Welsh Parliament
Senedd Research

Agricultural support
Research Briefing

June 2022

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Summary

Leaving the EU meant leaving the **Common Agricultural Policy (CAP)**. However, the **Agriculture Act 2020** ('the UK Agriculture Act') currently maintains the CAP-style system of support in Wales - largely keeping the status quo ahead of transition to new schemes.

Agricultural policy is devolved so Wales can introduce new approaches to farm payments – potentially diverging from the EU and other UK nations (though constraints exist). Given the implications for the environment, economy and culture of Wales, future farming policy has been a hot topic since the EU referendum.

The Welsh Government is developing proposals to fundamentally change farm payments. It has ambitions to support wider sustainable land management, moving away from payment for food production in its own right (which has been the case under the CAP for many years). While environmentalists have welcomed this approach, tensions have risen in rural communities with farming unions calling for payments for producing food.

A 'sunset clause' in the UK Agriculture Act means Wales must introduce its own legislation to the Senedd on farm payments by the end of 2024 to continue to pay farmers. An Agriculture (Wales) Bill is expected in 2022 for this purpose.

Future policy decisions on agricultural support will be made within a complex trading landscape, under domestic and international legal parameters (including World Trade Organisation (WTO) rules) and amidst the climate and nature emergencies.

This briefing provides background on agricultural support ahead of the introduction of the Agriculture (Wales) Bill. It explains the CAP system of support from which Welsh farmers are transitioning, WTO rules which must be followed, transitional arrangements and emerging plans for a new and very different support scheme.

1. What does farming in Wales look like?

Agriculture in Wales is heavily focused on the grazing of livestock on relatively small farm holdings.

A large proportion (**about 80%**) of agricultural land in Wales is considered 'less favourable area' (LFA) land. This designation is due to the upland topography and comparatively wet climate. On average Welsh farmers make relatively modest incomes and have relied heavily on the CAP for income (Figure 2). Currently **around 30%** of total land farmed in Wales is tenanted.

Figure 1: Welsh farming statistics (figures are for 2019, 2020 or 2021, depending on the most current available)

Source: **June 2021 Survey of Agriculture and Horticulture- Results for Wales, Gross Value Added from Agriculture in Wales, Total Regional Gross Value Added in Wales, Economic Appraisal of the Welsh Food and Drink Sector Data 2020, Agriculture in the UK 2020, Total Agricultural Labour Force, From Regional Labour Market Statistics April – June 2021, Scottish Agricultural Facts and Figures 2019, Average Farm Business income.**

2. How were UK farmers supported under the EU?

For over 50 years Welsh farmers received CAP support through direct payments and rural development payments including the agri-environment scheme Glastir. Many Welsh farmers relied on this support for income.

The UK joined the EU CAP in 1973. Membership ended with EU withdrawal.

The CAP aims to provide financial support to farmers to: allow competition on a level playing field; protect against volatility in agricultural prices (and hence incomes); and provide food security.

The CAP's legal basis is in the **Treaty on the Functioning of the European Union (TFEU). Article 39** sets out the objectives of the CAP to:

- increase agricultural productivity by promoting technical progress and ensuring the optimum use of the factors of production, in particular labour;
- ensure a fair standard of living for farmers;
- stabilise markets;
- ensure the availability of supplies; and
- ensure reasonable prices for consumers.

The CAP has gone through various reforms since its inception. Originally, farmers received income to supplement prices paid for their produce. However this encouraged overproduction, resulting in the '**wine lakes**' and '**butter mountains**' of the late 20th century. A major **CAP reform in 2005** moved to payments broadly based on the area of land farmed to avoid incentivising overproduction.

The CAP operates in seven-year cycles based on the EU's multiannual financial framework. This briefing focuses on the most recent CAP cycle, 2014-2020, as it is the system from which the UK is transitioning.

This CAP was governed by five core pieces of EU legislation (detailed below) and supplemented by delegated and implementing acts. This body of EU law was converted into domestic law at the end of the Brexit transition period and has been amended to be operable in the UK context to provide continuation ahead of new schemes.

UK agriculture received roughly €4bn per year in support via the CAP. **Wales received** roughly €350-400m per year.

