

**Wildlife and Countryside Link's response to DEFRA's consultation
"Proposed and possible measures for implementation of Cross
Compliance in England"**

18th June 2004

Introduction

Wildlife and Countryside Link (WCL) brings together thirty three voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production practices and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members control an area the size of the county of Hampshire and have the support of almost seven million people in the UK.

WCL believes that that cross compliance and Good Agricultural and Environmental Condition (GAEC) measures should deliver a base of environmental protection. In our "Vision for the Future of Farming" (2001)¹ we identified regulation and cross compliance as the mechanism which would ensure that certain basic environmental and animal welfare standards are met on all farmed land. Cross compliance measures and GAEC are needed to combat the negative impacts caused by inappropriate farming practices, such as degradation of natural resources and irreplaceable historic or natural assets. As we stated clearly in 2001 "these impacts need to be mitigated in all farming systems".

WCL believes that cross compliance and GAEC requirements should be set at the level which would halt the inappropriate farming practices which have damaged our natural resources, habitats and biodiversity and cultural landscapes. Widespread compliance should also begin to help farmers' meet some of the public's expectations for a conserved and accessible countryside and farm animal welfare.

We welcome the reform of the Common Agricultural Policy but believe that reform must go further. The implementation of Cross Compliance will be an important step forward in addressing the problems of biodiversity loss, diffuse pollution, environmental deterioration, damage to and loss of assets in the historic environment, landscape degradation, animal health and welfare and access in our countryside. Implementation of GAEC will provide public benefits in terms of wildlife and landscape improvement and help deliver Biodiversity Action Plan targets and the England Forestry and Biodiversity Strategies. However, cross compliance cannot address the full extent of all of these issues. The additional transfer of funds from pillar I to pillar II must be increased in order to provide funding for positive management.

WCL believes that it should be made clear that the single payment (SP) is not a payment for the standards required but that cross compliance and GAEC are the minimum standards farmers are required to reach in order to be eligible for the SP. We believe that the need for farmers and land managers to comply with the Statutory Management Requirements (SMR) and Good Agricultural and Environmental

¹ Wildlife and Countryside Link 2001 Vision for the Future of Farming December 2001

Condition (GAEC) or risk losing part or all of the Single Payment (SP) may deliver significant environmental and animal health and welfare improvements.

WCL welcomes the phased implementation proposed in this consultation. However, we believe that the current proposals fall short of what is required to successfully tackle the problems in our countryside and could reasonably be expected of farmers and land managers. We believe there are many opportunities, within the Commission regulation, to achieve better protection and management of habitats, landscapes, animal welfare and the historic environment in a way which does not add burdens to farmers and land managers, but enables them to find better ways of farming which simultaneously delivers other benefits.

In order for the plan based approach to be successful it will be crucial to ensure that a meaningful appraisal of the relevant issues on each farm is required. Plans should be extended to include nutrient, manure and crop protection plans and animal health and welfare plans. Failure to take this opportunity to address the breadth of issues currently facing us would be a missed opportunity.

We have not addressed all the questions posed in the consultation paper, as many of the member organisations of Link will be addressing those issues of direct concern to their interests. This Link response identifies those areas of strategic interest to our members.

Summary

In order to secure improvements, cross compliance (CC) and GAEC measures need to be comprehensive, widely understood, complied with and effectively enforced. We believe that it is critical that Defra develops and rolls out a programme of training, demonstrations, advice and support for farmers and land managers as a matter of urgency. This would enable farmers to adopt more strategic and less mechanistic responses to cross compliance and GAEC requirements.

The opportunity to deliver better protection of the historic environment needs to be grasped: we have outlined in our response how we believe this can be achieved within the constraints of the Commission regulation.

Soil management plans need to include the protection of archaeological features and upland soils. GAEC needs to be underpinned by a suite of plans covering nutrients, manures, crop protection, and habitats and landscape features.

