



Department
for Environment
Food & Rural Affairs

Consultation on the reform of farm animal welfare codes

June 2013

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Part 1 – Introduction

Purpose of this consultation

1. The purpose of this consultation is to seek the views of all those interested in farm animal welfare, whether they are involved in keeping animals for farming purposes or have an interest as citizens or consumers, on a proposal to reform the existing system of guidance.

This consultation focuses on the principle of moving from statutory farm animal welfare codes to industry-led drafted, non-statutory guidance.

2. The consultation's aim is to check that the preferred option meets both the Government's commitment to improved standards of animal welfare and the practical needs of farmers.
3. The objective of the proposal is to ensure that guidance to keepers on how to comply with farm animal welfare legislation reflects both the latest scientific and veterinary knowledge and is presented in the most relevant way for animal keepers.

Scope

4. The proposal for reform outlined in this consultation relates solely to farm animal welfare codes and does not include welfare codes for game birds or companion animals.
5. The Welsh, Northern Irish and Scottish Governments issue their own farm animal welfare codes and the proposal outlined in this consultation relates solely to English farm animal welfare codes.

Audience

6. Anyone may respond to the consultation. However, Defra would particularly like to hear from anyone involved in the keeping of farmed animals.

Others who may have an interest include:

Trade representatives in the livestock industry

Animal welfare organisations

Animal welfare enforcement bodies

The veterinary profession

The Farm Animal Welfare Committee

Farm assurance schemes

Retailers

Responding to the consultation

7. This consultation started on 27 June 2013 and closes on 8 August 2013. We would prefer you to respond to the consultation questions using the online survey which can be found at https://consult.defra.gov.uk/farming/farm_animal_welfare_codes. However, responses can be sent to the Animal Welfare Team by email or post.

Enquiries and responses should be directed / sent to:

The Animal Welfare Team

Area 5D

Nobel House

17 Smith Square

London SW1P 3JR

or email: animalwelfare.consultations@defra.gsi.gov.uk

Alternatively, if you would like to receive hard copies of the consultation documents, you may contact the Animal Welfare Team at the above email address.

After the consultation

8. When this consultation ends, responses will be available from Defra's Animal Welfare Team. This is so that the public can review them. If you wish to see the responses, contact the team at animalwelfare.consultations@defra.gsi.gov.uk. Also, members of the public may ask for a copy of the responses under Freedom of Information legislation. If you do not want your response - including your name, contact details and any other personal information - to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer that will not count as a confidentiality request. Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under Freedom of Information legislation. However, because of the law, we cannot promise that we will always be able to keep those details confidential.

9. We will summarise all responses and place this summary on our website at: https://consult.defra.gov.uk/farming/farm_animal_welfare_codes.

This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

10. This consultation is in line with the Coalition Government's Consultation Principles. **Please note that a consultation period of 6 weeks applies**, reflecting the deregulatory approach proposed. More information on the Coalition Government's Consultation Principles can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>.

Part 2 – Consultation

Issue being addressed

11. Minimum standards of farm animal welfare are contained in existing primary and secondary legislation. Guidance to farmers on how to comply with those statutory requirements is provided through a series of species-specific statutory codes (“the codes”). These codes also provide farmers with guidance on how to comply with Council of Europe recommendations. There is a requirement for the UK to implement these recommendations through legislation or administrative means.
12. Many of the current statutory codes are out of date, with some having not been updated following significant changes in legislation (for example laying hens and meat chickens) whilst others have not been updated for over 20 years (for example deer and rabbits). There is a clear need for guidance on how to comply with farm animal welfare laws to be up to date and capable of being updated more readily to reflect the latest scientific and veterinary knowledge.
13. The Farming Regulation Task Force’s report¹ to Government on ways of reducing regulatory burdens on farmers and food processors was published in May 2011. The report made a number of recommendations to cultivate and celebrate partnership, with one being for Government to strengthen its engagement with industry including inviting them to take a leading role in drafting jointly-owned guidance on implementation of legislation. The Animal Health and Welfare Board for England, which makes direct recommendations to Defra Ministers on strategic policy affecting the health and welfare of kept animals in England, recommended that industry and government should work in partnership to develop new, non-statutory guidance.

