



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

Single Farm Payment

7 June 2011

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mrs Dolores Kelly (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr William Irwin
Mr Kieran McCarthy
Mr Oliver McMullan
Mr Conor Murphy
Mr Robin Swann

Witnesses:

Mrs Valerie Bell)	
Mr Andrew Elliott)	Department of Agriculture and Rural Development
Ms Bregeen Glendinning)	

The Chairperson:

I welcome Mr Andrew Elliott, who is the director of the rural payments division in the Department of Agriculture and Rural Development (DARD); Mrs Valerie Bell, who is a principal officer in the Department's grants and subsidies policy branch; and Mrs Bregeen Glendinning, who is a principal officer in its single farm payment branch. I invite the officials to make a brief presentation. Committee members will then have an opportunity to ask questions.

I remind members that this will be a brief overview of the single farm payment. We will be covering the issue in great detail in the weeks and months ahead, so I remind members to be as succinct as possible in their questioning.

Mr Andrew Elliott (Department of Agriculture and Rural Development):

Thank you very much. First, we will try to give you a brief overview of the single farm payment. I am grateful to be accompanied by my colleagues Bregeen Glendinning, who is based in Orchard House and oversees a lot of the key delivery work for the payments, and Valerie Bell, who keeps me right on the operational policy in and around the issues.

I know that some members are intimately familiar with the single farm payment, and I apologise to them for repeating what they already know, but it will be quite useful to do a quick overview of the scheme and then go into some of the critical issues for your constituents and for the Department in moving the scheme forward.

The single farm payment was the first big decoupled scheme to be developed in Northern Ireland and, indeed, across the EU. The scheme was designed to be separated from production and is not linked, for example, to the number of cattle or sheep that a farmer holds. Owing to that, the scheme is based on two really important assets: the eligible land that the farmer holds or is farming and the entitlements.

The entitlements were allocated in 2005 according to a strict process. When they were set up, there was a historical and area-based component to them. Therefore, in the valuation of the entitlements, there was an element of recognition that some farms had higher levels of production than others. That was really the limit of the production element in the scheme.

The rules for delivery of the scheme are clearly set out in European Commission legislation. Some of the issues that we have been managing over recent years are related to that and to the fact that, in many respects, regulations can be viewed on the ground by farm businesses as being quite tough and onerous.

We have some key controls in place, as well as other ancillary controls, that we are required to

operate to manage the scheme. Two key controls that are worth mentioning at this stage are the inspections regime and the maps that are available.

Farmers are required to maintain their land in good agricultural and environmental condition, which means that, in addition to having the land available, and so on, they must make sure, for example, that it is not under-grazed or over-grazed. There are also cross-compliance provisions, which are links to other activities on the farm that could affect the amount of single farm payment that is available. Examples are the appropriate use of nitrates and fertilisers; making sure that animals on the farm are correctly identified through their ear tags; and the recording of farm movements. All those activities can feed into the amount of payment that is made to the farmer.

Claims are made once a year by filling out a form called the single application form. There is a well-known deadline for the form to be received. Normally it is 15 May, but this year it was 16 May. There is another date in June for the final receipt of payments with penalty. For those applicants, there is a loss of payment between May and June.

It is possible to submit a claim for the single farm payment either online or on paper. Traditionally, the paper-based approach has been more common, but the online approach is growing significantly, and we are seeking to make increased provision for that. The online approach has a lot of attractions, both for the farmer and the Department. We can talk about that later if it is helpful to do so.

I thought that it would be useful to include some information about the nature of the scheme. It is important to say that the scale of the single farm payment scheme is very large compared with any of the other grants and subsidies schemes that the Department operates. The 38,000 applicants alone make it quite a big thing to manage. There are 750,000 field parcels, each one of which the European Commission takes a very close interest in. That creates a challenge, too. About one million hectares of land are entered in the scheme, each one of which can have one entitlement attached to it. The entitlements and the land area are not connected. The entitlements can be traded separately from the trading of land, except where a farmer is leasing land and entitlements, in which case they must be leased together. However, they are separable for buying and selling, and some farm businesses may not realise that.