Before agricultural intensification driven by the CAP, farmed land supported a wide variety of species and habitats. We believe that GAEC offers opportunities to contribute to the re-creation of such agricultural landscapes, particularly in areas adjacent to remaining semi-natural habitat. We believe that reduced stocking levels could have a positive impact on the biodiversity of the English landscape. However, on many significant archaeological sites, or on moorland, heathland, downland or unimproved grassland it may be inappropriate to allow the natural regeneration of too much scrub or large numbers of trees. We propose measures by which regeneration that is appropriate can be allowed.

We have proposed many additional landscape features which we believe should be included within GAEC requirements. Many of these have been degraded and would benefit from the provision for 2m uncultivated field margins. We welcome the inclusion of public rights of way as landscape features and we believe that it is entirely appropriate that farmers and land managers are required to comply with the law in respect of public rights of way across their land as part of GAEC.

With the decoupling of the single payment the rationale for set aside as a supply control measure has decreased, set aside can, if managed in the right way, provide a valuable resource for wildlife. We propose that 50% of set aside should be managed for the benefit of the natural and historic environment and the use of set aside for commercial crops should be limited to 50% per holding.

WCL supports the targeting of inspections through a risk based approach but does not support a reduction in frequency of inspections for farms in assurance schemes. We would welcome extension of the monitoring proposals to include monitoring for environmental outcomes. We look forward to the forthcoming consultations on the further cross compliance measures.

The Protection of the Historic Environment

Although we recognise that historic environment is not listed specifically within Annex IV of Council Regulation 1782/2003 we believe that its protection is essential to achieving the standards for soil erosion, organic matters, structure and maintenance of habitats.

The protection of archaeological features must be included within the Soil Management Plans. Below ground, archaeological remains are part of soil structure and organic matter and would be damaged by poor management; therefore the protection of these features should be explicitly included in SMPs. Archaeological sites visible above ground should be properly protected from damage: they are cultural history assets and features of often long-inhabited landscapes. One means of protection is through the targeting of permanent set aside, the use of which would halt the damage caused by continuous soil cultivation and other agricultural operations.

Information, Advice and Guidance to farmers and land managers

The effective communication of cross compliance and GAEC requirements will be key to their success. It is essential to improve farmers' and land managers' understanding of the environmental impacts of farming as many farmers are unaware of the potential impact of their operations on the environment. A survey by NetRegs in 2003 found that only 10% of respondents from the agricultural sector thought that they undertook environmentally damaging activities².

We would emphasise the importance of using communication techniques which are suitable for the full range of learning styles. To rely on methods which favour some learning styles over others would not be inclusive and will not reach all farmers. Consequently we believe that relying on passive communication techniques, such as CDROM/internet formats and printed materials, although useful for guiding farmers through the requirements, if used alone, will not secure widespread compliance. We believe it is important that interactive communication techniques such as face to face training and advice, demonstration events and a helpline are used to reach the target audience of farmers and land managers.

To help compliance, guidance should include examples of best practice and should be illustrated to communicate the nature of the problems which the regulation seeks to avoid. All guidance should direct the farmer to more detailed advice, appropriate agri-environment options and indicate areas where there will be further Statutory Management Requirements (SMRs) in the future. General information should be

² NetRegs. SME-nvironment 2003 – A Survey to Assess Environmental Behaviour among Smaller UK Businesses. June 2003.

supplemented by regional information which identifies area specific issues and communicated through local events of practical demonstrations of issues and solutions.

In general, we consider that, although clear in principle, the requirements set out under Annex B, the SMR of annex III, require further clarification and direction to detailed requirements of the law. Furthermore the guidance should make it clear that any party claiming the single farm payment (SP) who is convicted of offences related to cross compliance or GAEC would be penalised through their SP.

Soil management plans

WCL welcome the phased implementation of the Soil Management Plan (SMP). The SMP should provide a meaningful appraisal of the issues at a farm scale and identify appropriate actions. We welcome the application of GAEC soil measures to all farms, not just arable farms, and that measures address issues such as compaction on livestock farms.

WCL believes that there are two areas of importance that are not addressed under the current proposed measures and which should be included:

Protection of upland soils. Not only do these soils support many important habitats they also form an important carbon sink. The protection of these soils should be recognized under the GAEC soil measures and cross referenced to the upland section.