Proposal

14. The policy objective is to ensure that guidance to farm animal keepers on how to comply with farm animal welfare legislation reflects both the latest scientific and veterinary knowledge and is presented in the most relevant way for animal keepers.
15. This consultation relates to a proposal to replace statutory farm animal welfare codes with industry led-drafted guidance.
16. The proposal will also deliver recommendations from the Macdonald Taskforce and the wider Governmental deregulatory agenda.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69201/pb13527-farm-reg-task-report.pdf

Q1. Are there alternative ways of ensuring that animal keepers understand what is required of them other than moving to industry-led drafted non-statutory guidance?

17. The proposed approach accords a strong role to industry in the drafting of the guidance. An alternative industry-led approach would be for industry to propose initial draft guidance that was then reviewed, consulted on and amended by Government (in consultation with the industry and other stakeholders), in order to ensure that all interests were fully reflected and to avoid any concerns that the industry has too much control over the process.

Q2. Is it appropriate for industry to lead the drafting, consultation and subsequent amendments or is a stronger role for Government needed?

18. Any guidance drafted by an industry body in order to replace a statutory code would need public consultation and full consideration in the light of representations received – including from the independent farm animal welfare advisory body, the Farm Animal Welfare Committee (FAWC). Only then would Defra consider replacing an existing statutory code with new non-statutory guidance. Government would need to be convinced that the proposals fully met statutory requirements before any such change was made.

19. Any subsequent updates to guidance will also be quality assured through a review by FAWC. They will advise Defra and the livestock industries of any relevant developments in scientific and veterinary knowledge which should be reflected in updated guidance to farmers.

20. It is anticipated that there will be constructive partnership-working between Government, industry and animal welfare interests on the guidance. If, however, the Government is not satisfied that a proposed guidance document is “fit for purpose” – if, for example, the industry body is not prepared to accept the recommendations of the FAWC, or if the views of wider stakeholders have not been adequately reflected in the drafting – the Government will ask the industry body to reconsider their position. The Government will not repeal an existing code until it is content that any new guidance will be fully effective. In the unlikely event that agreement was not reached between all key stakeholders on the content of the jointly-owned guidance, the Government would consider reaching consensus through consulting on and publishing its own guidance.

Q3. Is asking FAWC to review the content of industry-led drafted guidance documents sufficient to quality assure guidance in the short, medium and long term? If not, how can this be better achieved?

21. An example of industry-led drafted guidance is currently being consulted on by the meat chicken industry trade body the British Poultry Council at www.britishpoultry.org.uk. This guidance is intended to replace the current statutory code for meat chicken and breeding birds, if the Government agrees.

Consultees should direct all comments on the draft guidance on meat chicken and breeding birds to the British Poultry Council rather than to Defra.

However, all comments on the principle of moving to non-statutory industry-led drafted guidance, the proposal made in this consultation, should be directed to Defra.

22. If the Government decides to pursue the approach of non-statutory guidance following this consultation, Defra will publish a timetable for the production of guidance for other farm animals, reflecting priority areas, alongside the Government response.

Current legal status of codes

23. The welfare of all kept animals is protected by the Animal Welfare Act 2006, providing their keepers with a “Duty of Care” and making it an offence to cause the animals unnecessary suffering. These general requirements are supplemented by European Union rules applied to all farmed animals. The Welfare of Farmed Animals (England) Regulations 2007 (WoFAR) delivers these with separate Schedules setting out the detailed provisions for calves, laying hens, pigs and meat chickens.

24. A list of the current farm animal welfare codes can be found at Annex A. Since 2006, these species-specific codes have been made under the Animal Welfare Act 2006 and, before that, under the Agriculture (Miscellaneous Provisions) Act 1968. WoFAR lays out requirements in relation to the codes for farmed animals. In summary, those responsible for farmed animals must not attend to animals without being acquainted with the relevant code or without having access to the code (see excerpt below for the relevant requirements in WoFAR).