The CAP is broadly divided into:

- direct payments (Pillar 1);
- rural development (Pillar 2);
- the Common Market Organisation (CMO); and
- the general financing, monitoring and management of CAP payments.

Direct payments

Direct payments were the income support payments UK farmers received under the CAP. They made up about 80% of the UK's CAP budget.

Direct payments were largely regulated under the **EU Direct Payments Regulation** which set out the **Basic Payment Scheme (BPS)** - the main scheme under which farmers were paid.

The European Commission described the BPS as a way to "ensure a better distribution of support across the Union".

Payment entitlements allocated to eligible "**active farmers**" are the basis of the BPS. Active farmers must have a minimum of five hectares of eligible land to claim under the scheme.

In the first year the BPS was implemented (for the 2014-2020 cycle), farmers were allocated payment entitlements. In general, each eligible hectare gave the right to one entitlement. Support was then granted annually to farmers who had payment entitlements upon "activation" by declaring eligible hectares. In the UK, farmers applied from March each year for their BPS payments and were paid from December (or October in Northern Ireland).

While the UK was an EU Member State, UK farmers were required to meet certain standards on environmental management, animal welfare and traceability (known as '**cross-compliance**'). Rules included:

- **statutory management requirements (SMR)** - these applied to all farmers whether or not they received CAP support and included EU rules on public, animal and plant health; animal welfare; and the environment.

- **good agricultural and environmental conditions (GAEC)** - these applied only to farmers receiving CAP support. These standards aimed to:
  - prevent soil erosion by defining minimum soil cover and minimum land management practices;
  - maintain soil organic matter and soil structure;
  - maintain permanent grassland;
  - protect biodiversity and ensure retention of landscape features through, for example, a ban on cutting hedges and trees during the bird breeding and rearing season; and
  - protect and manage water through the establishment of buffer strips along water courses, authorisation on water for irrigation and protection of ground water from pollution.

Farmers were also required to implement **'greening' measures**, or they would lose up to 30% of their BPS payment. Member States and Regions had flexibility in how greening requirements were implemented. They covered three areas – crop diversification, Ecological Focus Areas, and measures to maintain permanent grassland. Details can be found in the **Senedd Research briefing on CAP reform and greening**.

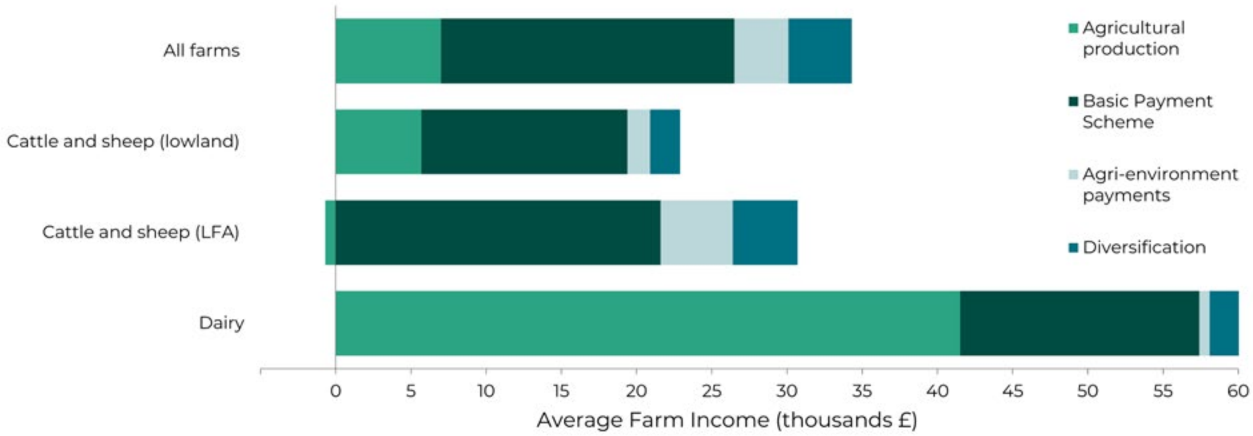
Young farmers (those under age 41), could apply for a **top-up payment** aimed at encouraging young people into farming.