Protection of historic (archeological) features. Archeological remains are an important feature of many soils, and, where present, are an integral part of soil structure and organic matter and can be damaged by soil erosion. The protection of these features must be included within the GAEC soil measures and cross referenced to the 'landscape features', 'land not wholly in agricultural production' sections and targeted set aside.

Management plans, nutrients, water, crop protection, habitats and landscape features

In addition to soil management plans, GAEC should be underpinned by a suite of plans covering nutrients, manures and crop protection (and habitats and landscape features). The plan requirements could be phased in a similar manner to the soil management plan requirement. Whilst the introduction of compulsory farm planning will be met by resistance from sections of the farming community, good planning can contribute to good management and could provide benefits to farmers as well as the environment. Several studies have demonstrated that good environmental planning can result in cost savings. However, until such activities are required by legislation, risk aversion or lack of awareness of opportunities often prevents businesses from seeking out such opportunities.

The failure of the current proposals to tackle nutrient enrichment of soils is a major omission since this is crucial in tackling diffuse pollution. Cross compliance provides a real opportunity to influence farmers' behaviour with regard to the use of nutrients on their land and would help raise standards across the industry and help tackle the problem of diffuse pollution. We believe that guidance to farmers should highlight the forthcoming Water Framework Directive and outline the additional requirements that this will entail. The nutrient planning proposals would provide an important first step in meeting the requirements of this important new environmental legislation.

Undergrazing

We look forward to contributing to the forthcoming government consultation on the proposals to control undergrazing as it is a complex issue which will require guidance which can be applied appropriately to site specific conditions.

Before agricultural intensification driven by the CAP, farmed land supported a wide variety of species and habitats. We believe that GAEC offers opportunities to contribute to the re-creation of such agricultural landscapes, particularly in areas adjacent to remaining semi-natural habitat. We believe that reduced stocking levels could have a positive impact on the biodiversity of the English landscape. The development of partially wooded or scrubby landscapes as part of grazed agricultural land, would often have very positive environmental affects, especially in the vicinity of existing woodland, where it would provide transitions between different habitats, a feature so often lost in our current intensively farmed landscape. Such habitats would not only deliver positive environmental benefits if properly targeted, but would also be able to deliver an agricultural product, through grazing. Agri-environment schemes clearly have a role here too, but should not be seen as the sole means of delivering agricultural habitats that are sensitive to wildlife. We believe it would be a missed opportunity to prevent farmers from pursuing such land management options, so we are seeking a definition of undergrazing which does not preclude some scrub encroachment where this is appropriate.

However, on many significant archaeological sites, or on moorland, heathland, downland or unimproved grassland it may be inappropriate to allow the natural regeneration of too much scrub or large numbers of trees. We propose that this condition should be incorporated into the guidance on undergrazing and should include a form of words similar to that found in both Scottish and Welsh consultations. “.....land managers should prevent the severe encroachment of species that are both agriculturally and environmentally degrading.....In some instances, encroachment of native species may be beneficial. For example, re-colonisation of trees across the boundary line from native woodland and re-colonisation of scrub species such as gorse and birch as part of a mosaic of habitats”.

Landscape features

We strongly welcome the list of landscape features included within the consultation however, we believe that to only include those landscape features which currently have protection under existing legislation (Q12) would fail to deliver real environmental benefits. In particular Defra should look to include the following landscape features within the definition of GAEC:

Hedgerow trees, boundary trees, in-field and ancient trees;
Woodland, including copses and shelterbelts;
Stone faced banks, earth banks;
Other linear features such as ditches and dykes;
Ponds and other farm wetlands and;
Locally significant archaeological sites, (including those features listed in the local Historic Environment Record (formerly Sites and Monuments Record) – not just scheduled ancient monuments).

Traditional orchards

We further urge Defra to seek an exemption from the Commission for traditional orchards from the Commission Implementing Regulations on permanent crops and ensure their eligibility for the SPS. If traditional orchards were included within the SPS

then we would expect to see them included within the list of landscape features and protected under GAEC.

