



House of Commons
Northern Ireland Affairs
Committee

**Brexit and Agriculture
in Northern Ireland:
Government Response
to the Committee's
Fifth Report**

**Seventh Special Report of Session
2017–19**

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Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/niacom and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Committee staff

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Seventh Special Report

The Northern Ireland Affairs Committee published its Fifth Report of Session 2017–19 [Brexit and Agriculture in Northern Ireland](#) (HC 939), on 22 October 2018. The Government's response was received on 12 December 2018 and is appended below.

In the Government's Response the Committee's recommendations are shown in **bold** type; the Government's response is shown in plain type.

Appendix: Government Response

Introduction

The Government is grateful to the Northern Ireland Affairs Committee for their report on an independent agricultural policy for the UK and Northern Ireland to support farmers once the UK leaves the EU. The Government and the Department for Environment, Food and Rural Affairs (Defra) are working closely with the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland to ensure that the UK's agriculture industry is supported as we prepare to leave the EU and Common Agricultural Policy (CAP).

Developing an agriculture policy for Northern Ireland

In recognition of the critical role that agriculture plays in the Northern Ireland economy and the absence of an Executive, the Government should proactively seek the views of farmers in Northern Ireland to better inform the remaining stages of the Bill.

The Government should identify areas in which it can lend capacity and share knowledge to support DAERA's preparations for Brexit, including in the development of policy options and rollout of pilot programmes. The Government should also proactively engage with agriculture stakeholders in Northern Ireland to ensure that the province's views are not overlooked due to a lack of formal ministerial representation. The Government must also set out how, if the Executive is not reconstituted by the end of the year, it will develop and legislate for post-Brexit agriculture policy for Northern Ireland. If primary legislation is required, and the required measures fall within the scope of the Agriculture Bill, the Government should introduce amendments to that Bill as needed. (Paragraph 39)

The Government recognises the importance of the agricultural industry to Northern Ireland and to the UK as a whole. Agriculture is however a devolved area and it is up to a future DAERA Minister to set direction and to develop policy for agriculture in Northern Ireland.

It is clear that Northern Ireland needs a fully functioning Executive and Assembly so that important decisions, including those relating to future agricultural policy, can be taken by locally accountable politicians. The Government remains firmly committed and determined to see the restoration of devolved government in Northern Ireland and all of

the institutions established by the Belfast Agreement. The only sustainable way forward lies in delivering what the people of Northern Ireland clearly voted for last year: the devolved institutions.

In the continued absence of an Executive, the UK Government has already taken some decisions which are necessary to provide good governance and political stability for Northern Ireland but ultimately the people of Northern Ireland need a devolved Government back in Stormont.

The Agriculture Bill lays the foundations for agricultural policy for England, however DAERA and the Welsh Government are also taking powers within the Bill until they pass their own primary legislation. In the absence of an Executive, DAERA's approach to the Bill is to maintain the status quo until an Executive is restored. DAERA is engaging with stakeholders on a future agricultural policy for Northern Ireland. This engagement is based on proposals developed in partnership with stakeholders. Defra officials have also briefed representatives of the Northern Ireland political parties and stakeholders in Belfast on the Agriculture Bill.

The Government would like to assure the committee that Ministers and officials are working very closely with DAERA and the Northern Ireland Office to share knowledge and resources, and to support DAERA's preparation for exiting the EU. Where primary legislation has been identified as necessary, the Government has indeed been amending the bill to accommodate these issues. There have been three Defra and devolved administration ministerial meetings in the past six months with a Senior Civil Servant from Northern Ireland in attendance.

Prior to the introduction of the Agriculture Bill, there were twenty official level meetings between Defra and all of the devolved administration to discuss draft provisions and joint working. Since the introduction of the Bill, official-level meetings have continued on a regular basis with weekly contact between Defra and DAERA to discuss the potential effect of Bill provisions on Northern Ireland.