Under the CAP rules penalties could be levied for false claims, late applications or not following the cross-compliance rules.

Member States and Regions tailored the operation of direct payments to their own circumstances, within certain parameters. Making payments to Welsh farmers is handled by the Welsh Government through its payments agency - Rural Payments Wales.

Direct payments have typically totalled **€260 - €300 million per year in Wales (since 2014)**. Many Welsh farmers have relied heavily on the CAP for income, particularly the BPS, **more so than in any other UK country**.

Figure 2: Breakdown of average farm incomes in Wales 2020-2021 by income source for different farm types



Source: **Farm Incomes 2020-2021**. LFA = Less Favoured Areas

Rural development

The remainder of the funds (roughly 20% of the CAP) were allocated to rural development. The **CAP's Rural Development Programme** (RDP) was sponsored by the **European Agricultural Fund for Rural Development (EAFRD)**. The **Rural Development Regulation** and **the Common Provisions Regulation** provided the legal basis.

The RDP was co-financed by national governments. As a devolved area, the Welsh Government co-financed the RDP and prepared its programmes. These were required to address the EU's key policy objectives via the **Europe 2020 strategy** as well as its own strategies.

While the European Commission approved and monitored RDPs, decisions about selecting projects and granting payments were handled by the Welsh Government.

Each RDP was required to work towards at least four of the six **EAFRD priorities**:

- fostering knowledge transfer and innovation in agriculture, forestry and rural areas;
- enhancing the viability and competitiveness of all types of agriculture, and promoting innovative farm technologies and sustainable forest management;
- promoting food chain organisation, animal welfare and risk management in agriculture;
- promoting resource efficiency and supporting the shift toward a low-carbon and

climate resilient economy in the agriculture, food and forestry sectors;

- restoring, preserving and enhancing ecosystems related to agriculture and forestry; and
- promoting social inclusion, poverty reduction and economic development in rural areas.

When devising their strategies, Member States and Regions selected from a 'menu' of **20 broad policy measures**, which could be tailored around national and regional circumstances to deliver on one or more of the EAFRD's priorities. Progress on targets was monitored through the **common monitoring and evaluation framework (CMEF).**

Features of RDPs

Spending on climate and environment: At least 30% of funding for each RDP had to be dedicated to measures relevant for the environment and climate change, mostly channelled through grants and annual payments to farmers who switch towards more environmentally friendly practices.

Supporting local actions: At least 5% of RDP funding was required to go to actions based on the **LEADER / community led local development** approach.

Promoting smart villages: RDPs could support the **smart villages** initiative, which aims to scale up innovation in rural areas, addressing the common challenges faced by citizens.

Financial instruments: The EAFRD acted as a source for loans, microcredit, guarantees and equities, available to recipients in agriculture, forestry and rural areas who were undertaking financially viable projects that support the priorities of the EAFRD.

Agri-environment schemes were introduced into the CAP in 1992 to integrate environmental provisions. They fall under the RDP. Farmers voluntarily commit themselves, for a minimum of five years, to adopt environmentally-sympathetic farming techniques that go beyond legal obligations. In return, farmers receive payments that provide compensation for the additional costs and income foregone resulting from applying environmental farming practices.

The agri-environment schemes have varied widely between Members States and Regions as evident in the design and content of the schemes across the UK.

Examples of commitments covered by agri-environmental schemes include:

- managing low-intensity pasture systems;
- integrated farm management and organic agriculture;
- preserving landscapes and historical features such as hedgerows, ditches and woods; and
- conserving high-value habitats and their associated biodiversity.

The Welsh Government introduced the agri-environment scheme Glastir under the 2014-20 RDP. Glastir is a five year sustainable land management scheme with several elements:

- **Glastir Entry**: support for whole farm land management – accessible to all farmers;
- **Glastir Advanced**: support for part farm environmental land management;
- **Glastir Commons**: support for members of grazing associations;
- **Glastir Organic**: support for organic farmers and producers;
- **Glastir Small Grants**: contribution towards capital investments on individual parcels of land;

- **Glastir Woodland Creation**: support for capital investments to create new woodland;
- **Glastir Woodland Management**: support for capital works to manage existing woodland; and
- **Glastir Woodland Restoration**: support for capital works such as restocking and fencing.

