

Informal cross compliance consultation

Wildlife and Countryside Link response

Wildlife and Countryside Link (Link) brings together 43 voluntary organisations concerned with the conservation and protection of wildlife, countryside and the marine environment. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over eight million people in the UK and manage over 750,000 hectares of land.

This response is supported by the following 13 organisations:

- Buglife – The Invertebrate Conservation Trust
- Campaign to Protect Rural England
- Council for British Archaeology
- Friends of the Earth England
- Plantlife
- Ramblers
- The Rivers Trust
- RSPB
- Salmon & Trout Association
- The Wildlife Trusts
- Wildfowl & Wetlands Trust
- Woodland Trust
- WWF-UK

1. Overarching points

Link recognises the constraints imposed by the new EU GAEC framework, and welcomes efforts by Defra to retain as many elements as possible from the current GAECs. **However, we are highly concerned that protection for biodiversity, landscape features, recreation and habitats will be lost or weakened.** This is particularly significant in the context of weak Pillar I greening measures and the well documented ineffectiveness of the Environmental Impact Assessment (EIA) Regulations.¹

For example, the current GAEC 12 (land not in agricultural production) does not feature in the proposed new framework. The elements of the current GAEC 12 requiring management of land to prevent scrub encroachment are likely to be picked up within the definition of ‘agricultural activity’ (to determine eligibility for Pillar 1 payments). We understand this is currently being negotiated. This definition must be carefully worded to avoid driving harmful management activities on land out of production. The

¹ See Wildlife and Countryside Link Response to Natural England’s Environmental Impact Assessment Public Guidance Review (2011) http://www.wcl.org.uk/docs/link_response_to_eia_public_guidance_141011.pdf

biodiversity benefits of such land are well-documented.² The current GAEC 12 helps to safeguard these benefits by forbidding cutting or ploughing during the bird breeding season; and the removal of vegetation on more than 50 per cent of the land in any 12 month period. Given the implications of other changes (discussed below), we very much fear that many smaller areas of biodiversity interest will increasingly come under pressure from unsuitable management practices. GAECs should set clear conditions for keeping land in good **environmental** as well as **agricultural** condition in return for public payments. We do not believe that the conditions set out in the new GAECs are effectively balanced in this respect.

We would welcome further explanation from Defra on the steps they will take to ensure that all farmers are fully aware and understand what is required to ensure compliance within GAEC and how Defra plans to work with its agencies and the farming community to secure high levels of compliance. Link strongly believes that the new GAECs will only work if they are understood by the farming community and enforced where compliance has not yet been secured.

The limitations of the new GAEC framework highlight the need for cross compliance to work alongside other elements of CAP, particularly greening and agri-environment schemes, to provide a coherent package of environmental protection and incentives for positive management. **We are not confident that the current Government proposals on greening implementation will plug the gaps that the new cross compliance rules will create, specifically in terms of protection for priority habitats.** It remains Link's view that greening would best be delivered through a National Certification Scheme to achieve a coherent approach, and we strongly urge Defra to take forward this option when greening is reviewed. In the meantime the potential environmental outcomes of the basic EU measures must be maximised.

2. Points on specific GAECs

- **GAEC 1 – Buffer strips along water courses**

Link supports Defra's proposal to combine elements from existing GAECs 14 and 19 to ensure one consistent set of requirements for watercourses. In relation to buffer strips we think it important to ensure they deliver maximum benefit for water quality and soil protection.

Evidence suggests that two metre wide buffer strips are not be adequate to deliver these benefits.³ Under the current GAEC 19 farmers are strongly encouraged to use six metre buffers along vulnerable water courses. Six metres is also the starting point for good practice guidance under Water Framework Directive (WFD) initiatives. Natural England technical information note TIN100 "Protecting water from agricultural run-off: buffer strips" states that current evidence shows that six metres is the minimum effective width and that this is in addition to the 1-2 metre protection zone required for cross compliance. The note states "Therefore, in most cases a six metre buffer plus the cross compliance protection zone should give significant environmental benefits with the minimum amount of land taken

² The Environmental Benefits of Set-Aside in the EU; A Summary of Evidence. IEEP report for Defra. February 2008

³ See for example Rasmussen, J.J. *et al.* (2011). Buffer strip width and agricultural pesticide contamination in Danish lowland streams: Implications for stream and riparian management. *Ecological Engineering* 37: 1990-1997

out of agricultural production. However, in some circumstances wider strips will be necessary".⁴ As noted in this Natural England note, buffer strips can develop into valuable wildlife habitats, thus resulting in synergy across environmental objectives. Buffer strips can contribute to other ecosystem services, many of which benefit the farmer directly, including carbon sequestration, soil formation and natural pest control.⁵

Link therefore proposes that this GAEC should be brought into line with other guidance for English farmers, and the minimum width of buffer zones increased to six metres.