Provision for 2m uncultivated field margins

WCL supports the inclusion of two-metre margins beside living boundaries and habitats to protect them from damage through agricultural operations. Two metre buffer strips should also be included alongside stone walls, hedge banks and in-field trees to provide them with a similar measure of protection. We believe that this is within the requirement of Annex IV of Council regulation 1782/2003 “ensure a minimum level of maintenance and avoid the deterioration of habitats”. The main cause of loss of hedgerows and other living features in our countryside is now degradation, this is often caused by over trimming and ploughing or spraying too close to the feature and this provision for uncultivated field margins will help reduce this loss.

For arable farmers we do not consider this measure to be overly taxing, indeed under the APS scheme farmers were allowed to leave a 2m margin for boundaries at the edge of their fields. These buffer strips could form part of the buffer strips required by LERAPs.

Those areas where there is a high density of hedges are often pastoral systems where the costs of this measure will be much less than in arable systems. Although this requirement could be more demanding for ‘good stewards’ of the land who have retained their boundary features as opposed to those who have grubbed them up, we feel that the protection of these features is so important, it should be incorporated into cross compliance rather than being left to a voluntary scheme.

We believe that good stewards will find it much easier to qualify for the ELS due to the greater numbers of features on their farms whereas farmers with fewer features will have to undertake more options. We would envisage that buffer strip options of 2, 4 and 6m within the ELS could be aligned along side cross compliance buffer strips to provide wider margins. The one metre margin within the hedgerow option would be unnecessary if this measure were included.

Land not wholly in agricultural production

We believe that the approach taken by Defra is more restrictive and more costly for farmers and land managers than is actually necessary to ensure that land remains in GAEC. CAP reform and GAEC gives us the opportunity to begin to create more ecologically functional farmland, particularly adjacent to existing habitats, to help reverse the decline in wildlife and provide better protection for the historic environment and we believe it is vital we do not forego this opportunity in England.

The actual proposed measure on page 26 seems to be unnecessarily constraining. The cutting of scrub every five years would prevent any establishment of natural scrub and tree regeneration. We would therefore suggest that encroachment be allowed under GAEC to a limit of 25% cover (scrub cover and tree trunks) of the area in question in areas of close proximity or adjacent to existing semi-natural habitat (so as to buffer and extend them) and that cutting be restricted to 10% every year, over a 10-year cycle. This would allow the establishment of scrubby vegetation and cutting that allows the development of a diversity of structure.

We support the establishment of a green cover crop via natural regeneration under this measure, and would like to see this developed further, such as proposals to allow for regeneration (similar to the Scottish and Welsh consultations): “In some instances, encroachment of native species may be beneficial. For example:

- Re-colonisation of trees across the boundary line from native woodland
- Re-colonisation of scrub species such as gorse and birch as part of a mosaic of habitats
- Reversion of land to wet grassland or wetland, with associated reversion to rushes.”

However on some sites, such as moorland, heathland, downland, unimproved grassland, historic landscapes and archaeological sites, regeneration of too much scrub or large numbers of trees would be inappropriate. Therefore it is essential that there should be additional guidance on the identification and correct management of Habitats and Landscape Features (Q22 and Q12-16) whether or not land is wholly in agricultural production. Furthermore “land not wholly in agricultural production” must be included within the SMP, so that soils, and archaeological sites within soils, are properly managed and protected. Consistent with the principles of a SMP, if there is no agricultural production there should be no need for the application of fertiliser, manure or slurry, so this should not be allowed.

We recommend that the cutting restriction dates should be extended from between 15 March – 15 July to 1 March to 31 August in line with other measures. The use of different dates for different measures is confusing for farmers.

We support the proposal that a general derogation from meeting this requirement be allowed for land that is part of an agri-environment scheme or similar conservation action as part of an agreement with a recognised conservation organisation. This flexibility must be apparent and easily implemented to land managers. This should also enable some land to be left fallow.