The entitlements are of variable value. Some are very expensive to purchase while others are much cheaper. There is no reason, in principle, why a farmer with very poor-quality land could not purchase a very expensive entitlement and use it to claim on that land. That is an interesting fact.

A payment window opens on 1 December each year, and that is when the Department can and does release the vast majority of the payments. That is when most of the payments that you never get to hear about are released. Much of our engagement tends to be around the ones that happen later on, and rightly so.

The Department must meet a statutory target to get 95.24% of the value of the scheme paid by 30 June each year. There are a number of paying agencies around the European Union, including in these islands, although the target is not always achieved. We have achieved that, and we have achieved it again this year despite some difficulties. It is a very important target, and we never want to take our eye off it. Separate from that, we have other management targets in place each year, and I can talk about those later if they are of interest.

One important thing to say about the nature of the scheme is that, if you bring a big change to the scheme, you create significant risk, because it is such a large scheme and you are dealing with a lot of databases, computer systems, maps, and so on, that all have to work in sync with each other. Any change that we bring in carries a risk. For example, anything that pushes us towards a manual mechanism of delivery in the context of 38,000 applications is a problem, and that has to be borne in mind in everything that we do. One of my jobs in the Department is constantly to remind others who are working on issues dealing with change and reform to review that risk and seek to ensure that we manage it properly. I mention that because one of the biggest changes that we have to implement soon is the new mapping systems, and an awful lot of work will have to be done to ensure that that goes as smoothly as possible. I will return to that later.

I thought that it would be worth taking a quick look at the two main batches of claims that will be of interest to the Committee: the 2010 applications and the 2011 applications. We had 38,178 applications in 2010, and we achieved all our payment targets. We were pleased that we did that,

because there were some changes and risks this year; for example, the Department issued orthophotography — photographs of the farmers' fields — to all farmers this year. That might not seem like something that would obviously cause risk. However, the risk would occur if a lot of farmers came in together to change their details on the database on receipt of those photographs. That would have required an awful lot more checking to be done between the two databases that we have to compare with each other and would have slowed things down enormously. However, we have managed to get through that, and we are pleased that it has worked. Having access to the orthophotography has been extremely valuable to the farmers, and we want that to continue.

One difficulty this year has been the long tail of inspection cases, more so than we have had in recent years. We have about 460 inspection cases left to deal with. That does not seem very much in the context of 38,000, but it is a lot if you are one of the 460 farmers waiting on an outstanding payment, and more so if you are relying on it for cash-flow purposes. The Department is concerned about that and is keen to work on it. We hope to make almost all those payments in the next six weeks.

There are other outstanding payments, relating, for example, to probate cases, of which there are several hundred, and there are some cases where farmers have not submitted their BACS details to allow payment. Those cases cannot proceed until those things are sorted out, so you will understand that there are limitations to what we can pay until administration is put right.

That was an overview of the 2010 position. We have already received the 2011 applications — or we have received almost all of them. The closing date has passed. Some may still come in with penalties. This year, there have been somewhat fewer applications — 37,930 — but the figure is in the same ballpark. A massive body of work has been ongoing to manually scan those forms on to the system. The entering of field data must be done very carefully and accurately to make sure that there are no errors, and claims must be validated to make sure that all the details that have been inserted are correct. Inspections are due to start in mid-June, so they are imminent, and we are drawing the sample of farms for inspection, comprising random and risk-based cases. In October, we will send out determined area notices, which will give farmers a clear indication of the areas that are eligible for payment. Hopefully, we will publish our

payment processing targets in November.

I shall now take you into what for us and, I suspect, you are the issues relating to the single farm payment. The time between application and payment is one important issue. Although there is no difficulty for the vast bulk of farmers, there is a body of farmers for whom it remains a problem. Indeed, this year, some farmers have yet to receive their payment. The one thing that I would say up front about that — you will forgive me if I repeat it — is that farmers who put in their application and are sure that it is correct, on the basis of only claiming for eligible areas of land, will not, in normal circumstances, have a problem. The difficulties that we encounter relate to cases for which a large number of ineligible areas are claimed or where other breaches come to light as a result of inspections. A big and important message to go back to farm businesses is that it is now so important to make sure that applications are correct and that it is worth spending time and effort to get them right.

