiry into the management of general licenses. Whilst there appears to be some advantages of returning to the original licencing system, concerns remain around the need for members to provide evidence in order to obtain a licence.

Meanwhile, it has been announced today (11 June) that Wild Justice, the organisations that forced Natural England to revoke the original licenses, has launched a fresh legal challenge to Natural England. The organisation is challenging one of the new licenses issued by Natural England (GL26), in particular, those parts of it relating to gamebirds.

The Board underlined the NFU focus on licencing for agricultural purposes rather than conservation or game-keeping but acknowledged that some members may resent having to apply for separate licenses for separate purposes. The Board also raised a potential issue around the data of members on licence applications being mishandled and falling into the wrong hands. While the NFU has already received reassurances from Defra about the safety of this data, it will raise the issue again with Natural England.

ACTION: TJ to seek further assurances about the safety of licence application data from Natural England at a meeting later today (11 June)