Further benefits for water quality could be achieved via the greening permanent pasture measure. Link urges Defra to designate 'no-plough' environmentally sensitive pastures in priority river catchments.

- **GAECs 2 and 3 – water abstraction and groundwater**

We support Defra's proposal to carry over the current GAECs 18 and 20. The signposts to further information on best practice in the current GAECs are useful and should be retained.

- **Soil Protection GAECs**

Link supports the intention of moving away from a purely paper-based, 'tick box' standard to a more outcome-based approach. However the new GAECs must be enforceable and provide a strong level of environmental protection. It is essential that we learn from experience gained from the current soil protection GAEC.⁶ The recent flooding starkly highlights the problems that can be caused by inappropriate land use and poor soil management. Maintaining soils on fields means that it does not result in downstream flooding and a 'need' to dredge. Research indicates that 50 per cent of the sediment transported throughout the winter period by the river Culm in Devon and the river Tone in Somerset could be the result of erosion from maize fields⁷.

The proposed approach to inspection and recording of non-compliance is weak. A one-off visual inspection may not be sufficient to detect problems, especially as it could take place at any time of year. Inspectors must be trained to assess management practices and identify where risks are not being addressed (even if erosion is not currently occurring), and this should count as a non-compliance. Inspectors should be able to carry out simple assessments of soil condition, for example digging a soil pit to assess compaction, as part of their work. In addition, the Rural Payments Agency (RPA) should be empowered to receive and act upon information passed to them by other bodies, such as the EA, on areas that are considered high risk or where erosion is known to be occurring.

We agree that farmers should be provided with high quality guidance to enable them to make good decisions on best practice, and to help with the transition from the old GAEC rules. This guidance must

⁴ Natural England Technical Information Note TIN100 2011 www.naturalengland.org.uk

⁵ Natural England Commissioned Report NECR102: Ecosystem services from Environmental Stewardship that benefit agricultural production

⁶ See for example Defra Strategic Evidence And Partnership Project Component B Report: A Review Of Current Policy Tools And Funding Mechanisms Available To Address Water Pollution From Agriculture In England (2011). <http://www.wyeuskfoundation.org/projects/DSEPP-Component-B-Final-Report-07-11-11.pdf>

⁷ Mokhtar Bin Jaafar (2010) Soil Erosion, Diffuse Source Pollution and Sediment Problems Associated with Maize Cultivation in England. Submitted in partial fulfilment of the requirement for the Degree of Doctor of Philosophy of the University of Exeter

be provided in an appropriate format, bearing in mind that not all farmers will easily be able to access the internet. However, guidance alone is not sufficient: Link suggests that there should be some verifiable rules within the GAEC standards. These should be selected based on clear evidence of effectiveness and would need to be agreed with soil experts but could include for example:

- Controls on soil cultivation on very steep slopes and vulnerable soils;
- A requirement to plant across the gradient of sloping fields (rather than up and down);
- Uncultivated buffer strips by watercourses of sufficient width (tie in with GAEC 1); with silt/soil traps where suitable.
- Appropriate stocking densities, particularly in the uplands;
- Robust soil management plans including a sketch map showing vulnerable areas of the farm and any specific concerns. Inspectors need sufficient training, information and tools to be able to verify this risk assessment on the ground, by assessing soils in situ.

There is a need for specific requirements pertaining to maize production in terms both of post harvest management and the need to site such crops away from vulnerable areas. There are issues where organic manures are applied to maize stubble prior to cultivation in locations adjacent to river courses. Extreme weather events and flooding then exacerbate the potential for point source and diffuse pollution. In such instances barrier ditches and margins may be insufficient to control this runoff. There must be a clear distinction between guidance and verifiable standards, and use of words like 'appropriate' or 'significant' must be defined and consistent.

We would like to express a major concern that biodiversity benefits will either be, or be perceived as, hidden amongst the soil protection measures, particularly for GAECs 5 and 6 in terms of management such as overgrazing and/or poaching and bankside erosion, as well as woodland erosion where these are issues for appropriate management of highly biodiverse habitats. There is no mention under this review of the potential synergies between soils and biodiversity, which may have helped to ameliorate some of these difficulties. This also applies to the EIA Regulations – again, though still present, these are now hidden under GAEC 6. We believe that the fact that the EIA regulations are now buried deeper in cross compliance rules will lead to negative impacts in relation to their implementation.