EU disallowance is the next issue to mention. A great deal of the work on which my colleagues and I are embarked is in trying to tackle the disallowance problem, because disallowance has the capacity to eat into the resources of the Executive and the Department. The most significant audits of the past few years were carried out in 2006, 2008 and 2009 by the European Commission. Those area aids audits resulted in a 5% disallowance, about which there has been discussion on the Floor of the Assembly and in Committees. There have been other audits, including the entitlements audit in 2008 and the cross-compliance audit in 2009, and they have delivered us a body of work from which we must ensure either that our arrangements are in line with what the Commission requires or that we are engaged with the Commission as necessary to challenge what it has come up with and to persuade it that there is a better way forward. In that regard, there is a mix of issues.

It is important that we keep the delivery of the single farm payment under review, and I shall mention two aspects of that. First, we have a review of decisions process, whereby any farm business that is unhappy with the Department's decision has two opportunities — two stages — to challenge it, and, if it reaches that point, the second stage involves an independent panel looking at the decision, coming to a view and making a recommendation to the Department. The final decision still remains with the Department because the Department is the paying agency

responsible for the moneys, but it takes account of what panel members have said and, where possible, their advice is accepted. On occasions, there are cases in which the panel makes recommendations that the Department feels it cannot accept. The Minister spends a bit of time looking at those more difficult cases.

The other aspect of review is the importance of us keeping the scheme as a whole under review. In the context of tackling disallowance, there are also opportunities for us to build and improve the scheme and to introduce technologies in such a way that we make it easier for farmers to claim without error and in a way that makes inspections, if they happen, a far faster thing. There are ways of doing it that will, hopefully, over time, enable us to make payments more quickly.

Although the work going on at the moment to tackle disallowance threatens payment timetables, as we have seen this year, and will continue to threaten them for another year, it will hopefully enable significant improvements in the long run. For example, we will be looking at issues such as the scope to increase and encourage online applications and, ultimately, if the numbers are right, to move to a mandatory position of online applications. That would significantly reduce error, allow faster processing and free up people to do other things, which would maybe be more helpful for farmers.

The other thing that would be helpful is if we can increase the use of orthophotography and remote sensing, which is used for an annual satellite photograph. Again, that would make a faster on-the-desk picture, as it were, of the eligibility of areas on a farm. That would enable us to pre-populate the forms with more accurate information about the area of each field that is eligible.

Taken together, it is hoped and planned that all those things will lead to us being able to make faster payments in the future. As I said, the problem is that it takes time to introduce those things and there is risk with their introduction.

The other thing to mention is CAP reform. Obviously, there are uncertainties around that. Later today, you will hear from my colleagues who will talk you through the issues on CAP reform. Suffice it to say, it is most important for DARD that the service delivery people who are

delivering the scheme at the moment have the opportunity to feed into that, and we will have. In so far as we can influence the picture on CAP reform, getting to the point where there is a simpler, more straightforward scheme that is easier to use is something that is very much in all our minds.

I am happy to take questions.

The Chairperson:

Thank you, Andrew. I thank your team also.

I remind members that, as MLAs, we hear about single farm payments all the time. I ask you to resist going into constituency mode and to try to keep it as general as possible.

Mr Swann:

Mr Elliott, thank you for your presentation. I have three brief points to make.

In your presentation, you referred to 80 applications being withheld because of no bank details. Surely, that is an easy fix and one that can be done by a DARD official.

The statutory target that DARD has been set is by value. In that instance, is there an incentive for DARD to process the larger claims that have difficulties in them in order to meet its target? Processing a larger claim with difficulties rather than a smaller claim with difficulties would enable DARD to reach its target but would actually penalise the smaller farmer.

The presentation on area aid disallowances states that the Department recognised a liability of £52.6 million in 2009-2010. In the final line, it says that that has been created by continuing weaknesses in the administration of the 2009 and 2010 schemes. Has anybody been held accountable for allowing those weaknesses to continue?

Mr A Elliott:

I will try to pick those points up one at a time.

Starting off with the bank details, there is an easy fix, and that is for the farm businesses concerned to provide the details. Short of that, the Department's hands are completely tied by the European regulation; we are no longer allowed to make payments in any circumstances other than those in which we hold the BACS details. Whatever the rationale is for individuals choosing to withhold those details, it is an absolute barrier to them receiving payment under the single farm payment scheme according to the rules. So, we do not have discretion in that matter.