Common Market Organisation

The CAP included a range of agricultural market support measures under the **Common Market Organisation (CMO) Regulation**. It aimed "to stabilise the markets and to ensure a fair standard of living for the agricultural community".

The CMO included measures on public intervention and payment of aid for storing products by private operators. Intervention involved the competent authority in the Member State buying and storing the products until they are disposed of. Putting products into storage helps to stabilise the market for a product if there is a surplus and prices become weak. In addition, there are broad powers for the EU to stabilise markets at times of crisis.

As an example, these powers were used in **2015** and **2016** for emergency payments to UK milk producers who suffered significant price falls as a result of falling global demand for milk and milk products.

Welsh Government criticism of the CAP – case for change

The Welsh Government argues the BPS has been insufficiently targeted to realise all the benefits potentially available from Welsh land. In economic terms, it says the BPS has not done enough to improve farm productivity which matters because farms in Wales are smaller than the UK average. It highlights overall agricultural value-added in Wales has decreased over the BPS period, both in absolute terms and as a share of the economy.

The Welsh Government has commented on the limitation of agri-environment schemes in delivering public goods due to the funding being restricted to costs incurred and income foregone. It argues that this does not provide enough incentive for participation, especially on land where intervention is most desirable. It also argues the schemes are restricted in terms of scope, only supporting delivery of environmental outputs and not other social ends. It concludes that the limited scope and funding drives a focus on inputs rather than the desired outcomes.

3. How do World Trade Organisation rules impact agricultural support?

World Trade Organisation (WTO) rules govern the amount of agricultural support that can be provided, to ensure a level playing field between countries.

The UK is required to comply with the **World Trade Organisation (WTO) Agreement on Agriculture (AoA)** when providing agricultural support. This agreement limits certain types of agricultural support that signatories can provide to farmers, with the aim of reducing trade distorting subsidies.

Under the WTO, subsidies are identified by 'Boxes', with **a traffic light system used to categorise the subsidies.** The Boxes for agricultural subsidies are Green, Amber and Blue (Figure 3). There is also a 'Developing Box', which allows increased amounts of subsidy for developing nations, but it is not relevant to Wales. The AoA does not contain any Red Box subsidies which, in other sectors, indicate support that is forbidden.

Figure 3: Subsidy types and their respective limits.

Green box	Amber box	Blue box
Subsidies that do not distort trade or cause minimum distortion	Broad range of subsidies	Broad range of subsidies allowed but must be designed to minimise trade distortion
No limit	Limited to 5% of agricultural production (10% for developing countries)*	No limit

***Exemptions apply for some WTO members.**

Green Box

Green Box subsidies must not distort trade, or at most, cause minimal distortion. Green Box subsidies are not capped, provided they comply with the criteria set out in **Annex 2 of the AoA.** They tend to not be directly linked to a specific product but can include direct income support not related to production levels or prices. They can include environmental protection and regional development programmes. Here, the level of payments is fixed and restricted to "the extra costs or loss of income involved in undertaking agricultural production" (or 'income foregone').

Amber Box

Amber Box subsidies include measures to support prices, or subsidies directly related to production quantity and are therefore trade distorting. The Amber Box covers a broad range of subsidies.

Amber Box subsidies are subject to limits- **'de minimis' minimal supports** are allowed. This is generally capped at 5% of agricultural production for developed countries and 10% for developing countries. However, there are **certain exemptions above this level for some WTO members** which can exceed the de minimis support as it was already above the limit before the agreements were put in place.

This level of support is expressed in terms of a 'Total Aggregate Measurement of Support' (Total AMS).

Blue Box

The Blue Box subsidies can be seen as the 'Amber Box with conditions'. For example, there may be a limit on production to reduce trade distortion. Currently there are no limits on the Blue Box subsidies.

Deciding the limits and boxes

The UK Agriculture Act includes powers for the Secretary of State to ensure UK compliance with the WTO rules. Powers include for the Secretary of State to place upper limits on Amber Box support and set different limits on this support across the four UK countries. The Act also enables the Secretary of State to establish the rules for classification of financial support into WTO Boxes and for dispute resolution regarding classification. Whilst devolved administrations may be involved in the initial classification, the Secretary of State can act as the 'final arbiter'.

