



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Inquiry into Better Regulation:
DARD Officials

15 September 2015

NORTHERN IRELAND ASSEMBLY

Committee for Agriculture and Rural Development

Inquiry into Better Regulation: DARD Officials

15 September 2015

Members present for all or part of the proceedings:

Mr William Irwin (Chairperson)
Mrs Jo-Anne Dobson
Mr Kieran McCarthy
Mr Oliver McMullan
Mr Ian Milne
Mr Edwin Poots
Mr Robin Swann

Witnesses:

Mr Philip Gilmore	Department of Agriculture and Rural Development
Mr Gerry Lavery	Department of Agriculture and Rural Development
Mr Paul McGurnaghan	Department of Agriculture and Rural Development

The Chairperson (Mr Irwin): I welcome Gerry Lavery; Paul McGurnaghan, director of digital services; and Philip Gilmore, deputy principal. You are all very welcome. I have a note telling me that Mr Lavery will retire in a few weeks' time and that this will be his last appearance at the Committee. I would like to acknowledge that and wish you well in your retirement.

Mr Gerry Lavery (Department of Agriculture and Rural Development): Thank you very much, Chair. I am grateful to the Committee for the time it has given me over the years to give evidence. I have enjoyed almost every moment of it *[Laughter.]*

The Chairperson (Mr Irwin): Almost? *[Laughter.]*

Mrs Dobson: Which part did you not particularly —

Mr Lavery: I have appeared before a succession of distinguished Chairmen, dating back to Rev Ian Paisley, followed by Rev William McCrea. It has genuinely been a privilege to appear in front of the Committee and it is something that I have valued in my career. Thank you.

The Chairperson (Mr Irwin): We certainly wish you well in your retirement. Will you now take up to 10 minutes for your presentation, after which we will ask some questions?

Mr Lavery: Thank you for the welcome and for the opportunity to brief the Committee on DARD's approach to better regulation. Today is an opportunity for us to set the scene and support the Committee's inquiry into something that we certainly regard as very important.

Efficient and effective regulation is essential to support business growth, protect our citizens and the environment, and it is very much at the core of our efforts on trade. It is a strength that we can play into as we look for access to new markets, and we have used it very successfully in the past.

That said, we appreciate that we have to apply principles of proportionality, transparency, consistency and accountability, and we must target the regulations so that they are applied in a way that supports industry. We do not support gold-plating; we seek to avoid it. As I said, we seek to have our regulations proportionate to the issue we are dealing with. Members will recall that we did a significant piece of work in the Northern Ireland Better Regulation and Simplification Review, which was published in June 2009. That had 85 recommendations of which we played into 78. We accepted 63. We had a three-year action plan and, by March 2013, the net result was a 10.3% reduction in the regulation burden on farmers. It was not as much as we would have liked and certainly not as much as the farming community would have liked. However, I still think that it was a very creditable achievement and one that has not been matched by other industries and sectors, because that result was verified and accepted across the industry. It was not simply us marking our own homework.

More recently, the Minister of Enterprise, Trade and Investment commissioned a review of business red tape, which published its report on 20 November 2014. Agrifood processing was targeted as a priority sector in the review. The Executive response to the review is being considered and will be agreed, hopefully, very shortly.

Most recently, the European Commission has committed to a better regulation agenda, and its 2015 annual work programme aims to ensure the EU institutions create only legislation that is workable and delivers benefits, and without overburdening those who have to comply. Finally, the Going for Growth report also contains nine specific recommendations on a better regulation theme. So, it is something that civil servants and public servants take very seriously. They repeatedly try to bear down on levels of regulation.

In parallel with all of these reviews, however, we have continued to make good progress. There is no question but that the official brucellosis-free status will give us an opportunity to relax controls. That will lead to savings in compliance costs for the primary production sector and us. We have indicated an expected saving of £7 million a year to the farming community, as well as an £8 million saving to the taxpayer.

A second area where we have made good progress, I think, is on the livestock identification, registration and movement. This was identified as the second most burdensome area for farmers. An amendment to the EU regulation has come into force that will allow for the electronic identification of cattle. The amendment will allow a keeper to decide, on a voluntary basis, to make use of a derogation to keep a non-farm holding register, subject to certain conditions. So, in future, APHIS will be able to stand in for the herd book, if that is what the keeper wishes. We are looking at whether we can roll out that system in advance of our national legislation in order to apply the derogation. Otherwise, we will move as quickly as we can.

