

Tenant Farmers Association (Wales)

Welsh Parliament Climate Change, Environment and Infrastructure Committee

Inquiry on the Welsh Government's proposals for a Sustainable Farming Scheme (SFS)

1. Introduction

- 1.1 The Tenant Farmers Association in Wales (TFA Cymru) welcomes the opportunity of providing evidence to the Climate Change, Environment and Infrastructure Committee as part of its Inquiry on the Welsh Government's proposals for a Sustainable Farming Scheme (SFS).
- 1.2 TFA Cymru is the only organisation dedicated to representing the interests of those in Wales who do not own the land they use for agriculture, whether through tenancies or other means. Its membership comprises farms of all types and sizes but active, family farms predominate. TFA Cymru welcomes the opportunity of responding to this important consultation on the launch of the Sustainable Farming Scheme in 2025.

2. Background

- 2.1 TFA Cymru believes that it is important for Welsh Government and the farming community to work in partnership to deliver policies that will tackle the dual challenges of climate change and nature recovery. However, this must not be at the expense of damaging food security and the resilience of Welsh agriculture which would have catastrophic consequences for the people of Wales, the farmed landscape and the very environmental outcomes that the Welsh Government seeks to secure.
- 2.2 TFA Cymru also accepts and appreciates the huge financial challenges under which the Welsh Government is having to operate. However, the entire rural affairs budget in Wales last year was some £482 million which represents just 2% of the overall Welsh budget. Bearing in mind that this is targeted at nearly 90% of the land area of Wales, producing food, fibre, landscape, biodiversity, and carbon services, pound for pound, this is excellent value for money.
- 2.3 It is also important to recognise that whilst it has been a blunt instrument, the Basic Payment Scheme has delivered support to farmers on an annual basis. These payments have been, in many cases, the difference between profit and loss for farm businesses within Wales who are already contributing to the climate and nature goals being articulated by Welsh Government. As we move to a new platform for rewarding farmers, it must not be done in a way which destabilises this. That would be entirely counter-productive.

- 2.4 Without a huge shift in returns to primary producers from the marketplace, which looks unlikely, public support will continue to be needed to deliver a sustainable farming environment in Wales into the future. Whilst we acknowledge the need for reform, any change must be carried out at a considered pace to allow as many farm businesses as possible to adjust to the new environment. That change must also take into consideration the context within which agriculture operates including in respect of trade, supply chains, planning, tenancy legislation, wider environmental legislation, plant and animal diseases and variable weather and climate.
- 2.5 Whilst there is an expressed aspiration to assist farms to be resilient and sustainable, TFA Cymru is concerned that the scheme as proposed by Welsh Government pays insufficient attention to the financial security of farm businesses as against the wider environmental objectives. It is vital that the new scheme balances the priorities for economic, environmental, and social outcomes. Keeping profitable farm businesses across Wales is important for the Welsh economy, the Welsh environment and Welsh culture and language.
- 2.6 TFA Cymru welcomes the recognition by Welsh Government as articulated in its consultation document that producing safe, high-quality food is vital for Wales. TFA Cymru also understands the environmental, climate change and financial challenges being faced and that agriculture in Wales needs to play its part. However, TFA Cymru believes that Welsh agriculture is already playing a major role in delivering against these wider policy goals. On carbon emissions for example, it is estimated that Welsh agriculture is responsible for 14% of overall emissions within Wales. Bearing in mind that it is occupying 88% of the land area of the country, acre for acre it is delivering a hugely efficient carbon position against the 12% of the area of Wales producing 86% of overall carbon emissions. In addition, through the management of land with cattle and sheep, Welsh farmers are responsible for the sequestration and storage of vast amounts of carbon in their soils, hedgerows, and existing woodlands on farms.
- 2.7 Care must be taken not to allow domestic sources of food, particularly red meat and dairy, to be diminished only to be sourced for consumers from abroad from countries who are less efficient in terms of carbon management, thereby offshoring our emissions of CO₂. Equally, farming should not be the scapegoat for the rest of society in having to sacrifice vast amounts of land for tree planting to soak up carbon emissions from other parts of society including transportation and energy production. Red meat and dairy production are often popularly, but wrongly, castigated for their impact on carbon emissions when in fact through their grassland and soil management they are doing much to benefit our net carbon position. It will be important to ensure that we avoid knee-jerk reactions which could make our net carbon position, on a global basis, worse rather than better. There are also severe doubts about the extent to which tree planting will enhance net carbon sequestration particularly when

there is poor site selection for planting which would be engendered by a blanket approach to tree cover as promoted by the new scheme.