The Government should, during the passage of the Agriculture Bill, set out to the House the process by which common frameworks for UK-wide aspects of agriculture policy will be developed and agreed. These frameworks should be reached by agreement between the relevant devolved administrations and not set in Westminster. In the absence of a Northern Ireland Executive, the UK Government should engage with both the Northern Ireland Civil Service and the main political parties in Northern Ireland to discuss these arrangements. (Paragraph 45)

The Government is of the view that the vast majority of agriculture policy areas can be suitably managed through non-legislative, inter-governmental coordination. We are continuing discussions with the devolved administrations and stakeholders to find approaches for agriculture that work for all of the UK. We fully expect our close collaboration to continue with DAERA and the other administrations over the next 18 months to agree and implement administrative frameworks to set out future working and coordination on agriculture, as set out in the 'Agricultural framework progress update' document we published jointly with the Welsh Government on 12 September 2018. Those common UK frameworks in devolved policy areas will indeed be reached by agreement

with the devolved administrations and in collaboration with the Northern Ireland Civil Service, as well as informed by discussions with the main political parties in Northern Ireland.

Financial support for agriculture in Northern Ireland

Northern Ireland's agricultural funding should be maintained until at least 2022. The UK Government must bring forward, as a matter of priority, plans for the allocation of funding for agricultural support post-2022, to ensure that the devolved administration has a basis for planning its own future agricultural policies and support mechanisms. (Paragraph 66)

On 16 October the Government announced a review of the intra-UK allocation of domestic farm support funding to the end of this Parliament [expected in 2022]. The Review will look at what factors should be taken into account to ensure an equitable intra-UK allocation of domestic farm support funding to the end of this Parliament. This independent review will help to ensure fair funding for farmers in all parts of the UK as we leave the EU and will consider a wide range of factors reflecting the unique circumstances of each of the four parts of the UK.

Lord Bew will chair the review panel, and will be supported by a panel of representatives from each part of the UK. The panel members were selected from a list of nominations from the Devolved Administrations, and will be confirmed shortly. We expect the review panel to use their findings to make recommendations for the treatment of convergence funding between 2020 and the end of this Parliament. The review's findings can be considered when future funding decisions are taken at the 2019 Spending Review.

As we move to longer-term arrangements the Government will ensure that all parts of the UK are treated fairly and their individual circumstances are taken into account.

We urge the responsible department to ensure that the definition of "public goods" it uses when considering future agricultural policy includes the survival of farms as essential rural assets. (Paragraph 67)

In recognition of the fact that the vast majority of farms in Northern Ireland are small businesses and do not have the same scope for intensification and mechanisation as their larger counterparts, area payments should be retained as an element of agricultural support beyond 2022. (Paragraph 68)

DAERA should clarify whether—in the 2021 scheme year—it will seek authority to continue to pay Direct Payments under the current CAP rule or maintain alignment with the CAP. (Paragraph 69)

Decisions on the future of agricultural policy, including support payments and payments for public goods, is devolved. It will therefore be up to a future DAERA Minister to set policy direction and implement new schemes, tailored to Northern Ireland's unique circumstances after the UK leaves the EU. Powers in the Agriculture Bill have been extended to Northern Ireland, following collaboration with officials in DAERA, to ensure payments to farmers can continue and that a future Minister is not constrained in their ability to implement schemes currently offered under the EU CAP.

The Government should proactively engage with the Northern Ireland Civil Service, farmers and the agri-food sector to identify opportunities for targeted funding which would bring most benefit, and identify at-risk sectors in need of priority assistance. The Government can no longer rely on an imminently restored Executive. It must now take the lead, working with DAERA to develop an approach that allows farmers in Northern Ireland to access funding streams to develop their businesses, in a way equivalent to their counterparts in other parts of the UK and to erase the competitive disadvantage with the Republic. (Paragraph 78)

In the absence of an Executive in Northern Ireland, Defra officials continue to actively engage with Northern Ireland Civil Service (NICS) colleagues (particularly DAERA). Although Defra does not expect to receive decisions on policy matters from the NICS given the absence of Ministers, Defra officials and Ministers continue to engage for technical feedback. At a working level, engagement in this policy area is primarily done through the regular Defra-Devolved Administrations Food and Farming working groups. Issues in this area are also discussed at the regular Defra-Devolved Administrations Ministerial meetings where senior DAERA officials attend instead of NI Ministers. The last one took place on 19 November and Norman Fulton and Rosemary Agnew attended from DAERA.

The people of Northern Ireland need democratically elected Ministers back in the Executive to take important strategic decisions, including those relating to support for the agri-food sector. It is for a Northern Ireland Executive, or the Northern Ireland Civil Service in its absence, to consider priorities across devolved matters.