A further area in the better regulation report was around control with remote sensing. The recommendation was to try and complete 80% of land eligible to key inspections by remote sensing using satellite imagery, rather than by on-farm inspections requiring the attendance of the farmer. In 2015, we will complete 86% of basic payment scheme inspections using remote sensing. This will be a further reduction in the burden for farmers. That said, CAP reform illustrates some of the constraints that we labour under, and some of the difficulties that we and, I suspect, the Committee are going to face in reducing the administrative burden further. When compared with the single farm payment system, the new system is more burdensome. Effectively, there are more schemes, and more schemes mean more controls. All the way through the creation of the CAP reform, our Minister argued for greater simplification, but, ultimately, our achievement in that was limited.

Note that the terms of reference for the Committee's inquiry into better regulation include assessing the process for transposing regulations into Northern Ireland law. Much of what we apply emanates from Europe. It is critically important that we influence the Commission as much as possible. The Minister and officials work hard on that, but anything that emerges from the Committee's inquiry on that will be very welcome, as will any influence the Committee can bring to bear.

We have a better regulation simplification unit which provides an internal challenge role and an education function. We ensure that rigorous regulatory impact assessments are carried out, with the aim of regulating only when necessary and proportionately. We can discuss the regulatory impact assessment in more detail if members wish. When we implement the legislation, enforcement will be

subject to an enforcement policy, and in drawing up that policy, the better regulation unit had a key role in setting out the principles that we are trying to apply.

I have said before at the Committee that, alongside better regulation, I see huge opportunities ahead in respect of the digital agenda. Our focus is now clearly on delivering more services online. We see digital provision as offering the potential to make a real difference to farmers' administrative costs. To that end, our better regulation simplification unit has transferred into our digital services division, and it is drafting a digital strategy and associated action plan. There are real gains to be made by farmers who are willing to make the shift to online services. Their forms can be pre-populated with information that we already hold; data can be validated before submission; and human errors, such as omissions, can be picked up instantly. So, there should be less subsequent amendment and fewer costs for appeals, penalties and disallowance. This year, we have made significant improvements in E-SAF. This year, almost half of single application forms were returned online. In a follow-up survey, 96% of respondents said that they would use the service again next year, so we are making ground, and I think farmers will benefit from it. Our priority is to build digital services that are so good that all our customers who use them will choose to do so.

In my opening remarks, I said that I would return to the point of relaxing the rules, where we can. The Minister has given a very clear commitment to examining specific areas of excessive administrative burden that were brought to our attention and simplify wherever possible. There is a recent example of that. Members of the Committee raised concerns around good agricultural and environmental condition requirements, specifically in relation to hedge cutting in late autumn, and minimum soil cover provision, which causes practical farming difficulties and issues with ploughing matches. The Department took these concerns on board and was able to amend the legislation accordingly.

In conclusion, Chair, I hope that this gives the Committee some insight into the better regulation agenda in the Department. I reassure the Committee that the Minister and Department continue to see better regulation and simplification of service delivery as strategically important. We welcome the Committee's support and scrutiny to ensure that the agenda is embedded in our policy and delivery work.

The Chairperson (Mr Irwin): Thank you for your presentation. Did the Department publish a report on the outcomes of the better regulation agenda 2010-13?

Mr Lavery: We submitted it here. We can ensure that a copy is available to the Clerk in connection with the inquiry.

The Chairperson (Mr Irwin): You mentioned that APHIS could be used as the herd book for farmers in the future. I cannot understand why that has never happened. A number of farmers are paying substantial sums of money to Farmwizard and the other groups that take everything exactly from APHIS. Why has it taken so long for the penny to drop?

Mr Lavery: The impediment was in the European legislation, and the impediment today is in whether we can now transpose that European legislation into national legislation. As I say, we are looking at whether, now that the European legislation is in place, we can move immediately, or whether we have to wait until our local legislation is enacted. Our preference is to move immediately.

The Chairperson (Mr Irwin): I always thought that APHIS was foolproof. It has a total record, and yet you still expect farmers to keep the same record. Do you understand where I am coming from?

Mr Lavery: I do understand where you are coming from, and we are quite happy to rely on APHIS now and in the future. We think it will be a better system. Up to now, it has not been permissible to do that. It illustrates the difficulty we often face in negotiating with Europe for a change to its legislation that will enable a sensible pragmatic solution locally.

The Chairperson (Mr Irwin): It makes common sense.

Mr Swann: In your opening comments you said that you had reduced red tape and bureaucracy by 10%. What percentage have you added?

Mr Lavery: This will be one of the issues. Let me explain. We reduced red tape by 10% net, taking account of anything that we added. It was as frank an assessment as we could make.

