

## **Appendix B – Correspondence between Fergus Ewing and Scottish Government Officials**

**From:** On Behalf Of Cabinet Secretary for the Rural Economy and Connectivity

**Sent:** 22 November 2017 15:19

**To:** Watson AA (Andrew)

**Cc:** DG Economy; Mitchell E (Elinor); Higgins K (Kate); Communications Rural Economy & Environment; [REDACTED] Turpie A (Annabel); Barnes D (David); Cabinet Secretary for the Rural Economy and Connectivity

**Subject:** RE: CAP Pillar 1 Late Payment Penalties - update

Mr Ewing has noted without comment.

Many thanks

[REDACTED]

**From:** Watson AA (Andrew)

**Sent:** 20 November 2017 13:19

**To:** Cabinet Secretary for the Rural Economy and Connectivity

**Cc:** DG Economy; Mitchell E (Elinor); Higgins K (Kate); Communications Rural Economy & Environment; [REDACTED]; Turpie A (Annabel); Barnes D (David)

**Subject:** CAP Pillar 1 Late Payment Penalties - update

OFFICIAL SENSITIVE

Cabinet Secretary for Rural Economy and Connectivity

### **LATE PAYMENT PENALTIES – UPDATE**

1. We have in the past received enquiries from Parliament, Audit Scotland and the media about the position on CAP late payment penalties. Our current public position is that we are estimating late payment penalties of around £5m for the 2015 scheme year and between £0.5-0.7m for 2016, but that in both cases final totals are still to be determined through relevant UK and EC processes.

[REDACTED]

### **Communications**

9. Given the ongoing processes described above, I recommend that communications on penalties should remain reactive. I will ensure you have up to date briefing for your RECC appearance on 29 November, although that session should focus on Brexit rather than current operational issues.

10. In the event that we do receive any media or other enquiries about penalties over coming weeks, I suggest our response would be along the lines of:

“Total late payment penalties for both the 2015 and 2016 CAP scheme years are still being finalised. The Scottish Government has previously indicated that our assessment is that 2015 penalties might amount to around £5 million and that 2016 penalties might amount to around £0.5m. Final amounts are dependent on the conclusion of relevant UK and EU financial reporting processes, but these remain our central estimates at this time.”

### **Conclusion**

11. I would be happy to provide further information if that would be helpful.

**ANDREW WATSON**

20 November 2017



## **CAP – LATE PAYMENT PENALTIES AND DISALLOWANCE**

### **Issue**

[REDACTED]

### **Late Payment Penalties**

- The EU regulatory target is for Member States to make at least 95.24% of Pillar 1 payments during the annual payment window from 1 December to 30 June. A penalty free amount of 5% of the value of payments made by 30 June is then available for the period 1 July to 15 October with a penalty free amount of up to 2% available thereafter, if the 5% penalty free sum has not been exhausted by 15 October. If a Member State makes a significant amount of payments after 30 June then there is a risk that the penalty free amount will not provide sufficient cover and penalties are applied.
- Penalties are applied at the level of the Member State. In the UK, they are apportioned between the four paying agencies on the basis that each paying agency picks up its own penalties and a share of any penalties applied to late payments made by paying agencies who met the 95.24% target.
- Historically, Scotland has not incurred significant penalties for the late payment of Pillar 1 payments.
- For the CAP scheme year 2015, Scotland and England both missed the 95.24% target. Total late payment penalties for the UK are estimated at €27m. Our estimate is that Scotland would be liable for around £5m.
- [REDACTED]

[OUT OF SCOPE]

**ANDREW WATSON**

23 February 2018



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**From:** Watson AA (Andrew)

**Sent:** 05 April 2017 11:09

**To:** Cabinet Secretary for the Rural Economy and Connectivity

**Cc:** Mitchell E (Elinor); Turpie A (Annabel);

**Subject:** CAP 2015 Pillar 1 Late Payment Penalties: Update and Next Steps

OFFICIAL SENSITIVE

Cabinet Secretary for Rural Economy and Connectivity

**CAP 2015 PILLAR 1 LATE PAYMENT PENALTIES: UPDATE AND NEXT STEPS**

1. [REDACTED]'s note of 11 January (re-attached for convenience) provided an update on the Scottish Government's exposure to Pillar 1 late payment penalties, in relation to 2015 scheme year payments. At the time, payment performance figures were not available for other paying agencies in the UK.

2. The position has now crystallised and, with thanks to [REDACTED], I can offer the following update on late payments performance and the approach we propose to take in engagement with Defra over the coming weeks.

- As [REDACTED] noted in his 11 January advice, EU regulations require Member states to achieve at least 95% of the total payments due for each Pillar 1 scheme to be paid out by 30th June. Where expenditure after this deadline is less than 5% of the payments made by this date then no late payment penalties will apply. However, for the purposes of the 2015 scheme year, the SG successfully negotiated a derogation with the EC to extend until 15<sup>th</sup> October 2016 the date by which the whole of the UK may make Pillar 1 payments without incurring any penalties. So there are no late payment penalties payable for the period 1<sup>st</sup> July to 15<sup>th</sup> October 2016.
- This represents a change in the usual circumstances for calculating how penalties are apportioned within the UK and the interpretation of the Memorandum of Understanding between Defra and the paying agencies on the handling of penalties.

**[REDACTED]**

**ANDREW WATSON**

RPID: Deputy Director for Agricultural Policy Implementation

Ext: 47962

**5 April 2017**



Table 1: CAP 2015 Direct Payments – payment figures

	<b>% paid by 30 June</b>	<b>% paid by 15 Oct</b>	<b>Forecast UK late payment penalties</b>
<b>Basic Payment Scheme</b>			
RPA	94.81	99.44	
SG	90.56	99.94	
WG	97.46	99.71	
DAERA	98.15	98.70	
<b>TOTAL</b>	<b>94.73</b>	<b>99.46</b>	<b>£10,717,974</b>
<b>Greening</b>			
RPA	94.72	99.28	
SG	91.56	99.93	
WG	97.73	99.71	
DAERA	98.16	98.70	
<b>TOTAL</b>	<b>94.81</b>	<b>99.37</b>	<b>£4,163,894</b>
<b>Young Farmer</b>			
RPA	85.70	98.08	
SG	87.81	99.78	
WG	93.20	97.42	
DAERA	97.00	98.45	
<b>TOTAL</b>	<b>92.05</b>	<b>98.53</b>	<b>£188,755</b>
<b>Forecast total UK penalty:</b>			<b>£15,070,624*</b>

\*total is less than Defra's modelled total of £16.3m due to more up to date figures being used in SG modelling