On 18 October the Secretary of State for Northern Ireland introduced new legislation to facilitate a clear plan to restore devolved government in Northern Ireland, The Executive Formation and Exercise of Functions Act provides the Northern Ireland Civil Service with the certainty and clarity they need to continue to deliver vital services in the public interest. It does not give them any new powers, but the guidance provides clarity on how they can continue to use their existing powers in the public interest.

This Act provides for the time and space needed to get devolved government back up and running again. The Act also enables key appointments that cannot currently be made in the absence of Northern Ireland Ministers to be made during the period before an Executive is next formed.

When designing the post-Brexit system of agricultural regulation and enforcement, the Government should seek to reduce the regulatory burden on farmers where it is possible to do so without compromising standards or risking reduced compliance. At a minimum, the new system should be no more burdensome than that which already exists. (Paragraph 89)

The Government is committed to maintaining a strong regulatory baseline of farm standards as the UK leaves the CAP. The monitoring and enforcement of farm standards is a devolved area, we will however work closely with the devolved administrations to share best practice. In England, Defra will be adopting a more streamlined and focused inspection regime, with more data sharing, reduced duplication and greater use of earned recognition. Those who do not comply with regulations can expect to be sanctioned, but where appropriate we will look to provide greater scope to remedy underperformance before sanctions are applied.

The Government should work with the devolved administrations to investigate whether existing environmental regulations are being interpreted consistently across the UK Prior to exit day, it should set out how it intends to ensure consistent application of the UK's regulatory regime following Brexit. (Paragraph 90)

The Government will not weaken current regulatory protections. The Environment Bill will establish a new, independent statutory environment body to hold government to account on environmental standards once we leave the EU, and a statutory statement of environmental principles to guide future government policy making.

These proposals are concerned with environmental governance in England and reserved matters throughout the UK, for which the UK Government has responsibility. However, the Government continues to explore with the devolved administrations whether they wish to take a similar approach. The Government would welcome the opportunity to co-design proposals with devolved administrations to ensure they work across the whole UK, taking account of the different government and legal systems in the individual nations.

The Government and DAERA should pilot approaches for incentivising the use of longer term tenancy agreements for agricultural land in Northern Ireland, including tax reliefs for landlords who grant longer term tenancies. These pilots should be ready to run during the 2019–20 financial year. (Paragraph 96)

Agriculture is devolved and Northern Ireland has its own legislation and policy framework regarding tenancy agreements. The Government does however recognise that very short-term tenancies can be a barrier to investment, growth and long term sustainable land management and we will continue to engage with the industry to explore ways in which longer terms of tenure can be encouraged.

There is already tax relief for landlords who grant longer term tenancies. Agricultural Property Relief (APR) provides relief from inheritance tax for agricultural land, to ensure that viable farms do not have to be broken up just to pay inheritance tax. The land must be owned for a minimum of 2 years to qualify. Where the land is rented out, the minimum period is 7 years. These qualifying conditions provide an incentive for agricultural landlords to provide security for those farming the land, as the land must be let for longer periods of time before the relief applies. The Government keeps all tax reliefs under review to ensure that they continue to meet their objectives.

Trade, cross-border supply chains and North-South cooperation

We recommend that trade in live animals from Northern Ireland to the Republic of Ireland should be allowed to continue. The Government should clarify as a matter of urgency whether this is its intention and, in its response to its consultation on controlling live animal exports, set out specifically what exemptions it will apply—if any are needed—to ensure that this trade can continue unimpeded. (Paragraph 117)

The Government's Manifesto commitment is to control the export of live farm animals for slaughter once we leave the European Union (EU). The first step in meeting that commitment was to launch a "call for evidence", in April 2018, on controlling live exports for slaughter and to improve animal welfare during transport after the UK leaves the EU. The call for evidence closed in May 2018.

The Government and the devolved administrations asked the Farm Animal Welfare Committee (FAWC) to advise on a possible export ban and to review the current standards for transporting animals and make recommendations. FAWC are reviewing the evidence that has been submitted in response to the Government's call for evidence, and have been engaging with various stakeholders including the Ulster Farming Union and Livestock Meat Commissioner Northern Ireland. The Farm Animal Welfare Committee will provide advice to the Government on improvements to protect animal welfare in transport before the end of the year.

Once the Government has received and considered FAWC's report, then we will consult on any future policy reforms including a possible export ban. The Government is aware of the importance of the trade between Northern Ireland and Ireland.