- 2.8 The Sustainable Farming Scheme must work to secure the continuation of productive and resilient agriculture which can continue to provide the beneficial ecosystems services to the rest of society through farming's wider management of the environment and its biodiversity. Taking the proposals for the scheme in the round, TFA Cymru is concerned that it will fail to deliver the necessary balance and a major rethink is essential before the scheme is launched next year. If that means adding a further year to the transition, then so be it. For such a major policy change, it is vital we get this right.

3. The Sustainable Farming Scheme Framework

- 3.1 The TFA recognises that the Sustainable Farming Scheme will sit above the minimum requirements set out in law. In that respect, as we move away from the direct payments model which has had cross compliance, it is accepted that a new regulatory framework will be required. This framework must be rooted in a sensible, proportionate and enforceable new regulatory system. However, in creating this new framework TFA Cymru argues that Welsh Government must not take the opportunity to raise the regulatory bar.
- 3.2 One area in which we fear that this is already occurring is in relation to the new agriculture pollution control regulations operating within Wales. There are specific issues for tenant farmers where fixed equipment on their holdings is the responsibility of their landlords in terms of ensuring compliance with statutory and regulatory requirements. Tenant farmers who are doing all they can on a reasonable basis to comply, notwithstanding their landlords' positions, should not be penalised in respect of their access to the scheme. TFA Cymru is also concerned to ensure that land covered by statutory designations (for example earmarked as SSSIs) should have full and unimpeded access to the new arrangements rather than seeking to force individuals to produce environmental outcomes purely through the regulatory regime.

4. Universal Actions

- 4.1 Whilst the three-tier structure of Universal, Optional and Collaborative Actions proposed by the recent consultation makes sense, the key will be to ensure that the measures allocated to each action are appropriate and proportionate. Universal Actions should, by their nature, be those actions which most farms within Wales can adhere to where applicable to the nature of their farming operations.
- 4.2 The TFA acknowledges the benefit of benchmarking and understands the benefit of building this practice into the Universal Actions of the scheme. However, it will be essential to ensure that the KPIs identified are widely acknowledged as being beneficial whilst at the same time being relatively easy to collect. It must operate in a way which allows farmers to assess, collect and

report the data without having to use agents or consultants and there will need to be a clear route for those who do not have digital access.

- 4.3 As with benchmarking, the TFA acknowledges the benefit of continuous professional development for farmers. Whilst some farmers will undertake little, if any, activities which benefit their continuous professional development, there will be many who will be at a stage over and above what is been required under the Universal Actions. There will need to be provision made for individuals to opt out of the modules if they are involved in other, valuable CPD arenas. TFA Cymru believes that it will be essential to draw up a list of exemptions where individuals can use earned recognition to show compliance with the Universal Actions which are intended to show understanding, knowledge and expertise. Equally, for those who may need to tap into the modules being provided by Welsh Government, consideration will need to be given to how those without digital access will be able to participate.
- 4.4 The management of soils is a key activity for farm businesses, and TFA Cymru shares the aspiration of Welsh Government to improve soil health planning including through soil testing. However, before this is introduced as a Universal Action, we will need to be clear that sufficient capacity exists for the amount of additional soil testing that will be required and that there is a suitable framework within which issues such as soil carbon and soil organic matter can be appropriately measured. Again, access to recording information for those without digital capability will need to be properly thought through.
- 4.5 In addition, it will be essential to ensure that the person who is recording the data is the person who owns the data. Whilst it might be used on an anonymous basis as part of an aggregated reporting framework, the consent of the data provider, as owner, must be sought before any of the individual data is passed onto other individuals including in respect of an end of tenancy situation which can be quite sensitive if there are issues of compensation and dilapidations being considered as between landlords and tenants. TFA Cymru can foresee situations where there would be pressure for this information to be provided to other bits of the food supply chain. This must be resisted, and processors and retailers must be put on notice that they cannot insist upon this data being released to them either by Welsh Government or by those participating within the scheme.
- 4.6 TFA Cymru understands the benefits that can be delivered through the use of cover crops over winter. However, where there is the retention of stubbles over winter, TFA Cymru would argue that such land should not be required to have a planted cover crop included in addition.
- 4.7 It is difficult to understand what is being asked of farmers under the Integrated Pest Management Universal Action proposed by Welsh Government. Whilst there is some collection of data in respect of plant protection products, there is a lack of clarity over what actions farmers will be expected to undertake as

integrated pest management. The consultation document issued by Welsh Government referred to appropriate cultivation techniques, diverse crop rotations and tailored use of inputs, but it is not clear how this will operate as a Universal Action. Again, any recording of data necessary will need to address the lack of digital access by some farmers.