- **GAEC 4 – minimum soil cover**

These standards should apply at any time of year where there is not an actively growing crop, as heavy rainfall events and strong winds may occur any time of year, not just winter. The risk of capping and slumping can also occur at other times of the year.

Certain crop rotations or practices may unavoidably result in bare soil at certain times of year: for example strip grazing and grazed forage crops. The alternative is to create a rough surface, but it may not be possible to get heavy machinery onto the land at these times of year. Such practices should be recognised as 'high risk' and should not be practiced on land at high risk of erosion (see GAEC 5).

We understand that the current wording referring to 'cereal stubble' as an appropriate winter cover specifically excludes maize stubble (and oilseed rape). Given the known problems with maize stubble

there should be a specific statement that maize stubble does not provide adequate soil cover and requirements should be specified to ensure appropriate post harvest management. There may be issues relating to instances where maize stubble is left into the spring that need to be recognised.

GAEC 5 – minimum land management to limit erosion

We welcome the inclusion of the overgrazing requirement (currently GAEC 9) in the new framework. We note however that the justification for this measure is now soil protection, whereas current GAEC 9 refers to the protection of natural and semi-natural vegetation. Link is very concerned that this represents a weakening of the protection for semi-natural habitats from overgrazing. We suggest that habitat condition could usefully be included in this standard as an indicator of soil condition. The standard would thus read: “Do not allow stock to overgraze, trample and poach the soil where this causes soil erosion or bankside erosion along water courses, or adversely affects the growth, quality or diversity of natural or semi-natural vegetation.” The justification for this, which could be explained in the accompanying guidance, is that loss of habitat condition would be an indicator of underlying soil damage.

As a point of clarification, we suggest the wording of the overgrazing standard should be amended: “Do not allow stock to overgraze, trample and poach the soil where this causes soil erosion *in any area* or bankside erosion along watercourses.”

- **GAEC 6 – maintenance of soil organic matter**

Link strongly welcomes the continued inclusion of the EIA regulations and the Heather and Grass Burning Code within the scope of cross compliance (although wishes to reiterate that there are serious shortcomings in the EIA regulations as they currently stand⁸). We are concerned, however, that putting these requirements under the soil organic matter GAEC will weaken the protection afforded to habitats. We ask Defra to explore whether semi-natural habitats and uncultivated land within the definition of the EIA regulations, and moorland/ heathland areas within the definition of the Heather and Grass Burning Code, could be included as landscape features in GAEC 7.

Farmers must be provided with adequate guidance on their EIA obligations to ensure protection of habitats: in particular overseeding and fertilisation should not be permitted, even if these do not lead immediately to loss of soil carbon.

Link believes that this GAEC should specifically require the protection of soils with high organic matter content, particularly peat soils. This should include a ban on ploughing currently uncultivated peat soils. There may be a need for Defra to produce a soil carbon map to show where such soils are located.

- **GAEC 7A – boundaries**

Link supports Defra’s proposal to combine current GAECs 13 and 15 with the hedgerow parts of GAEC 14. We propose that the wording of the GAEC should be amended to prevent cultivation within two

⁸ See Wildlife and Countryside Link Response to Natural England’s Environmental Impact Assessment Public Guidance Review (2011) http://www.wcl.org.uk/docs/link_response_to_eia_public_guidance_141011.pdf

metres of the centre *or one metre of the edge* of hedgerows (whichever is greater), to ensure protection of old, wide species-rich hedges.

We strongly support extending the 'no trim' period to 31st August, in line with evidence on bird breeding and rearing season.

We also support the proposal to add earth and stone banks to this GAEC. Including basic protection of these features within the regulatory baseline would facilitate promoting their positive management through advice and incentive schemes. There is anecdotal evidence that these banks can provide habitat for wildlife including some butterflies and flowers.

Link notes that enhanced hedgerow management options are popular within current Entry Level Stewardship (ELS) agreements. Management such as reduced cutting frequency delivers benefits for farmland wildlife. For example hedges provide an important source of both early and late pollen and nectar, as well as breeding habitat for pollinators and these attributes are supported by reduced cutting frequency. Given that the spatial coverage of the new environmental land management scheme will be significantly less than that of ELS, these benefits need to be maintained within the new CAP framework. We ask Defra to consider incorporating some of these requirements into this GAEC, or at least the guidance given to farmers.

- **GAEC 7B – public rights of way**

Currently, landowners in receipt of CAP funds are required as part of their agreement to keep all rights of way on their land holding in good condition and free from obstruction; this is also in keeping with their legal obligations. This requirement, which is set out in GAEC 7B, must be maintained and strengthened by way of better monitoring and enforcement.