The Government should bring forward proposals as soon as possible for how regulatory alignment would be maintained in the absence of a UK-EU agreement being reached by exit day, as it indicated its willingness to achieve this in paragraph 49 of December's UK-EU Joint Report. (Paragraph 132)

A Protocol on Northern Ireland has been agreed within the UK-EU Withdrawal Agreement, which upholds the Government's commitment in paragraph 49 of the Joint Report. The Withdrawal Agreement legally commits both sides to use best endeavours to ensure the backstop is never used. If either side failed to do so, this could be referred to an independent arbitration panel.

The agreed Protocol guarantees that even in the unlikely event that the UK's future relationship with the EU is not in place by the end of the implementation period, there will be no hard border between Northern Ireland and Ireland and no customs border down the Irish Sea.

This would preserve the economic and constitutional integrity of the UK, upholds the Belfast (Good Friday) Agreement, and ensures people and businesses that rely on an open border between the Northern Ireland and Ireland can continue living their lives and operating as they do now.

The Government should seek to secure the continued application of Protected Geographical Indicators after Brexit, and agree with the EU how reciprocal arrangements will work, including on new applications for UK products. (Paragraph 135)

The Government recognises the economic and cultural importance of Geographical Indication (GI) schemes, which includes the Protected Geographical Indication (PGI) products.

The EU (Withdrawal) Act gives the UK Government the power to create UK GI schemes which will enter into force when the UK is no longer bound by EU law. This will ensure that all UK GIs, including products such as Comber Early potatoes, Armagh Bramley apples and Lough Neagh eels enjoy continued protection in the UK. Irish Whiskey, Irish Cream and Irish Potteen, which are GIs that can be produced anywhere on the island of Ireland, will continue to be fully protected in the UK and the EU after exit.

We are working to deliver the best possible deal with the EU in respect to continued protection of UK GIs in the EU. We anticipate that all current UK GIs will continue to be protected by the EU's GI schemes after we leave the EU.

The UK Government, the Republic of Ireland and the European Union must, as a priority, consider arrangements that will allow the intent set out in the December 2017 joint report—including the upholding of the Belfast Agreement—to be met in a no deal scenario. The UK Government must confirm for businesses in Northern Ireland how—if at all—trade with the Republic will differ from trade with other EU Member States, so that the business which rely on this trade can prepare accordingly. (Paragraph 140)

The Government does not want or expect a no deal scenario and will continue to uphold its commitments under the Belfast Agreement, including the avoidance of a hard border and maintaining North-South Cooperation, including the Common Travel Area. The Government will continue to preserve the constitutional and economic integrity of the UK as a whole.

The Government recognises the basis that the Belfast Agreement has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we are committed to protecting in line with the letter and spirit of Strand two of the Agreement.

It remains, though, the responsibility of the UK Government to continue preparations for the full range of potential outcomes. As we do, and as decisions are made, we will take full account of the unique circumstances of Northern Ireland and position of the Irish Government, who are co-signatories to the Belfast Agreement.

The UK is able to decide its own policy in many areas affecting the UK side of the border, and as far as possible within existing international requirements, such as WTO obligations, is aiming to avoid unnecessary increases in burdens for business, or for new interventions at the border on EU goods.

Defra Ministers and Food Standards Agency have taken the decision that the UK will take a risk based approach to import checks. This means the UK will not impose additional border checks (of the kind it currently conducts on imports from third countries) on imports of animals (including equines), plants and their products from the EU on Day 1, as it would be disproportionate to the risk posed. This is however based on a Day 1 risk assessment that is time limited and could change.

This is a devolved area, and agreement has been reached with the Welsh and Scottish governments who also plan to take the same approach. This policy is subject to agreement in Northern Ireland, although the current lack of a Northern Ireland Assembly is acknowledged. But if agreed, it would mean that no additional checks will be applied to agri-food goods from Ireland on Day 1 or in the immediate period after day 1. Stakeholders are encouraged to read the 'no deal' technical notes published by the Department for Exiting the European Union online, <https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>.

The Government should carry out research to determine how the market for Northern Ireland agri-food exports will be affected by Brexit, and identify subsectors which stand to be most affected. It should report its findings to the House by 21 December.