On the statutory target by value, there is a temptation to look at the larger claims first, but we resist it. We work through clearly on the basis of claims as they are processed. Bregeen can give you chapter and verse on that. We are rigorous in working through applications and inspection cases in the order in which they are received for processing. You are right that to look at larger claims first would be an easy way through, but it is not something that we do.

Your third point was about disallowance and the area aids and whether anyone has been held to account for that. In speaking to the Assembly on those issues last September, the previous Minister made it clear that, in her view, there was a shared responsibility for dealing with the problem of disallowance. Farmers had to make absolutely sure that they claimed only for the areas that they were signing up to claim for; that is, that they claimed only for eligible ground. The Department had a role to play. It perhaps underestimated how difficult it would be to persuade the Commission to back off on disallowance. The Commission itself was the subject of challenge by the Department in regard to some aspects of the disallowance; for example, in relation to the court case being sought through the European Court of Justice by the Department.

Therefore, it cannot be said that the Department is faultless in what has transpired. In retrospect, it is clear that the Department needed to have its maps improved sooner, in time for the single farm payment. The maps, which seemed to be satisfactory for the purposes of production-based schemes, were no longer satisfactory when the Commission placed a major focus on the control measures required for a land-based scheme only.

To some extent, a culture change has been going on, not just here but in the Commission, which was under pressure from the European Court of Auditors and others to get its house in order and its accounts cleared annually. Many such issues cannot be put right overnight.

Replacing a mapping system is a major exercise, and we are working closely with Land and Property Services to build that new system and to get it in place. It is not something that can be repaired quickly, and it will take years for it to be perfect.

Mr Swann:

Is DARD's connection with the Commission not such that the Department was aware of that culture change taking place? Why were we so far behind?

Mr A Elliott:

I have been with the Department for just over a year, and I have seen extremely close working with the Commission, which is vital to make sure that we understand clearly what the Commission's issues are and that it understands our issues. The Commission appreciates feedback from the paying agencies. That is because the Commission administers the fund but does not have experience of its delivery on the ground. Such engagements are extremely valuable, and we need to put our energies into maintaining that good relationship with the Commission.

Mr Irwin:

Thanks for the presentation.

I see that 944 claims have yet to be paid. In 80 of those cases, the only issue is the bank account details. Have those 80 been informed of that situation?

Mr A Elliott:

Yes, they will be aware of that.

Mr Irwin:

That is important. That is OK. According to my calculation, 974 rather than 944 are not yet paid, but I may be wrong. However, that is not an issue.

A matter that I have brought to attention before is that DARD carried out inspections quite late, in some instances not until the end of December, by which time payments had started. Is

that not an issue? Do the late inspections not hold back payments?

Mr A Elliott:

Our inspection colleagues are not at the table today, but all inspections were initiated. The critical factor is that we do not start payments before all farmers to be inspected have had their inspections started. Some inspections were started this year on the basis of the availability of orthophotography. There may have been some tying up of loose ends, but the Department wanted to make sure that it was able to make the payments in a timely way to farmers.

Mr Irwin:

I declare an interest: I receive a single farm payment.

Mr Swann:

Do you have your bank details in yet?

Mr Irwin:

I had my bank details in a long time ago.

Legal action is being taken by the Department on disallowances. What stage is that at? When can we expect an outcome?

Mr A Elliott:

That is a very difficult question to answer. We are in the hands of the European Court of Justice. I am sure that you know that it can be very unpredictable even in the case of domestic disputes and issues in the courts. We do not know, but it could be years. We do not know whether that will be the case. Valerie, do you want to add anything?

Mrs Valerie Bell (Department of Agriculture and Rural Development):

The state that it is at is that we made our application, the Commission responded to that application, and we responded to the Commission's response. The last time that I spoke to legal advisers was probably in March, when that process was still ongoing. Their view at that stage was that it would be very unlikely that we would hear anything before the end of this year. It is a

case of watching this space, I am afraid.