Excerpt from the Welfare of Farmed Animals (England) Regulations 2007

6.—(1) A person responsible for a farmed animal—

(a) must not attend to the animal unless he is acquainted with any relevant code of practice and has access to the code while attending to the animal; and

(b) must take all reasonable steps to ensure that a person employed or engaged by him does not attend to the animal unless that other person—

(i) is acquainted with any relevant code of practice;

(ii) has access to the code while attending to the animal; and

(iii) has received instruction and guidance on the code.

(2) In this section, a “relevant code of practice” means a code of practice issued under section 14 of the Animal Welfare Act 2006 or a statutory welfare code issued under section 3 of the Agriculture (Miscellaneous Provisions) Act 1968 relating to the particular species of farmed animal to which a person is attending.

25. Under section 14 of the Animal Welfare Act 2006 (see excerpt below), evidence of non-compliance with a provision of a code can help to establish a person’s liability.

However a person does not commit an offence by not complying with the provision of a code.

Excerpt from the Animal Welfare Act 2006, Section 14

(3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.

(4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13—

(a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and

(b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

Impact of proposal

26. An Impact Assessment has not been prepared to outline the cost and benefits of the proposed reform of farm animal welfare codes. This is because it is anticipated that the cost of the reform will be neutral as the codes lay out how to comply with minimum standards already in place in law, with the main benefits of the reform being greater clarity and flexibility in their updating and increased compliance with existing rules.

Livestock industry

27. The proposal outlined in this consultation has been recommended by the Animal Health and Welfare Board for England (see <http://www.defra.gov.uk/ahwbe/recommendations/>). The Board brings together independent people with the relevant knowledge and skills and senior government officials to make direct recommendations to Defra Ministers on strategic policy affecting the health and welfare of kept animals in England, including farm animals.

28. It is anticipated that the monetary impact on the livestock industry of the change from statutory codes to non-statutory guidance would be neutral. The guidance documents will outline how to comply with existing legislation or any future legislation and Council of Europe recommendations, similar to that in current codes. If the industry themselves decide to include "best practice" approaches in the guidance which go beyond current rules; it will be made very clear that compliance with these requirements is voluntary.

29. We would expect the cost of developing the guidance documents to be minimal as the existing codes can be used as their basis. The decision by livestock sectors to draft their own guidance will be voluntary. Some sectors such as the poultry, pig, cattle and sheep industries are well able to coordinate the drafting of guidance documents. Minor farmed species sectors may need more assistance from Government in the drafting process.

30. It is not expected that there will be any significant monetary benefits from the proposal, but it is anticipated that it will lead to improved compliance with the law and partnership working between industry, animal welfare groups and Government. In addition, it should assist the delivery of a recommendation from the Macdonald report “Government must trust industry, must involve it in the development of non-regulatory and regulatory solutions, and must set the framework for industry to take responsibility.” The practical advantage of industry leading on the drafting of guidance is in its accessibility to farmers, meeting their needs and disseminating knowledge in the most appropriate format.
31. The updating of statutory codes currently requires a significant amount of time for Parliamentary and Whitehall clearance. It is anticipated that the flexibility of jointly-owned guidance between Government and industry, with the latter leading on the drafting, would allow for more timely updates to reflect the latest scientific and veterinary knowledge.

Q4. Do you agree that the proposed reform of the codes will be neutral in cost and monetary benefits to the livestock industry? If not, what is your estimate of the expected costs and/or benefits?

Animal Welfare

32. The Government is committed to improved standards of animal welfare² and it is anticipated that provision of guidance via industry themselves will cultivate a climate of responsibility to increase compliance resulting in improvements in animal welfare.
33. Quality assurance processes will be put in place (see paragraph 19) to ensure that guidance remains fit for purpose and standards of welfare are upheld with an emphasis on increasing compliance by making it clear to farmers what is required of them. There will be no weakening of the standards of farm animal welfare set out in current codes. Minimum animal welfare standards will continue to be laid down in legislation.

Q5. Do you agree that reform of the farm animal welfare codes is likely to improve compliance with existing legislation because it will be easier to understand and have increased industry buy-in? If not, provide details of your reasoning.

