

Government response to the Rock Review



Government has published a formal response to Baroness Kate Rock's review into the agricultural tenanted sector in England. The context for the review is the ongoing agricultural transition away from area based payments under the Basic Payment Scheme made to the occupier of the land, to a system of environmental payments to land managers. Together with a policy intention to support farmers' incomes through diversification and private markets for environmental outcomes, the agricultural transition could be seen to be having a disproportionate impact on tenanted farmers over owner-occupier farmers as covered in this [article](#). Acknowledging this, the then Environment Secretary George Eustice commissioned the review to look specifically at how Defra could use scheme design to help tenant farmers and to consider what policy initiatives would best foster positive and long-term relationships between tenants and landlords and minimise the loss of land from the sector. The response acknowledges changes that have been made since the Review started and makes commitments on many of the Review's recommendations.

Headlines of the Government's response:

- Presumption that landlords and tenants work collaboratively rather than unilaterally
- Creation of a new farm tenancy forum to strengthen landlord-tenant relationships
- Tenants' views to be embedded in Defra policy design
- Further reforms to capital and grant scheme design to enable tenant access
- Review of EWCO and agroforestry standards
- RICS to lead on the development of a new code of practice for land agents.

Farm tenancy forum

The headline outcome in the government's response is not something that the Review asked for, but will be broadly welcomed by stakeholders across the sector. The Review recommended that government should be incentivising and providing advice on how landlords and tenants can collaborate to develop mutually beneficial agreements in both public and private schemes. Acknowledging this and the need to be seen to be supporting tenant farmers, the government has created a new farm tenancy forum with representatives from across the sector. It will cover England and Wales and be supported with civil service resources. The Review's proposal that a tenant farming commissioner be empowered to enforce fairness in the sector was not accepted outright, but a call for evidence will be launched during the summer to explore how this role could operate.

It is proposed that the new forum will have the primary role of supporting the implementation of the government response to the Rock Review and explore all issues relating to the tenant farming sector. Specific tasks include:

- Meet quarterly with the Farming Minister in attendance
- Provide Defra with regular updates on how the tenanted sector is performing and adapting to the transition
- Feed in evidence and insights
- Consider how new schemes are impacting the sector
- Develop and disseminate codes of practice and monitor and report on their uptake
- Provide balanced feedback from all perspectives of the sector.

The forum will include representatives of tenant farmers (TFA, NFU, Young Farmers), representatives of landlords (CLA, Association of Chief Estates Surveyors, and Institutional Landowners Group) and organisations representing professional advisors (ALA, CAAV and RICS). Co-chairs will be an industry expert (nominated by Defra) and a Defra official.

The forum is also expected to explore further legislative changes such as tenant diversifications and to encourage more flexible use of FBTs, and to provide feedback on emerging schemes such as the New Entrant Support Scheme. Government did not accept that the Law Commission should be tasked to review agricultural tenancies legislation now, arguing that it was reviewed in 2019 and felt to be largely fit for purpose. The forum however, will be asked to monitor this and to gather evidence on whether restrictions in FBTs are creating more of a barrier now on tenants' ability to diversify their holdings than they were in 2019. The forum will have a role in monitoring whether new consultations are needed on other issues raised in the Review, such as ways to encourage longer-term tenancies, better use of existing FBTs, updating definitions, and enabling dispute resolution procedures.

Scheme design changes

There were several recommendations in the Review relating to the design of the emerging Environmental Land Management (ELM) schemes. The government accepted that tenants being able to access schemes is critical to enable a thriving agricultural sector and restored natural environment. It has already removed barriers to tenants, made Sustainable Farming Incentive (SFI) agreements shorter and retained the name 'Countryside Stewardship' (CS) to give reassurance that payments are not just for 'nature recovery'. It was also accepted that AHA tenants should be considered to have sufficient security of tenure to enter multi-annual schemes, provided they have not given nor received notice to quit.

In the response, government has gone further and agreed to a general principle of 'tenants not requiring landlords' consent' where appropriate, replacing it instead with an obligation on the tenant to check their tenancy agreement. Proposed changes under a scheme impacting on the value of the land or foundational characteristics of the land must still be done 'in accordance with the landlord's legal right to the land', meaning consent and counter-signatories will be required based on the specific scheme options. Where there is no impact on the value or use of the land, tenants should be able to access schemes without specific landlord consent. This means that the current requirement for landlord consent in CS will be reviewed. However, the suggestion is that landlord-tenant collaboration is the simplest solution to issues surrounding consent.