- 4.8 TFA Cymru recognises the sensitivity of peatland habitats, but in the prescriptions proposed in the Welsh Government consultation, TFA Cymru is concerned that there is too strong an emphasis on stocking levels as opposed to grazing management. Welsh Government needs to recognise the benefits of mixed grazing systems which will assist in the delivery of both landscape and biodiversity within these important habitats.
- 4.9 TFA Cymru notes that the Universal Action for habitat will, for all intents and purposes, replace the Habitat Wales Scheme operated in 2024 is a one-year bridge between Glastir and the new Sustainable Farming Scheme. It is therefore essential that the reward for this Universal Action is at least at the level offered under the Habitat Wales Scheme and, in addition, take into consideration the BPS payments that have previously been applicable. TFA Cymru notes that this Universal Action will not be applicable to land designated as SSSIs which will have their own bespoke plans. However, that should not be a justification for not paying for land under SSSI designations at a lower level under the Sustainable Farming Scheme. Given the special status of SSSI and other designated land and the higher than usual regulatory requirements that will apply, the basic payment for Universal Actions on this land must be at least at the level as payments made elsewhere.
- 4.10 TFA Cymru is hugely concerned about the proposed requirement that at least 10% of each farm is managed as habitat. Specifically for the tenanted sector of agriculture, such a requirement could fall foul of tenancy agreements and the legislation which governs them, including the definition of agriculture and the Rules of Good Husbandry. This would be the case particularly where the habitat is to be provided on a permanent basis and where there is no specific agricultural use related to that habitat land. It is essential that a land sharing approach is taken to this element rather than a land sparing approach.
- 4.11 It will also be the case that many features identified as potential habitats could be reserved out of existing tenancy agreements. This would include things like woodlands, ponds and watercourses. Tenant farmers could find themselves at a disadvantage where such features are outside of their management control but otherwise exist on the holdings that they farm and wish to bring into the scheme. The use of remote sensing and aerial photography to map habitat features will be able to determine the physical presence of those features but will be unable to understand the legal position with regard to management control. This is an issue which will need to be addressed by Welsh Government.

- 4.12 There should be no requirement upon tenant farmers to establish permanent habitat features on their holdings which would be a breach of their tenancies and would potentially damage the reversionary interest to their landlords. Tenant farmers should be able to use a full range of temporary habitat options which, if necessary, can be reversed at end of tenancy by the landlord or incoming tenant if needed. In addition, in the context of tenants having the ability to object to their landlords' unreasonable refusal to allow access to a scheme, it would be helpful if Welsh Government would highlight that, in its opinion, a landlord who refused a tenant consent to take part in the Sustainable Farming Scheme in the context of utilising temporary habitat options would be considered to be acting unreasonably.
- 4.13 Welsh Government must address the interactions between the Rules of Good Husbandry and the scheme requirements. Tenant farmers with agreements under the Agricultural Holdings Act 1986 are required to make maximum efficient use of the land that they farm. Many Farm Business Tenancy agreements will also refer to the Rules of Good Husbandry as a matter of contract. Whilst this needs to be looked at generally (with perhaps an amendment to the Rules of Good Husbandry which were drawn up in 1947) this is a particular issue in respect of the proposed hedgerow management standards within the Sustainable Farming Scheme. Whilst TFA Cymru understands the aspiration for having slightly higher and wider hedges than would ordinarily be required for farming purposes, we have had circumstances within which landlords have successfully challenged tenants to cut their hedges more tightly which is clearly unhelpful to the wider aspiration of environmental management. In addition, tenant farmers will be restricted in planting trees and whatever trees do exist may already be reserved to the landlord. The requirement to have one tree per 50 m of hedge should therefore be exempted for tenant farmers. In addition, the impact of interspersed trees in hedgerows needs to be considered given that hedge plants near to trees tend to dieback and recede which could create unwelcome gaps.
- 4.14 Another interaction that Welsh Government will need to consider is in respect of hedgerows where landlords with sporting interests require tenants to maintain gaps within hedgerows to enable them to fully enjoy reserved rights to shoot for example. Tenants must not be required to gap up hedges where they have been required by their landlords to keep those gaps in place.
- 4.15 in most cases trees and woodlands will be reserved out of tenancy agreements so are not under the management control of tenant farmers. Even though woodland may be mapped as part of the holding of a Sustainable Farming Scheme applicant, tenants must be able to exclude any trees or woodland from any applicable actions.
- 4.16 TFA Cymru would wish to record its thanks to the Welsh Government for responding positively to the point made previously by TFA Cymru in respect of

the proposed rule that all farmers should have 10% of their land under trees. We welcome the exclusion of tenanted land from this rule. However, we would also question more widely how applicable it is to use this 10% tree cover as a basic rule within the scheme architecture for non-tenanted land. TFA Cymru holds that it would sit better as an optional element rather than one which applies universally.