Set aside

WCL believes that the proposed measures do not go far enough in realising the potential environmental benefits of set aside. As the reform of the CAP has decoupled farm support the rationale for set aside as a supply control measure has been eroded therefore we believe set aside should be managed for its potential environmental value. Its use in this way would contribute to the Governments PSA targets through providing further wildlife resources and helping to reduce diffuse pollution. Furthermore permanent, uncropped set aside could be located on sites of archaeological interest and prevent damage to these from agricultural activities.

WCL believes that industrial crops should be limited to 50% of set aside by holding and farmers should be required to manage the remaining set aside to benefit the natural and historic environment. This would reflect the important conservation role which it has been shown that set aside can deliver. There should be guidance to encourage farmers and land managers to locate permanent set aside over archaeological sites, and set aside strips next to living habitat, including all of those features we have listed earlier as landscape features. As with “land not wholly in agricultural production” we support the natural regeneration of vegetation on set-aside.

With regard to the specific measures for managing set aside we believe that there are benefits to allowing agricultural clover to be used in the seed mix for sown green cover crops as it will be good for nectar-feeding insects. However, it may also have a detrimental affect on some bird species. The ploughing up clover leys also releases a flush of mobile nitrates which may have resource protection implications. We therefore propose that the wording should be changed to permit rather than encourage this practice. It may also be sensible to include a maximum seed rate to ensure that the sward is not too dense.

We suggest that the cutting of green cover should be allowed from 31 August to the end of October, rather than from 15 July as this would safeguard late nesting birds and would be the same as other dates for other measures.

The eligible reasons allowed for the destruction of a green cover crop should be extended to include establishment of wild bird cover. Derogations should also be allowed for the creation of fallow plots which are useful for some invertebrates and ground nesting birds.

Public Rights of Way

WCL believes that it is entirely appropriate that farmers and land managers are required to comply with the law in respect of public rights of way across their land as part of GAEC. Obstruction of public rights of way, and non-compliance with the law on ploughing and cropping of rights of way are criminal offences. Law abiding farmers and land managers have nothing to fear from the inclusion of rights of way as a GAEC measure, and to do so will stress the importance of rights of way to the rural economy, and as vital features of the rural landscape.

It should be noted however that the legal position with regard to farmers' rights on public rights of way are not cited accurately within the consultation document and that these must be correctly stated within the final guidance issued.

Animal Health and Welfare

Although the consultation does not ask any questions in relation to the implementation of the animal health and welfare directive relating the SMR we would encourage Defra to consult on the implementation of these soon. In particular we would like to see the codes of good practice to become one unified code.

Inspections and Enforcement

WCL supports the targeting of inspections through a risk based approach. There should be fewer inspections for low risk farms, farmers and land managers. WCL does not support a reduction in frequency of inspections for farms in assurance schemes. This is because of the commercial interests within assurance scheme operations: where there is a commercial pressure for inspectors for assurance schemes to retain members within their scheme we do not believe that there can be adequate transparency and public accountability.

In communicating the requirements of Cross Compliance, it must be made clear that the Statutory Management Requirements (SMR) define standards which are already embedded in national legislation and therefore even those who do not claim SP are subject to these standards. The inspection regime must include all farmers, even those who choose not to claim the Single Farm Payment (SP). Indeed those who opt out should be targeted under a risk-based approach; otherwise they will have less incentive to ensure compliance.

It has been suggested that under the current rules those claiming SP may in subsequent years choose not claim and would therefore not have to comply with the GEAC element of Cross Compliance. If this is indeed the case, we urge Defra to close this loophole.

Monitoring

We believe that cross compliance and GAEC could bring about significant benefits to the natural and historic environment, and contribute to better land management. We would welcome extension of the monitoring proposals to include monitoring for environmental outcomes. Comprehensive monitoring would provide invaluable information on the impacts of measures and inform future revisions of policy.

This statement is supported by the following organisations:

Bat Conservation Trust

Buglife the Invertebrate Conservation Trust

Butterfly Conservation

Campaign to Protect Rural England

Council for National Parks

Council for British Archaeology

National Federation of Badgers Groups

Open Spaces Society

Plantlife

Ramblers' Association

RSPB

RSPCA

The Wildlife Trusts

Wildfowl and Wetlands Trust

Woodland Trust