Government rejected the recommendation that scheme options available to landlords should be limited or always entered jointly with their tenants; and did not accept that unreasonable resumption of land to allow landlords to enter land into schemes was a material concern. It does propose that landlords should be required to engage with their tenants before applying for schemes. Whilst clearly balanced towards landlords' rights, the presumption towards greater collaboration between landlords and tenants will be reflected in future scheme design and scheme guidance will be updated to make it clear that land cannot be entered where it is in an active, unresolved dispute between landlord and tenant. It was not accepted that schemes should be transferable between an outgoing and incoming tenant or to the landlord, but this would be kept under review.

In relation to longer term options, government has agreed to look at structures that pay for land use change as a short up-front agreement followed by annual maintenance agreements. Provided options are suitable for this structure, distinct capital and revenue options for a feature would help landlords and tenants agree on how to collaborate. Alternatively, joint agreements will be encouraged to do the same.

Productivity schemes

Some significant changes have been made regarding access to capital schemes. Defra has agreed that existing joint application processes need to be clearer, and that applications under the Farm Equipment and Technology Fund will now be available to local authorities and councils in support of their tenanted landholdings.

Woodland

The principle of landlord and tenant collaboration also pervades the government's proposals on how woodland schemes can be adapted to meet the needs of the tenanted sector. The existing Tenancy Reform Industry Group (TRIG) guidance on how tenants can approach tree planting and England Woodland Creation Offer (EWCO) is reaffirmed, and the minimum area for EWCO has been reduced to widen participation. The definitions of permanency and the blurring of agriculture through the encouragement of agroforestry and wood pasture systems will be the subject of detailed review as Defra brings forward a farm woodland SFI standard and CS agroforestry options. The review asked for agroforestry to be treated as a non-permanent land use, such that tenants could adopt the practice without consent. Defra agreed that forestry, farming and agroforestry need to be treated equally, but that any changes to permanency rules would take a landlord's legal rights into account.

To simplify the process of applying for woodland grants, government has agreed to bring all the existing schemes into a single location. EWCO is under review and is developing a 'change of management control and succession policy' so that a landlord or new tenant can more easily take on a grant agreement from an outgoing tenant. Guidance on penalties that might apply if management control changes, is also likely. EWCO will be included within CS from 2025, and so government is exploring how the same principles of management change can be included within other CS options.

Private markets and natural capital

The government response largely restates the broad range of work streams ongoing to develop nature markets in the UK, whilst acknowledging it is a complex issue and that the review has raised the profile of tenant sector in the development of these markets and opportunities. The ongoing review of the tax treatment of ecosystem service markets is also noted, as is the consultation on agricultural property relief and ELMS, which is exploring whether tax reliefs should be expanded to cover environmental activities and restricted to tenancies over eight years in length.

Code of practice for land agents

The response acknowledged that the power imbalance implicit in landlord-tenant relationships and sometimes poor performance from landlords and their agents, impacts on the wellbeing of tenants and their families. To address this, government has commissioned RICS to develop an industry-led code of practice to set out the expected standards of behaviour for agents, professionals, and landlords and tenants. It will also raise awareness of existing dispute resolution processes and discuss ways of highlighting and discouraging bad practice. RICS is expected to develop the code collaboratively, working with the existing industry bodies and building on existing guidance published by the CLA, TFA, and TRIG. The recommendations in the review about RICS have been noted to ensure that it is fit for purpose in its regulatory oversight of the sector.

Conclusion

Defra's response to the review is smart. Rather than seeking to intervene in the multiple gripes of the landlord and tenant relationship and fix the economic woes of tenant farmers, it is showing leadership in how it expects the industry to conduct itself by taking an enabling role in creating policy that requires better dialogue and collaboration between owner and occupier. Creating a long-term industry forum to tackle many of the other recommendations provides a focus for progress without tying government's hands, and a code of practice and reform of RICS to improve professional standards will be welcomed by tenant advocates. The open consultations on updating the underlying IHT incentives to ensure that land remains let will be the biggest win for tenants and those wishing to promote more access to land in the long-term. The author of the report may wish that all of the recommendations were taken in full, but substantial progress has been made in raising awareness of the problems that were facing the tenanted sector and increasing its stature within Defra, and for that the Rock Review can be judged to be a success.

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