I notice that the Committee inquiry will try to set a baseline for regulation that is imposed on the farming community. We set a baseline back in 2009, and we went through a very heavyweight process to assess the number of hours it takes farmers to comply with regulation, costing those hours and putting them into the balance against the benefits. It is very difficult, and expensive, to set that baseline. I encourage the Committee to take advantage of the baseline that we set back then and look at how we did it. The method is accepted across Europe as best practice, but it is not easy, and the expense is one of the reasons we are not rolling that programme forward and moving the baseline year on year.

Mr Swann: Philip, I notice that you have the study in front of you. Has the Department ever brought the panel back for comments or feedback on the extensive work that was done?

Mr Lavery: I think that our last engagement with the panel was to verify the outcome at 10%. Am I right?

Mr Philip Gilmore (Department of Agriculture and Rural Development): The Ulster Farmers' Union and the Northern Ireland Agricultural Producers' Association verified it for the industry. The panel would have seen the outcome of the report.

Mr Swann: After they did that piece of work for DARD, did you ever bring them back and ask them how they thought you had done, whether there was anything you missed or whether that was what they meant by those recommendations?

Mr Gilmore: We have not done that.

Mr Swann: Was it a case of thank you very much, we will put the file on the shelf beside the rest of them?

Mr Lavery: No. As I said, we implemented the action plan that came out of that. We accepted the vast bulk of the recommendations and implemented them. For example, the cattle electronic identification (EID) system that we referred to was a recommendation in the original review and part of the action plan was to try to deliver that to where we are now. Control with remote sensing was also part of the original review. The action plan was to aim for 80% and we are now up to 86%.

It is not that it has gone on the shelf and we have neglected it; we have followed through all the recommendations that we accepted. We accepted 68 out of 85.

Mr Poots: Gerry, you indicated that you did not accept 13 recommendations. I would expect that, in some instances, you had very robust grounds for doing that and that it was less so in others. We have now had some time since the report. On reflection, could we attempt to implement some of those recommendations at this point?

Mr Lavery: I am happy to look back at them. I do not recollect any that instantly spring to mind. With some, there were legal obstacles and it would have been very costly to implement others. In some cases, the judgement of the people considering them was that the benefits of the existing control outweighed removing it. I am happy to look at the 15, isolate them and come back to the Committee. I will come back with the judgement that was made then and confirm it if, indeed, it is confirmed. I will do that in case there is something there.

Mr Poots: We are looking for a special adviser to the Committee. Would you like to turn gamekeeper — *[Laughter.]* — and tell us where all the bodies are?

Mr Lavery: I believe that there is a television show called 'The Price is Right'. *[Laughter.]*

Mr Poots: You are far too young to retire.

Mr Swann: There is also one called 'Call my Bluff'. *[Laughter.]*

The Chairperson (Mr Irwin): You said that you accepted 68 recommendations. How many did you act on? There is a difference.

Mr Lavery: We accepted 63 and had input into 78. It was a joint DARD/DOE review, so some of the recommendations were for the Department of the Environment. We took ownership of 78 and accepted 63.

The Chairperson (Mr Irwin): Does the Department look at how other regions of the UK have rolled theirs out? We found one instance with the tagging issue and cross-compliance in which other regions of the UK took a much different attitude to that of our Department.

Mr Lavery: Yes, we look at other regions and other paying agencies, and there is a variety of practice. The difficulty is that variety of practice has not always been subject to audit, so you are not comparing yourself with an audited, compliant regime but with another interpretation of the rules. On something like tagging, we try to look at other paying agencies' performance, but also try to obtain the best advice from the Commission on the standard that it expects.

The Chairperson (Mr Irwin): Does it know?

Mr Lavery: We are working on that. We appreciate that it is burdensome for farmers. To go back to your earlier point, Mr Chairman, it is not something that stands up well to a common-sense critique. We are working on it and are hopeful of some movement, but we are trying to find out what the Commission will accept as compliant practice. That is where the difficulty arises.

Having been responsible for audit for a number of years, I know that auditors prefer you to perform and them to inspect. They are not keen to give you advice in advance on whether there is a compliant regime. That is the difficulty that we have.

The Chairperson (Mr Irwin): The Department changed its position on tagging unilaterally. It held one position for quite some time and then changed it. The previous position was that every animal was double-tagged and, if an animal lost a tag, the farmer had 28 days to replace the tag and there were no penalties. All of a sudden, you changed your position and other regions of the UK did not. You can understand why farmers feel sore.

Mr Lavery: I sympathise with the farmers on that. We will look very quickly at where we can get movement on that.

The Chairperson (Mr Irwin): No other member wishes to ask a question. Thank you very much.

Mr Lavery: Thank you, Mr Chairman.

The Chairperson (Mr Irwin): I again wish you well in your retirement.

Mr Lavery: Thank you.