Therefore UK Government decisions could have an impact on Welsh Government spending on its agricultural schemes if they are classified as Amber Box support.

Dr Ludivine Petetin from Cardiff Law School **has discussed** how future farm payments might fit into the AoA Boxes.

4. How are Welsh farmers being supported between the CAP and the new Welsh scheme?

Although the UK has left the CAP, the same system of support is being maintained domestically while the UK countries develop new policies.

UK Agriculture Act 2020

The Senedd gave consent for the relevant provisions of the UK Agriculture Act to provide powers to Welsh Ministers for ongoing farm payments ahead of transition to new schemes.

For Wales, the UK Agriculture Act provides for the continuation of payments to farmers after 2020 (Schedule 5) with powers to modify retained EU laws on direct payments and rural development. The Act also includes powers for the Welsh Ministers to intervene in agricultural markets, on the collection and sharing of data, marketing standards and carcass classification, and data protection.

These are transitional powers with a sunset clause of 31 December 2024, ahead of the introduction of an anticipated Agriculture (Wales) Bill. The Welsh Bill is expected later this year.

The UK Agriculture Act also includes provisions that apply in Wales on:

- organic products;
- the identification and traceability of animals;
- fair dealing and producer organisations;
- matters relating to farming and the countryside, including red meat levy redistribution and agricultural tenancy reforms;
- a requirement for the Secretary of State to report to the UK Parliament on food security; and
- regulation-making powers for the Secretary of State to secure the UK's compliance with WTO AoA.

These provisions are **not** subject to the 2024 expiry provision.

The Fifth Senedd's Climate Change, Environment and Rural Affairs (CCERA) and Legislation, Justice and Constitution (LJC) Committees **examined the UK**

Agriculture Bill prior to the Senedd giving its consent.

Continuing and simplifying direct payments

The Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths, (the Minister) has guaranteed the BPS will continue in 2023.

The UK Agriculture Act provides powers for the Welsh Ministers to introduce regulations to modify retained EU law on direct payments, specifically for "simplification and improvement". The **Welsh Government consulted** on how direct payments could be modified for a "simpler interim framework" from 2021. Following consultation it **made a number of changes** including removing the greening payment.

Phasing out RDP schemes

The RDP, including Glastir contracts, will run until the end of 2023. Under the terms of the Withdrawal Agreement, EU law continues to govern those programmes until they close or commitments end.

Interim sustainability payments

The revised **Programme for Government,** following the Labour-Plaid Cymru Co-operation Agreement, reflects the need for 'sustainability payments' as farmers transition away from the CAP style system to a new system of support.

The Minister said transition payments will focus on "environmental improvements, farm scale land management, productivity, and diversification". They will also target "landscape scale land management and food supply chains".

Details of funding support (£227m) to replace RDP schemes for the next three years was **announced** in March 2022. The funding will be available to support farmers, foresters, land managers and associated rural sectors across six themes:

- farm scale land management;
- on farm environmental improvements;
- on farm efficiency and diversification;
- landscape scale land management;
- woodland and forestry; and
- food and farming supply chains;

Level of funding

Out of the CAP, Wales now receives its budget for agricultural support from the UK Treasury.

There has been **disagreement between the Welsh Government and UK Government** over whether commitments to provide full replacement funding for the EU schemes have been met. This is due to **different interpretations** of ongoing EU funding being provided through the RDP. This Minister said:

> We have always been clear Wales should not lose a penny as a result of leaving the European Union. The UK Government are failing in their manifesto commitment to provide full replacement funding and their proposed approach will disproportionately impact on Wales.

The Welsh Government calculated a shortfall in expected funding of £137m **for 2021-22** and £106m **for 2022-23**.

The UK Government says that a commitment to **maintain funding levels** would be delivered through a "combination of Exchequer funding and EU funding that will continue to be accessed for CAP pillar two [...] until those funds are exhausted".

5. What do we know about the new system of support?

The Agriculture (Wales) Bill will establish the new Sustainable Farming Scheme. It will offer a significant departure from the CAP, predominantly providing reward for public goods.