'Cross compliance' is a useful tool to support the maintenance and accessibility of the existing rights of way network, however its effectiveness is limited by a number of factors including:

- the very small inspection sample size adopted by the Rural Payments Agency (RPA)
- the lack of a defined process for communication between the RPA and highways authorities (as the relevant enforcement bodies)
- the fact that the RPA won't act on or accept a report about obstructions from a member of the public (including those representing a national organisation)

We believe it would be possible to improve the effectiveness and reduce the costs of monitoring and enforcement of GAEC 7B by doing two things:

- a) Allow the RPA to act immediately on information sent to them by highways authorities instead of requiring a second inspection by RPA officers. Local highway officers can provide evidence of a standard required by a court so this should be adequate for the RPA's purposes and deliver a saving for the public purse by cutting administrative costs.
- b) Set up a mechanism whereby members of the public can send in pictures of non-compliance direct to the RPA using their mobile phones. These pictures would have a geo-location and

could therefore identify both non-compliance and its position, helping the RPA go straight to the problem.

- **GAEC 7C – trees**

We support Defra’s proposal to combine current GAEC 16 (tree felling) and GAEC 17 (Tree Preservation Orders).

We have concerns about the blanket application of the no cutting period to trees as this could prevent beneficial management of woods on farmland. We suggest that this requirement should be applied only to hedgerow trees and lone trees, not woodland trees. This would benefit biodiversity for the same reasons as restricting hedgerow cutting. However in the case of woodland restricting cutting could be more of a problem for biodiversity if it leads to under-management of the woodland.

For some trees in hedgerows and fields, including ancient trees, additional protection may be necessary to prevent damage from farming operations such as ploughing. A fixed buffer zone however would not reflect the varied conditions in different situations. We suggest that the need to protect trees should be included in the guidance given to farmers, and evidence of wilful or negligent damage to a tree should count as non-compliance.

- **GAEC 7D – SSSIs**

Link strongly supports the retention of SSSIs within the GAEC framework. Government has committed to a target of at least 50% of SSSIs in favourable condition (95% in favourable/ recovering) by 2020⁹. The inclusion of SSSI legislation within the scope of cross compliance significantly strengthens protection for SSSIs by providing a financial incentive to comply with SSSI requirements and increasing the chances of detection of non-compliance.

However, particularly given that the EIA Regulations are now included in the soils element of cross compliance, rather than standing alone, more needs to be done to ensure that public funding via Pillar 1 payments does not support activities that damage semi-natural habitats. We therefore urge Defra to include other sites or priority habitats of importance for wildlife within this protection (in the same way as non-scheduled monuments are proposed to be included). Certain habitats such as semi-natural grasslands are in urgent need of protection, and at present are not adequately covered by either the EIA regulations, greening or cross compliance. Given that supplementary wording in the Defra document states “*We have defined SSSIs as landscape features, as they are characteristic of the English countryside*” we would be keen to explore with Defra the case for identifiable priority habitats that have not received SSSI designation to also be included in GAEC 7 on the basis that they are also very much “*characteristic of the English countryside*”.

⁹ Biodiversity 2020: A strategy for England’s wildlife and ecosystem services. Defra (2011)

While we agree that the 'landscape features' part of the new GAEC framework is the best place for the SSSI GAEC, we ask Defra to ensure that no loophole is left in the wording to weaken protection for SSSIs that might not be considered 'landscape features'.

- **GAEC 7E – Historic monuments**

Link supports Defra's proposal to use current GAEC 7 (scheduled monuments) with the addition of 'high importance nationally important monuments'.

- **GAEC 7F – control of invasive non-native weeds**

Link recognises that control of invasive non-native weeds is an important concern both for biodiversity and the economy. However, we do not currently support the inclusion of this GAEC in the new framework. We support comments made at the workshops that any action required of farmers must be part of a co-ordinated national or catchment-based effort, using an appropriate mix of regulation, advice and incentives, to control these weeds. This would be both more effective and more acceptable to farmers. We also suggest that given the proposal to introduce Species Control Agreements within the current CAP period, now is not the right time to draft a new cross compliance condition. However, controlling invasive weeds could usefully be included within the guidance given to farmers, for example under protection of waterways. A key issue in the control of invasive weeds is bio-security and the prevention of initial infestation. Once established it is often too late for viable control.

Wildlife and Countryside Link
March 2014



Wildlife and Countryside Link
89 Albert Embankment, London, SE1 7TP
W: www.wcl.org.uk

Wildlife and Countryside Link is a registered
charity (No. 1107460) and a company limited
by guarantee in England and Wales (No.3889519)