The Government should also identify markets where there is demand for agri-food produce that could be served, or is already being served, by Northern Ireland, and pursue trade deals that secure access to these markets as a priority. The Government should also seek to agree with third countries, before the end of any transitional period, the replication of trade agreements which the UK is currently party to because of its membership of the EU. (Paragraph 147)

Defra has been working with DAERA to understand the potential effects of Brexit on the agri-food sector in Northern Ireland. In addition, research on the potential impacts of EU Exit on the agriculture sector—for example, analysis published by FAPRI¹ (the Food and Agricultural Policy Research Institute—based at the University of Missouri working in partnership with Queens University Belfast)—indicates that there is little difference in how the Northern Ireland sectors may be impacted compared with those in the rest of the UK. We will continue to work closely with Northern Ireland government officials and their agri-food stakeholders in securing future trade deals that work for the whole of the UK.

Through membership of the EU, the UK is currently party to 38 free trade agreements and 3 economic partnership agreements covering over 70 countries and the Government is fully committed to ensuring continuity for these agreements as we leave the EU. During any implementation period, arrangements would be put in place with partner countries so that the UK is treated as an EU Member State for the purposes of international agreements, including trade agreements. Following the implementation period, we would seek to bring into force new bilateral agreements that replicate the effects of existing agreement as far as possible.

When striking future trade deals, the Government must ensure that it does not allow the import of produce that falls below the welfare and quality standards expected of UK farmers' produce. (Paragraph 150)

The Government is proud of our high standards of food safety and these will not be watered down when we leave the EU. We will remain global leaders in animal welfare standards and have no intention of undercutting our own reputation for quality by lowering our food and animal welfare standards in pursuit of a trade deal. Any future trade deal must work for consumers, farmers, and businesses across the UK. There are tried and tested mechanisms for ensuring that exporters from foreign countries abide by our standards.

The agricultural workforce

The Government should, on the basis of the advice provided by the Migration Advisory Committee, report back to this Committee on the labour requirements of the Northern Ireland agriculture sector and how these will be met by post-Brexit immigration policy. The Government should also establish mechanisms through which the sectoral priorities of Northern Ireland and other UK regions can be reflected in immigration policy, such as by identifying priority professions for inclusion in the Shortage Occupation List. (Paragraph 182)

1 <https://www.afbini.gov.uk/sites/afbini.gov.uk/files/publications/FAPRI-UK%20Brexit%20Report%20-%20FINAL%20Clean.pdf>

In our response to the Migration Advisory Committee (MAC) call for evidence the majority of issues covered were devolved and Defra's submission represents the England position only, as stated clearly in the introduction to our response. In some instances the supporting evidence is presented on a UK-wide basis where it is only available in this form and cannot easily be broken down to England only. It would therefore have been inappropriate for Defra to have represented devolved Northern Ireland issues in its response to the MAC.

Immigration issues are a reserved matter for the UK government and remain the policy responsibility of the Home Office. On immigration policy it is important that government, Devolved Administrations and stakeholders work together to understand the issues and explore options across the UK.

It is a priority of this Government to enable an innovative, productive and competitive food supply chain, which invests in its people and skills. Defra understands the importance of labour in supporting a successful and effective agricultural sector and is considering the latest data, and working closely with industry to understand labour demand and supply, including both permanent and seasonal workforce requirements.

MAC published its report on European Economic Area (EEA) Migration on 18 September. Defra continues to work closely with the Home Office to ensure that there is a long term strategy for food and farming workforce as part of the future immigration policy. In June 2018, the Home Office announced further details about how EU citizens and their families can obtain settled status in the UK.

We have also announced that the Government will introduce a new pilot scheme for 2019 and 2020 enabling up to 2,500 non-EEA migrant workers to come to the UK to undertake seasonal employment in the edible Horticultural sector.

This pilot will test the effectiveness of our immigration system at alleviating seasonal labour shortages during peak production periods, whilst maintaining robust immigration control and ensuring there are minimal impacts on local communities and public services. While Immigration is a reserved matter and this will be a nationwide pilot, with a nationwide quota. We are working together with the Devolved Administrations on the implementation of this pilot which places a specific duty on the selected scheme operators to ensure that all regions of the UK will benefit.

A White Paper on the future border and immigration system is planned to be published later this year. The Government have also commissioned the Migration Advisory Committee to independently review the composition of the Tier 2 Shortage Occupation List (SOL). This will enable them to look at which posts are in national shortage and should be given priority within the Tier 2 cap. The MAC will report by Spring 2019. Further details can be found at <https://www.gov.uk/government/organisations/migration-advisory-committee>.

It is vitally important that all parts of the UK take the opportunity to shape the future new immigration system as we exit the EU.