Enforcement

34. The Animal Health and Veterinary Laboratories Agency (AHVLA) is the enforcement body for farm animal welfare in Great Britain. Where unnecessary suffering or non-compliance with the provisions of relevant welfare legislation occurs, prosecutions can

² <http://transparency.number10.gov.uk/business-plan-pdf/10>

be taken by them or by Local Authorities or, on rare occasions, by the RSPCA, acting as a private prosecutor.

35. The AHVLA carry out on-farm inspections on a random and risk basis, with veterinary officers making an assessment of whether the provisions of the law and the relevant species-specific codes are being met and whether unnecessary suffering of animals is taking place. It is anticipated that during these inspections the AHVLA will assess compliance against the relevant guidance instead of a code. As with the existing codes (see paragraph 25), a person would not commit an offence by not complying with a provision of the guidance document. However, in cases that go to court for prosecution, meeting the requirements of the code, or not, can be used to help establish a person's liability. Whilst we would expect the evidential weight of a statutory code to be greater than that of non-statutory guidance, we do not believe this will be significant overall. A court would also take into account the degree of compliance with and content of, non-statutory guidance (particularly if the industry has been active in its preparation). There would also be significant benefit in being able to update non-statutory guidance more frequently, not least to ensure that it reflected current legislative requirements accurately, and we would expect increased industry buy-in, given their direct involvement.
36. Compliance with a code is, at present, used as part of the analysis of risk to establish the need for subsequent welfare inspections for the purposes of monitoring Cross Compliance³. This is an example of earned recognition, and we propose that the AHVLA continue with this approach but with a reduced risk of further inspection if compliance with the relevant industry-led drafted guidance is observed. This builds on the principles of cultivating partnership-working through setting a framework for industry to take responsibility. The AHVLA inspection protocols will be unchanged and the only additional burden on enforcement bodies will be a need for veterinary officers to become familiar with the content of the industry-led drafted guidance.
37. Animal welfare is a Devolved issue and Scotland, Northern Ireland and Wales each have their own statutory welfare codes.

Q6. Is there any evidence for other impacts of the proposed change not considered in this consultation, including the potential differences in policy within the UK?

Post implementation review

38. Defra is committed to evidence-based policy and after industry-led drafted guidance becomes operational, Defra will conduct a post-implementation review to assess whether the proposed benefits have been realised and if any unforeseen costs have resulted from the reform of farm animal welfare codes. This review, which will be

³ <https://www.gov.uk/cross-compliance-the-basics>

completed by 2017 at the latest, will include an analysis of the extent to which the move from a statutory underpinning has had any impact on the weight courts accord the welfare codes when prosecutions are being sought.

Q7. How best could a post implementation review of the reform of farm animal welfare codes be carried out?

Consultation questions

Q1. Are there alternative ways of ensuring that animal keepers understand what is required of them other than moving to industry-led drafted non-statutory guidance?

Q2. Is it appropriate for industry to lead the drafting, consultation and subsequent amendments for the animal welfare codes, or is a stronger role for Government needed?

Q3. Is asking FAWC to review the content of industry-led drafted guidance documents sufficient to ensure the quality of guidance in the short, medium and long term? If not, how can this be better achieved?

Q4. Do you agree that the proposed reform of the codes will be neutral in cost and monetary benefits to the livestock industry? If not, what is your estimate of the expected costs and benefits?

Q5. Do you agree that reform of the farm animal welfare codes is likely to improve compliance with existing legislation because it will be easier to understand and have increased industry buy-in? If not, provide details of your reasoning.

Q6. Is there any evidence for other impacts of the proposed change not considered in this consultation, including the potential differences in policy within the UK?

Q7. How best could a post implementation review of the reform of farm animal welfare codes be carried out?

Annex A: List of current farm animal welfare codes

Species	Year of publication
Sheep	2003
Cattle	2003
Pigs	2003
Meat chicken and breeding birds	2002
Laying hens	2002
Goat	1989
Rabbit	1987
Deer	1989
Turkey	1987
Duck	1987

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Any enquiries regarding this document/publication should be sent to us at:

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