Mr T Clarke:

I apologise: I was out for Question Time, so I missed part of your presentation. Although I am a rural dweller, I am not a farmer. However, representations have been made to me, and maybe you could help me with this one. I am looking across at Robin; perhaps some members know the answer to this already. In relation to the single farm payment in the past, people who had eligible land that is no longer eligible talk about entitlements. Will you explain where there has been a change in the Department? People who could previously have claimed for land — it seems to be normally uplands or hills — that they had originally down for single farm payment can no longer claim that. Is there an opportunity for them to move that to other lands?

Mr A Elliott:

The entitlements and the land are entirely detachable. You can take an entitlement, and it can be in relation to any hectare as long as it is a hectare of eligible land. You can claim a high value entitlement on poor quality land, and you can claim a low value entitlement on high quality land; it is totally separable. When you lease land, you must lease the land and the entitlement together. Other than that circumstance, however, they are detachable and tradable.

Mr T Clarke:

For my benefit and that of others who are not farmers, will the Department give us a paper that details the ins and outs and pros and cons of all that, so that we can pass that on to our constituents whenever they make enquiries about it? There seems to be a difficulty whenever they contact the Department about what they can do. It seems sometimes that they get two different stories from the Department. It would be useful to have a piece of paper with an explanation.

Mr A Elliott:

Yes, we can do that.

There is another dimension to what you were saying. There is a sense in which the entitlement has a parallel in the milk quota, where you have the milk itself, which has a value,

and you have the milk quota, and it has a value even though it is only on a piece of paper. You have the piece of land and you have the entitlement: it is the same kind of principle.

As regards the claiming of land and the disallowance issue, when the European Commission auditors looked at what we were doing, they found that a certain proportion of the land that was being claimed was ineligible according to their definition of the rules. Part of the reason for that may lie in the fact that, for example, as some farmers grow older and perhaps retire, many of them may still claim land but perhaps do not maintain it to the same extent that they did in the past. Although it may have been eligible at the outset, if they allow, for example, scrub to grow up or heather to become too woody and high and so on, that land could become ineligible over the years. In those kinds of circumstances, if that farmer has not looked at that situation and has not checked his land and exactly what he is claiming, he may be putting himself at risk of penalties because he is claiming land that is no longer eligible.

Another scenario is perhaps that a farmer claimed for his entire farm — in some cases, including the farm yards and everything that he could possibly claim for — at the outset, got entitlements for that and has claimed it right through ever since, and that was always ineligible. Again, sooner or later, that farmer will be inspected or the information will come to light in some other way, and he is at risk of penalties. The penalties could work back through the years and be applicable from the outset. Therefore, that farmer will owe money relating to payments made in previous years, back to 2005. In addition, he may lose entitlements and have his entitlements recalculated on the basis of what he should have applied at the outset. In those kinds of situations, the Department can use orthophotography as evidence. The Department may have a set of photographs going back over time, which show what was happening on the ground in that area.

Mrs Bregeen Glendinning (Department of Agriculture and Rural Development):

This year, having received the orthophotography and the eligibility booklet, which more clearly defined ineligible land, a number of farmers have found themselves in the situation described. That is, they do not have enough land from that which they used in previous years to claim all their entitlements. Because, as Andrew explained, the land is not necessarily attached to specific entitlements, if they can find land that is available to them and they manage it, they can include

other clean land on their application form. By clean land, we mean that it genuinely has to be available to them and they genuinely have to be managing it. We have found that that is what quite a lot of farmers have chosen to do in this year's applications. We have observed that, although they are changing their applications to reduce some of the land that was previously described as being eligible, they are actually adding new fields into the equation. The two start to balance out, and, overall, they are not losing any entitlements.

If farmers find themselves in the situation described, and they cannot acquire enough land to balance the entitlements against their total area, they could potentially trade and sell the entitlements to another farm business which is looking for them, to try to minimise any overall loss. Those are the two options that are available to them to try to reduce or remove their losses.

The Chairperson:

Andrew, I thank you and your team for your presentation. I ask that you provide us with a written report on the 2010 single farm payments for our first meeting in September, given that you said that you expect the processing to be complete in the next six weeks. It is a very important issue, and it affects us all in our constituency work. It would also be very useful to have a paper on land eligibility. Is that OK?

Mr A Elliott:

Yes. Thank you.