- 4.17 In managing participation in the Sustainable Farming Scheme in respect of the Universal Action for the historic environment, care will need to be taken to ensure that tenant farmers are not being required to carry out any work in relation to features which are excluded from their tenancy agreements. This might be because buildings have been made redundant or because scheduled ancient monuments fall outside the scope of their agreements. We would also be cautious about requiring individuals to be involved in positive management of these sites as a universal requirement. Of course, individuals should operate in a way which does no harm to these sites, but often these sites will require very specialist management which should be carried out by individuals with the knowledge and skills to do so.

5. Scheme eligibility

- 5.1 Following the commitment given by the Minister for Rural Affairs at Report Stage of the Agriculture Bill in June of last year during which Amendment 55 on active farmers had been accepted and subsequently overturned by a Government amendment, TFA Cymru welcomes the clarification given as to the eligibility for participation in the scheme. In particular, TFA Cymru welcomes the fact that landlords will not have access to the scheme through clauses in tenancy agreements which purport to give them "management control". However, we would also ask that individuals applying as an owner occupiers should be required to declare that the land being brought into the scheme had not been previously let in the 12 months prior to their application being made. This will limit the incentive on landlords to remove land from the tenanted sector of agriculture so that they can apply for the scheme in their own names whether they end up farming in hand or using contractors.
- 5.2 it is noted that scheme participation will require all land registered under a Customer Reference Number to be included. However, tenant farmers will need to have the ability to exclude any land where, for whatever reason, they are unable to enter it into the scheme due to restrictions applied by their landlords. Tenant farmers should be required to enter on all the land they can, rather than all the land they farm.
- 5.3 TFA Cymru would oppose any extension of the eligibility criteria to include things like compliance with Rights of Way legislation, compliance with workplace recycling regulations or compliance with The Wildlife and Countryside Act 1981 provisions. These will all have their own enforcement

frameworks which should be followed rather than creating a “double jeopardy” situation in terms of restricting access to the Sustainable Farming Scheme.

- 5.4 TFA Cymru welcomes the fact that the Sustainable Farming Scheme will be open to new entrants from day one. However, we look forward to further discussions with Welsh Government as to how new entrants can be encouraged into the sector by improving access to land and finance.

6. Payment methodology

- 6.1 A limiting factor in being able to provide views was the absence of any payment or reward architecture included within the consultation issued by Welsh Government. To this end, it was a surprise to hear from Welsh Government during announcements made in the summer of last year that Welsh farmers will face a choice in January of next year either to continue to be in receipt of BPS payments over a transition period or take the path provided by the new Sustainable Farming Scheme. It is further understood that this will be an annual choice until the end of the transition away from the BPS. TFA Cymru is aware of the aspiration of Welsh Government to achieve a significant uptake of the Sustainable Farming Scheme in its first year. To achieve that, payments available will have to be sufficiently rewarding vis-à-vis the current level of BPS payments and the increased level of risk and cost to Welsh farmers in taking part in the new scheme. TFA Cymru would put down a marker at this point that it would be unacceptable for Welsh Government to severely limit the value of BPS payments to artificially create the circumstances within which the Sustainable Farming Scheme delivers a higher return.
- 6.2 Whilst welcoming the proposal of a stability payment which will make up any potential shortfall between the payments to be made under the new scheme and those made under BPS, this will not take into consideration the increased costs involved in compliance with the new scheme’s provisions.
- 6.3 TFA Cymru notes the intention to introduce a stability payment alongside a payment for compliance with the Universal Actions. TFA Cymru would oppose the capping of payments which would be unfair to larger, upland farms in particular.
- 6.4 The phasing out of BPS payments over five years is noted by TFA Cymru but it will be essential to ensure that the new Sustainable Farming Scheme is fully up and running by the end of the transition period and that payments are commensurate with the budget for both BPS and agri-environment payments made historically. This will be particularly important due to the increasing costs involved in complying with the provisions of the new scheme.

7. Conclusion

- 7.1 Much detail needed to provide a definitive view about the proposed Sustainable Farming Scheme was lacking in the recent Welsh Government consultation

document, not least in respect of payment rates. There will also need to be a very careful assessment made of the impact of this scheme to ensure that it does not severely damage food security and the resilience of farming in Wales per se which will, in turn, damage the ability of the sector to deliver on desirable environmental outcomes. Replacing domestic production with imports is not a sustainable outcome.

- 7.2 Welsh agriculture has much to offer in terms of food production and wider social and environmental outputs. However, returns to the sector are routinely low in comparison to the level of risk, uncertainty, investment and working capital employed. It is therefore essential that the new Sustainable Farming Scheme rewards farmers over and above income foregone, as it seeks to replace both the Basic Payment Scheme and legacy agri-environment schemes which have bridged the gap between profit and loss for many farm businesses across Wales.
- 7.3 TFA Cymru concludes that a great deal more work is required before the Sustainable Farming Scheme is ready to be launched in January 2025 as the replacement to the Basic Payment Scheme and legacy agri-environment schemes.

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