The Welsh Government has been developing proposals for future agricultural support since the EU referendum. It published two consultations: **Brexit and our Land** (2018) and **Sustainable Farming and our Land** (2019). This led to a **White Paper** for an Agriculture (Wales) Bill, which is expected in 2022. The Bill is anticipated to set a support framework for the next 15-20 years.

The Agriculture (Wales) Bill

The White Paper for the Bill proposes powers to replace those in the UK Agriculture Act that are due to expire, as well as "certain powers" relating to Wales in the Act that do not expire.

The powers relating to agricultural support schemes, which are central to this paper, will potentially just be one part of the Bill. The White Paper covers a range of proposals relating to:

- setting a regulatory baseline through National Minimum Standards and associated enforcement;
- woodland creation and management;
- agricultural tenancy reforms;
- management of common land;
- animal health and welfare controls;
- regulating the use of snares;
- improving procedures relating to the agricultural minimum wage;
- declaring exceptional market conditions and interventions;
- marketing standards and carcass classification;
- regulating fertilisers;
- identification and traceability of animals; and

- organic certification and import and export controls.

Whether all of these matters are included in the Bill remains to be seen.

Senedd Research will publish a Bill Summary after it is introduced.

The Sustainable Farming Scheme

The Bill will introduce an agricultural support scheme called the 'Sustainable Farming Scheme' (SFS). A draft SFS is expected to be published in the summer, ahead of the Bill.

The White Paper proposals for the SFS set out a very different and ambitious approach to agricultural support to that currently in place. Based on the principle of **sustainable land management**, the SFS would reward farmers (beyond income foregone payment) for providing 'public goods' from the land, including both social and environmental improvements in an **outcomes-based approach**. The policy arguably goes beyond the CAP, supporting wider land management improvement.

Contrary to the CAP, farmers would not receive support specifically for producing food. **The Welsh Government has argued** that as food has a market value it should not be classed as a public good, and so should not be directly funded by the state.

Instead, funding would focus on the non-marketable benefits of sustainable food production such as enhancing biodiversity and carbon sequestration (capturing and storing carbon). This might be through enhancing wildflower diversity on farms or tree planting alongside food production.

The Welsh Government will set National Minimum Standards (NMS) (the regulatory baseline) over which farmers could be rewarded under the SFS scheme. The Welsh Government's intention is to consolidate existing regulations which underpin cross-compliance requirements. The White Paper discusses risk-based inspection and enforcement action (with emphasis on civil sanctions that are proportionate) to ensure compliance with NMS for all farmers. This will be separate from any sanctions for the SFS.

Farmers who participate in the SFS will need to provide a range of data on the farm business and report regularly on agreed actions. The value of remote monitoring and new technologies is emphasised for data collection.

The Welsh Government has carried out its first phase of **'co-design'** where stakeholders have informed developing proposals. A summary of consultation responses to the White Paper, findings of the co-design and the Welsh Government's policy response **were published** on 21 September 2021.

The next phase of co-design is expected in summer 2022. The Welsh Government plans to consult on final proposals for the SFS and Transition Plan in spring 2023. Engagement with farmers through an outreach programme on the final scheme is expected the following year. The scheme is anticipated to open in January 2025.

The Welsh Government **will consult** on its plan to transition to the SFS. It is proposing to phase out the BPS over a multi-year transitionary period after the SFS introduction in 2025.

More detail on preparation for the new SFS are in the Welsh Government's **policy response** to the White Paper

Stakeholder views

Environmentalists have broadly welcomed the proposals highlighting the climate and nature emergencies. **Some are calling for** a quicker timeline for transition. Conversely, **farmers are calling** for food production to be eligible for support in its own right. **They are concerned** for the future of rural communities if this direct support is lost.

Tenant farmers have raised concerns that their contracts might not provide sufficient flexibility to participate in the schemes. The White Paper includes proposals in an aim to ensure tenant farmers can access the schemes.

The new proposals may require farm diversification which many have **welcomed to build business resilience**. However **academics have warned** that farm businesses in Wales face several hurdles to diversification, such as poor upland land quality and remoteness from centres of population.

A House of Commons briefing provides details of developing proposals across the UK countries (pages 7-12).